
ASSEMBLY BILL NO. 578—ASSEMBLYWOMAN GIBBONS (BY REQUEST)

MARCH 15, 1999

Referred to Committee on Judiciary

SUMMARY—Increases penalty for driving while under influence of intoxicating liquor or controlled substance if person convicted had certain previous convictions. (BDR 43-1050)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to traffic laws; increasing the penalty for driving while under the influence of intoxicating liquor or a controlled substance if the person convicted had certain previous convictions at the time of the offense; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 483.460 is hereby amended to read as follows:
2 483.460 1. Except as otherwise provided by statute, the department
3 shall revoke the license, permit or privilege of any driver upon receiving a
4 record of his conviction of any of the following offenses, when that
5 conviction has become final, and the driver is not eligible for a license,
6 permit or privilege to drive for the period indicated:
7 (a) For a period of 3 years if the offense is:
8 (1) A violation of subsection 2 of NRS 484.377.
9 (2) A third or subsequent violation *of NRS 484.379* within 7 years .
10 ~~of NRS 484.379.~~
11 (3) *A violation of NRS 484.379 that is punishable pursuant to*
12 *subsection 2 of NRS 484.3792.*
13 (4) A violation of NRS 484.3795 or homicide resulting from driving
14 a vehicle while under the influence of intoxicating liquor or a controlled
15 substance.
16 The period during which such a driver is not eligible for a license, permit
17 or privilege to drive must be set aside during any period of imprisonment

1 and the period of revocation must resume upon completion of the period of
2 imprisonment or when the person is placed on residential confinement.

3 (b) For a period of 1 year if the offense is:

4 (1) Any other manslaughter resulting from the driving of a motor
5 vehicle or felony in the commission of which a motor vehicle is used,
6 including the unlawful taking of a motor vehicle.

7 (2) Failure to stop and render aid as required pursuant to the laws of
8 this state in the event of a motor vehicle accident resulting in the death or
9 bodily injury of another.

10 (3) Perjury or the making of a false affidavit or statement under oath
11 to the department pursuant to NRS 483.010 to 483.630, inclusive, or
12 pursuant to any other law relating to the ownership or driving of motor
13 vehicles.

14 (4) Conviction, or forfeiture of bail not vacated, upon three charges
15 of reckless driving committed within a period of 12 months.

16 (5) A second violation *of NRS 484.379* within 7 years ~~of NRS~~
17 ~~484.379~~, *other than a violation that is punishable pursuant to*
18 *subsection 2 of NRS 484.3792* and, except as otherwise provided in
19 subsection 2 of NRS 483.490, the driver is not eligible for a restricted
20 license during any of that period.

21 (6) A violation of NRS 484.348.

22 (c) For a period of 90 days, if the offense is a first violation *of NRS*
23 ~~484.379~~ within 7 years ~~of NRS 484.379~~, *other than a violation that is*
24 *punishable pursuant to subsection 2 of NRS 484.3792.*

25 2. The department shall revoke the license, permit or privilege of a
26 driver convicted of violating NRS 484.379 who fails to complete the
27 educational course on the use of alcohol and controlled substances within
28 the time ordered by the court and shall add a period of 90 days during
29 which the driver is not eligible for a license, permit or privilege to drive.

30 3. When the department is notified by a court that a person who has
31 been convicted of violating NRS 484.379 has been permitted to enter a
32 program of treatment pursuant to NRS 484.37937 or 484.3794, the
33 department shall reduce by one-half the period during which he is not
34 eligible for a license, permit or privilege to drive, but shall restore that
35 reduction in time if notified that he was not accepted for or failed to
36 complete the treatment.

37 4. The department shall revoke the license, permit or privilege to drive
38 of a person who is required to install a device pursuant to NRS 484.3943
39 but who operates a motor vehicle without such a device:

40 (a) For 3 years, if it is his first such offense during the period of
41 required use of the device.

42 (b) For 5 years, if it is his second such offense during the period of
43 required use of the device.

1 5. A driver whose license, permit or privilege is revoked pursuant to
2 subsection 4 is not eligible for a restricted license during the period set
3 forth in paragraph (a) or (b) of that subsection, whichever is applicable.

4 6. When the department is notified that a court has:

5 (a) Pursuant to paragraph (h) of subsection 1 of NRS 62.211, NRS
6 62.224, 62.2255, 62.226 or 62.228, ordered the suspension or delay in the
7 issuance of a child's license;

8 (b) Pursuant to NRS 206.330, ordered the suspension or delay in the
9 issuance of a person's license; or

10 (c) Pursuant to NRS 62.227, ordered the revocation of a child's
11 license,

12 the department shall take such actions as are necessary to carry out the
13 court's order.

