
SENATE BILL NO. 75—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE INTERIM STUDY COMMITTEE ON CRIMINAL
JUSTICE SYSTEM IN RURAL NEVADA AND TRANSITIONAL
HOUSING FOR RELEASED OFFENDERS)

FEBRUARY 16, 2005

Referred to Committee on Judiciary

SUMMARY—Allows use of audiovisual technology under certain
circumstances for counseling and evaluations
required for certain offenses. (BDR 15-188)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 the use of audiovisual technology; allowing the
use of audiovisual technology under certain circumstances
for counseling and evaluations required for certain
offenses; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

Existing law requires a person convicted of a battery which constitutes
domestic violence to participate in counseling sessions in a certified program for
the treatment of persons who commit domestic violence. (NRS 200.485) Existing
law also requires juveniles who commit an offense involving alcohol or drugs and
certain persons convicted of driving under the influence of alcohol to undergo an
evaluation to determine whether they are in need of treatment for alcohol or drug
abuse. (NRS 62E.620, 484.37943)

This bill provides that a court may authorize a person who is required to
participate in the certified program for the treatment of persons who commits
domestic violence to participate via closed-circuit video or video conferencing if
the person resides more than 50 miles from the nearest location at which such
counseling is available. This bill also provides that a court may authorize an
evaluation to determine whether a person is in need of alcohol or drug abuse
treatment to be conducted through the use of closed-circuit video or
videoconferencing if the person evaluated resides more than 50 miles from the
nearest location at which an evaluation may be conducted.



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

Section 1. NRS 200.485 is hereby amended to read as follows:
200.485 1. Unless a greater penalty is provided pursuant to
NRS 200.481, a person convicted of a battery which constitutes
domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a
misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention
facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120
hours, of community service.

➤ The person shall be further punished by a fine of not less than
\$200, but not more than \$1,000. A term of imprisonment imposed
pursuant to this paragraph may be served intermittently at the
discretion of the judge or justice of the peace, except that each
period of confinement must be not less than 4 consecutive hours and
must occur at a time when the person is not required to be at his
place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a
misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention
facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200
hours, of community service.

➤ The person shall be further punished by a fine of not less than
\$500, but not more than \$1,000.

(c) For the third and any subsequent offense within 7 years, is
guilty of a category C felony and shall be punished as provided in
NRS 193.130.

2. In addition to any other penalty, if a person is convicted of a
battery which constitutes domestic violence pursuant to NRS
33.018, the court shall:

(a) For the first offense within 7 years, require him to participate
in weekly counseling sessions of not less than 1 1/2 hours per week
for not less than 6 months, but not more than 12 months, at his
expense, in a program for the treatment of persons who commit
domestic violence that has been certified pursuant to NRS 228.470.

(b) For the second offense within 7 years, require him to
participate in weekly counseling sessions of not less than 1 1/2
hours per week for 12 months, at his expense, in a program for the
treatment of persons who commit domestic violence that has been
certified pursuant to NRS 228.470.



1 ➤ *If the person resides more than 50 miles from the nearest*
2 *location at which counseling services are available, the court may*
3 *allow the person to participate in counseling through the use of*
4 *audiovisual technology.*

5 3. An offense that occurred within 7 years immediately
6 preceding the date of the principal offense or after the principal
7 offense constitutes a prior offense for the purposes of this section
8 when evidenced by a conviction, without regard to the sequence of
9 the offenses and convictions. The facts concerning a prior offense
10 must be alleged in the complaint, indictment or information, must
11 not be read to the jury or proved at trial but must be proved at the
12 time of sentencing and, if the principal offense is alleged to be a
13 felony, must also be shown at the preliminary examination or
14 presented to the grand jury.

15 4. In addition to any other fine or penalty, the court shall order
16 such a person to pay an administrative assessment of \$35. Any
17 money so collected must be paid by the clerk of the court to the
18 State Controller on or before the fifth day of each month for the
19 preceding month for credit to the Account for Programs Related to
20 Domestic Violence established pursuant to NRS 228.460.