14 7. As used in this section, "device" has the meaning ascribed to it in
15 NRS 484.3941.

16 **Sec. 2.** NRS 483.490 is hereby amended to read as follows:

17 483.490 1. Except as otherwise provided in this section, after a
18 driver's license has been suspended or revoked for an offense other than a
19 second violation *of NRS 484.379* within 7 years ~~of NRS 484.379~~ and
20 one-half of the period during which the driver is not eligible for a license
21 has expired, the department may, unless the statute authorizing the
22 suspension prohibits the issuance of a restricted license, issue a restricted
23 driver's license to an applicant permitting the applicant to drive a motor
24 vehicle:

25 (a) To and from work or in the course of his work, or both; or

26 (b) To acquire supplies of medicine or food or receive regularly
27 scheduled medical care for himself or a member of his immediate
28 family.

29 Before a restricted license may be issued, the applicant must submit
30 sufficient documentary evidence to satisfy the department that a severe
31 hardship exists because the applicant has no alternative means of
32 transportation and that the severe hardship outweighs the risk to the public
33 if he is issued a restricted license.

34 2. A person who has been ordered to install a device in a motor vehicle
35 which he owns or operates pursuant to NRS 484.3943:

36 (a) Shall install the device not later than 21 days after the date on which
37 the order was issued; and

38 (b) May not receive a restricted license pursuant to this section until:

39 (1) After at least 180 days of the period during which he is not
40 eligible for a license, if he was convicted of a violation of subsection 2 of
41 NRS 484.377, a violation of NRS 484.3795 or homicide resulting from
42 driving a vehicle while under the influence of intoxicating liquor or a
43 controlled substance or if he was convicted of a third violation *of NRS*

1 ~~484.379~~ within 7 years ~~[of NRS 484.379;]~~ or a violation of NRS 484.379
2 that is punishable pursuant to subsection 2 of NRS 484.3792;

3 (2) After at least 90 days of the period during which he is not eligible
4 for a license, if he was convicted of a second violation of NRS 484.379
5 within 7 years ; ~~[of NRS 484.379;]~~ or

6 (3) After at least 45 days of the period during which he is not eligible
7 for a license, if he was convicted of a first violation of NRS 484.379 within
8 7 years . ~~[of NRS 484.379.]~~

9 3. If the department has received a copy of an order requiring a person
10 to install a device in a motor vehicle which he owns or operates pursuant to
11 NRS 484.3943, the department shall not issue a restricted driver's license
12 to such a person pursuant to this section unless the applicant has submitted
13 proof of compliance with the order and subsection 2.

14 4. After a driver's license has been revoked pursuant to subsection 1 of
15 NRS 62.227 or suspended pursuant to paragraph (h) of subsection 1 of
16 NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228, the department may
17 issue a restricted driver's license to an applicant permitting the applicant to
18 drive a motor vehicle:

19 (a) If applicable, to and from work or in the course of his work, or both;
20 and

21 (b) If applicable, to and from school.

22 5. After a driver's license has been suspended pursuant to NRS
23 483.443, the department may issue a restricted driver's license to an
24 applicant permitting the applicant to drive a motor vehicle:

25 (a) If applicable, to and from work or in the course of his work, or both;

26 (b) To receive regularly scheduled medical care for himself or a
27 member of his immediate family; and

28 (c) If applicable, as necessary to exercise a court-ordered right to visit a
29 child.

30 6. A driver who violates a condition of a restricted license issued
31 pursuant to subsection 1 or by another jurisdiction is guilty of a
32 misdemeanor, and if his license was suspended or revoked for a violation
33 of NRS 484.379, 484.3795, 484.384 or a homicide resulting from driving a
34 vehicle while under the influence of intoxicating liquor or a controlled
35 substance, or the violation of a law of any other jurisdiction which
36 prohibits the same conduct, he shall be punished in the manner provided
37 pursuant to subsection 2 of NRS 483.560.

38 7. The periods of suspensions and revocations required pursuant to this
39 chapter and NRS 484.384 must run consecutively, except as otherwise
40 provided in NRS 483.465 and 483.475, when the suspensions must run
41 concurrently.

42 8. Whenever the department suspends or revokes a license, the period
43 of suspension, or of ineligibility for a license after the revocation, begins

1 upon the effective date of the revocation or suspension as contained in the
2 notice thereof.

3 **Sec. 3.** NRS 484.3792 is hereby amended to read as follows:

4 484.3792 1. ~~1A~~ *Except as otherwise provided in subsection 2, a*
5 person who violates the provisions of NRS 484.379:

6 (a) For the first offense within 7 years, is guilty of a misdemeanor.
7 Unless he is allowed to undergo treatment as provided in NRS 484.37937,
8 the court shall:

9 (1) Except as otherwise provided in subsection ~~6~~ 7, order him to
10 pay tuition for an educational course on the abuse of alcohol and controlled
11 substances approved by the department and complete the course within the
12 time specified in the order, and the court shall notify the department if he
13 fails to complete the course within the specified time;

14 (2) Unless the sentence is reduced pursuant to NRS 484.37937,
15 sentence him to imprisonment for not less than 2 days nor more than 6
16 months in jail, or to perform 96 hours of work for the community while
17 dressed in distinctive garb that identifies him as having violated the
18 provisions of NRS 484.379; and

19 (3) Fine him not less than \$200 nor more than \$1,000.

20 (b) For a second offense within 7 years, is guilty of a misdemeanor.
21 Unless the sentence is reduced pursuant to NRS 484.3794, the court:

22 (1) Shall sentence him to:

23 (I) Imprisonment for not less than 10 days nor more than 6 months
24 in jail; or

25 (II) Residential confinement for not less than 10 days nor more
26 than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive,
27 or 5.0755 to 5.078, inclusive;

28 (2) Shall fine him not less than \$500 nor more than \$1,000;

29 (3) Shall order him to perform not less than 100 hours, but not more
30 than 200 hours, of work for the community while dressed in distinctive
31 garb that identifies him as having violated the provisions of NRS 484.379,
32 unless the court finds that extenuating circumstances exist; and

33 (4) May order him to attend a program of treatment for the abuse of
34 alcohol or drugs pursuant to the provisions of NRS 484.37945.

35 A person who willfully fails or refuses to complete successfully a term of
36 residential confinement or a program of treatment ordered pursuant to this
37 paragraph is guilty of a misdemeanor.

38 (c) For a third or subsequent offense within 7 years, is guilty of a
39 category B felony and shall be punished by imprisonment in the state
40 prison for a minimum term of not less than 1 year and a maximum term of
41 not more than 6 years, and shall be further punished by a fine of not less
42 than \$2,000 nor more than \$5,000. An offender so imprisoned must,
43 insofar as practicable, be segregated from offenders whose crimes were

1 violent and, insofar as practicable, be assigned to an institution or facility
2 of minimum security.

3 2. *A person who has previously been convicted of:*

4 (a) *A third or subsequent violation of NRS 484.379 within 7 years;*

5 (b) *A violation of NRS 484.3795;*

6 (c) *A homicide resulting from the driving of a vehicle while under the
7 influence of intoxicating liquor or a controlled substance; or*

8 (d) *A violation of the law of any other jurisdiction that prohibits the
9 same or similar conduct as set forth in paragraph (a), (b) or (c),*

10 *and who violates the provisions of NRS 484.379 is guilty of a category B
11 felony and shall be punished by imprisonment in the state prison for a
12 minimum term of not less than 2 years and a maximum term of not more
13 than 15 years, and shall be further punished by a fine of not less than
14 \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar
15 as practicable, be assigned to an institution or facility of minimum
16 security.*

17 3. An offense that occurred within 7 years immediately preceding the
18 date of the principal offense or after the principal offense constitutes a
19 prior offense for the purposes of this section when evidenced by a
20 conviction, without regard to the sequence of the offenses and convictions.
21 The facts concerning a prior offense must be alleged in the complaint,
22 indictment or information, must not be read to the jury or proved at trial
23 but must be proved at the time of sentencing and, if the principal offense is
24 alleged to be a felony, must also be shown at the preliminary examination
25 or presented to the grand jury.

26 ~~[3.]~~ 4. A person convicted of violating the provisions of NRS 484.379
27 must not be released on probation, and a sentence imposed for violating
28 those provisions must not be suspended except, as provided in NRS 4.373,
29 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that
30 exceeds the mandatory minimum. A prosecuting attorney shall not dismiss
31 a charge of violating the provisions of NRS 484.379 in exchange for a plea
32 of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for
33 any other reason unless he knows or it is obvious that the charge is not
34 supported by probable cause or cannot be proved at the time of trial.

35 ~~[4.]~~ 5. A term of confinement imposed pursuant to the provisions of
36 this section may be served intermittently at the discretion of the judge or
37 justice of the peace, except that a person who is convicted of a second or
38 subsequent offense within 7 years must be confined for at least one
39 segment of not less than 48 consecutive hours. This discretion must be
40 exercised after considering all the circumstances surrounding the offense,
41 and the family and employment of the offender, but any sentence of 30
42 days or less must be served within 6 months after the date of conviction or,
43 if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and

1 the suspension of his sentence was revoked, within 6 months after the date
2 of revocation. Any time for which the offender is confined must consist of
3 not less than 24 consecutive hours.

4 ~~5.1~~ 6. Jail sentences simultaneously imposed pursuant to this section
5 and NRS 483.560 or 485.330 must run consecutively.

6 ~~6.1~~ 7. If the person who violated the provisions of NRS 484.379
7 possesses a driver's license issued by a state other than the State of Nevada
8 and does not reside in the State of Nevada, in carrying out the provisions
9 of subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

10 (a) Order the person to pay tuition for and submit evidence of
11 completion of an educational course on the abuse of alcohol and controlled
12 substances approved by a governmental agency of the state of his residence
13 within the time specified in the order; or

14 (b) Order him to complete an educational course by correspondence on
15 the abuse of alcohol and controlled substances approved by the department
16 within the time specified in the order,
17 and the court shall notify the department if the person fails to complete the
18 assigned course within the specified time.

19 ~~7.1~~ 8. If the defendant was transporting a person who is less than 15
20 years of age in the motor vehicle at the time of the violation, the court shall
21 consider that fact as an aggravating factor in determining the sentence of
22 the defendant.

23 ~~8.1~~ 9. As used in this section, unless the context otherwise requires,
24 "offense" means a violation of NRS 484.379 or 484.3795 or a homicide
25 resulting from the driving of a vehicle while under the influence of
26 intoxicating liquor or a controlled substance, or the violation of a law of
27 any other jurisdiction that prohibits the same or similar conduct.

28 **Sec. 4.** NRS 484.3794 is hereby amended to read as follows:

29 484.3794 1. Except as otherwise provided in subsection 2, a person
30 who is found guilty of a second violation of NRS 484.379 within 7 years
31 may, at that time or any time before he is sentenced, apply to the court to
32 undergo a program of treatment for alcoholism or drug abuse which is
33 certified by the bureau of alcohol and drug abuse of the rehabilitation
34 division of the department of employment, training and rehabilitation for at
35 least 1 year if:

36 (a) He is diagnosed as an alcoholic or abuser of drugs by a:

37 (1) Counselor or other person certified to make that diagnosis by the
38 bureau of alcohol and drug abuse of the rehabilitation division of the
39 department of employment, training and rehabilitation; or

40 (2) Physician certified to make that diagnosis by the board of medical
41 examiners;

42 (b) He agrees to pay the costs of the treatment to the extent of his
43 financial resources;

and

1 (c) He has served or will serve a term of imprisonment in jail of 5 days,
2 and if required pursuant to NRS 484.3792, has performed or will perform
3 not less than 50 hours, but not more than 100 hours, of work for the
4 community.

5 2. A person may not apply to the court to undergo a program of
6 treatment pursuant to subsection 1 if ~~[- within the immediately preceding 7~~
7 ~~years.]~~ he has *previously* been found guilty of:

8 (a) *A third or subsequent violation of NRS 484.379 within 7 years;*

9 (b) A violation of NRS 484.3795;

10 ~~[(b)]~~ (c) A homicide resulting from driving a vehicle while under the
11 influence of intoxicating liquor or a controlled substance; or

12 ~~[(c)]~~ (d) A violation of the law of any other jurisdiction which prohibits
13 the same or similar conduct as set forth in paragraph (a) ~~for (b).]~~, (b) or
14 (c).

15 3. For the purposes of subsection 1, a violation of the law of any other
16 jurisdiction which prohibits the same or similar conduct as NRS 484.379
17 constitutes a violation of NRS 484.379.

18 4. A prosecuting attorney may, within 10 days after receiving notice of
19 an application for treatment pursuant to this section, request a hearing on
20 the matter. The court shall order a hearing on the application upon the
21 request of the prosecuting attorney or may order a hearing on its own
22 motion.

23 5. At the hearing on the application for treatment, the prosecuting
24 attorney may present the court with any relevant evidence on the matter. If
25 a hearing is not held, the court shall decide the matter upon affidavits and
26 other information before the court.

27 6. If the court determines that an application for treatment should be
28 granted, the court shall:

29 (a) Immediately sentence the offender and enter judgment accordingly.

30 (b) Suspend the sentence of the offender for not more than 3 years upon
31 the condition that the offender be accepted for treatment by a treatment
32 facility, that he complete the treatment satisfactorily and that he comply
33 with any other condition ordered by the court.

34 (c) Advise the offender that:

35 (1) If he is accepted for treatment by such a facility, he may be
36 placed under the supervision of the facility for a period not to exceed 3
37 years and during treatment he may be confined in an institution or, at the
38 discretion of the facility, released for treatment or supervised aftercare in
39 the community.

40 (2) If he is not accepted for treatment by such a facility or he fails to
41 complete the treatment satisfactorily, he shall serve the sentence imposed
42 by the court. Any sentence of imprisonment must be reduced by a time

43 equal to that which he served before beginning treatment.

1 (3) If he completes the treatment satisfactorily, his sentence will be
2 reduced to a term of imprisonment which is no longer than that provided
3 for the offense in paragraph (c) of subsection 1 and a fine of not more than
4 the minimum provided for the offense in NRS 484.3792, but the
5 conviction must remain on his record of criminal history.

6 7. The court shall administer the program of treatment pursuant to the
7 procedures provided in NRS 458.320 and 458.330, except that the court:

8 (a) Shall not defer the sentence, set aside the conviction or impose
9 conditions upon the election of treatment except as provided in this
10 section.

11 (b) May immediately revoke the suspension of sentence for a violation
12 of a condition of the suspension.

13 8. The court shall notify the department, on a form approved by the
14 department, upon granting the application of the offender for treatment and
15 his failure to be accepted for or complete treatment.

16 **Sec. 5.** NRS 484.37943 is hereby amended to read as follows:

17 484.37943 1. ~~13~~ *Except as otherwise provided in subsection 3, if* a
18 person is found guilty of a first violation, if the weight of alcohol in the
19 defendant's blood at the time of the offense was 0.18 percent or more, or
20 any second violation of NRS 484.379 within 7 years, the court shall,
21 before sentencing the offender, require an evaluation of the offender
22 pursuant to subsection ~~13~~ 4, 5 or ~~15~~ 6 to determine whether he is an
23 abuser of alcohol or other drugs.

24 2. ~~14~~ *Except as otherwise provided in subsection 3, if* a person is
25 convicted of a first violation of NRS 484.379 and he is under 21 years of
26 age at the time of the violation, the court shall, before sentencing the
27 offender, require an evaluation of the offender pursuant to subsection ~~13~~ 4
28 , 5 or ~~15~~ 6 to determine whether he is an abuser of alcohol or other drugs.

29 3. *The court shall not require an evaluation of an offender pursuant*
30 *to subsection 4, 5 or 6 if the offender has previously been found guilty of:*

31 (a) *A third or subsequent violation of NRS 484.379 within 7 years;*

32 (b) *A violation of NRS 484.3795;*

33 (c) *A homicide resulting from the driving of a vehicle while under the*
34 *influence of intoxicating liquor or a controlled substance; or*

35 (d) *A violation of the law of any other jurisdiction that prohibits the*
36 *same or similar conduct as set forth in paragraph (a), (b) or (c).*

37 4. Except as otherwise provided in subsection ~~14 or 5~~ 5 or 6, the
38 evaluation of an offender pursuant to this section must be conducted at an
39 evaluation center by:

40 (a) A counselor certified to make that evaluation by the bureau of
41 alcohol and drug abuse of the rehabilitation division of the department of
42 employment, training and rehabilitation;

1 (b) A physician certified to make that evaluation by the board of
2 medical examiners; or

3 (c) A person who is approved to make that evaluation by the bureau of
4 alcohol and drug abuse of the rehabilitation division of the department of
5 employment, training and rehabilitation,
6 who shall report to the court the results of the evaluation and make a
7 recommendation to the court concerning the length and type of treatment
8 required for the offender.

9 ~~{4-}~~ 5. The evaluation of an offender who resides more than 30 miles
10 from an evaluation center may be conducted outside an evaluation center
11 by a person who has the qualifications set forth in subsection ~~{3-}~~ 4. The
12 person who conducts the evaluation shall report to the court the results of
13 the evaluation and make a recommendation to the court concerning the
14 length and type of treatment required for the offender.

15 ~~{5-}~~ 6. The evaluation of an offender who resides in another state may,
16 upon approval of the court, be conducted in the state where the offender
17 resides by a physician or other person who is authorized by the appropriate
18 governmental agency in that state to conduct such an evaluation. The
19 offender shall ensure that the results of the evaluation and the
20 recommendation concerning the length and type of treatment for the
21 offender are reported to the court.

22 ~~{6-}~~ 7. An offender who is evaluated pursuant to this section shall pay
23 the cost of the evaluation. An evaluation center or a person who conducts
24 an evaluation in this state outside an evaluation center shall not charge an
25 offender more than \$100 for the evaluation.

26 **Sec. 6.** NRS 484.37945 is hereby amended to read as follows:

27 484.37945 1. When a program of treatment is ordered pursuant to
28 paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the
29 offender under the clinical supervision of a treatment facility for treatment
30 for not less than 30 days nor more than 6 months, in accordance with the
31 report submitted to the court pursuant to subsection ~~{3-}~~ 4, 5 or ~~{5-}~~ 6 of
32 NRS 484.37943. The court may:

33 (a) Order the offender confined in a treatment facility, then release the
34 offender for supervised aftercare in the community; or

35 (b) Release the offender for treatment in the community,
36 for the period of supervision ordered by the court.

37 2. The court shall:

38 (a) Require the treatment facility to submit monthly progress reports on
39 the treatment of an offender pursuant to this section; and

40 (b) Order the offender, to the extent of his financial resources, to pay
41 any charges for his treatment pursuant to this section. If the offender does
42 not have the financial resources to pay all of those charges, the court shall,
43 to the extent possible, arrange for the offender to obtain his treatment from

1 a treatment facility that receives a sufficient amount of federal or state
2 money to offset the remainder of the charges.

3 3. A treatment facility is not liable for any damages to person or
4 property caused by a person who drives while under the influence of
5 intoxicating liquor or a controlled substance after the treatment facility has
6 certified to his successful completion of a program of treatment ordered
7 pursuant to paragraph (b) of subsection 1 of NRS 484.3792.

8 **Sec. 7.** NRS 484.3796 is hereby amended to read as follows:

9 484.3796 1. Before sentencing an offender pursuant to NRS
10 484.3795 or paragraph (c) of subsection 1 **or subsection 2** of NRS
11 484.3792, the court shall require that the offender be evaluated to
12 determine whether he is an abuser of alcohol or drugs and whether he can
13 be treated successfully for his condition.

14 2. The evaluation must be conducted by:

15 (a) A counselor certified to make such an evaluation by the bureau of
16 alcohol and drug abuse of the rehabilitation division of the department of
17 employment, training and rehabilitation;

18 (b) A physician certified to make such an evaluation by the board of
19 medical examiners; or

20 (c) A psychologist certified to make such an evaluation by the board of
21 psychological examiners.

22 3. The counselor, physician or psychologist who conducts the
23 evaluation shall immediately forward the results of the evaluation to the
24 director of the department of prisons.

25 **Sec. 8.** NRS 209.425 is hereby amended to read as follows:

26 209.425 1. The director shall, with the approval of the board,
27 establish a program for the treatment of an abuser of alcohol or drugs who
28 is imprisoned pursuant to paragraph (c) of subsection 1 **or subsection 2** of
29 NRS 484.3792 or NRS 484.3795. The program must include an initial
30 period of intensive mental and physical rehabilitation in a facility of the
31 department, followed by regular sessions of education, counseling and any
32 other necessary or desirable treatment.

33 2. The director may, upon the request of the offender after the initial
34 period of rehabilitation, allow the offender to earn wages under any other
35 program established by the department if the offender assigns to the
36 department any wages he earns under such a program. The director may
37 deduct from the wages of the offender an amount determined by the
38 director, with the approval of the board, to:

39 (a) Offset the costs, as reflected in the budget of the department, to
40 maintain the offender in a facility or institution of the department and in
41 the program of treatment established pursuant to this section; and

42 (b) Meet any existing obligation of the offender for the support of his
43 family or restitution to any victim of his crime.

1 **Sec. 9.** 1. Except as otherwise provided in subsection 2, the
2 amendatory provisions of this act do not apply to offenses committed
3 before October 1, 1999.

4 2. The amendatory provisions of this act apply to offenses committed
5 before October 1, 1999, for the purpose of determining whether a person is
6 subject to the provisions of subsection 2 of NRS 484.3792, as amended by
7 this act.

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