21 5. In addition to any other penalty, the court may require such a
22 person to participate, at his expense, in a program of treatment for
23 the abuse of alcohol or drugs that has been certified by the Health
24 Division of the Department of Human Resources.

25 6. If it appears from information presented to the court that a
26 child under the age of 18 years may need counseling as a result of
27 the commission of a battery which constitutes domestic violence
28 pursuant to NRS 33.018, the court may refer the child to an agency
29 which provides child welfare services. If the court refers a child to
30 an agency which provides child welfare services, the court shall
31 require the person convicted of a battery which constitutes domestic
32 violence pursuant to NRS 33.018 to reimburse the agency for the
33 costs of any services provided, to the extent of his ability to pay.

34 7. If a person is charged with committing a battery which
35 constitutes domestic violence pursuant to NRS 33.018, a
36 prosecuting attorney shall not dismiss such a charge in exchange for
37 a plea of guilty or nolo contendere to a lesser charge or for any other
38 reason unless he knows, or it is obvious, that the charge is not
39 supported by probable cause or cannot be proved at the time of trial.
40 A court shall not grant probation to and, except as otherwise
41 provided in NRS 4.373 and 5.055, a court shall not suspend the
42 sentence of such a person.

43 8. As used in this section:

44 (a) "Agency which provides child welfare services" has the
45 meaning ascribed to it in NRS 432B.030.



(b) *“Audiovisual technology” includes, without limitation, closed-circuit video and videoconferencing.*

(c) “Battery” has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

~~[(e)]~~ (d) “Offense” includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 2. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

(a) An unlawful act in violation of NRS 484.379 or 484.3795;

(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or

(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. The evaluation of the child must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified or an alcohol and drug abuse counselor intern who is certified pursuant to chapter 641C of NRS to make that classification; or

(b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. The evaluation of the child may be conducted at an evaluation center. *If the child resides more than 50 miles from the nearest location at which an evaluation may be conducted, the juvenile court may allow the evaluation to be conducted through the use of audiovisual technology.*

4. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

5. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which



1 receives a sufficient amount of federal or state money to offset the
2 remainder of the costs; and

3 (2) The juvenile court may order the child, in lieu of paying
4 the charges relating to his evaluation and treatment, to perform
5 community service.

6 6. After a treatment facility has certified a child's successful
7 completion of a program of treatment ordered pursuant to this
8 section, the treatment facility is not liable for any damages to person
9 or property caused by a child who:

10 (a) Drives, operates or is in actual physical control of a vehicle
11 or a vessel under power or sail while under the influence of
12 intoxicating liquor or a controlled substance; or

13 (b) Engages in any other conduct prohibited by NRS 484.379,
14 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420
15 or a law of any other jurisdiction that prohibits the same or similar
16 conduct.

17 7. The provisions of this section do not prohibit the juvenile
18 court from:

19 (a) Requiring an evaluation to be conducted by a person who is
20 employed by a private company if the company meets the standards
21 of the Health Division of the Department of Human Resources. The
22 evaluation may be conducted at an evaluation center.

23 (b) Ordering the child to attend a program of treatment which is
24 administered by a private company.

25 8. All information relating to the evaluation or treatment of a
26 child pursuant to this section is confidential and, except as otherwise
27 authorized by the provisions of this title or the juvenile court, must
28 not be disclosed to any person other than:

29 (a) The juvenile court;

30 (b) The child;

31 (c) The attorney for the child, if any;

32 (d) The parents or guardian of the child;

33 (e) The district attorney; and

34 (f) Any other person for whom the communication of that
35 information is necessary to effectuate the evaluation or treatment of
36 the child.

37 9. A record of any finding that a child has violated the
38 provisions of NRS 484.379 or 484.3795 must be included in the
39 driver's record of that child for 7 years after the date of the offense.

40 *10. As used in this section, "audiovisual technology"*
41 *includes, without limitation, closed-circuit video and*
42 *videoconferencing.*

43 **Sec. 3.** NRS 484.37943 is hereby amended to read as follows:

44 484.37943 1. If a person is found guilty of a first violation, if
45 the concentration of alcohol in the defendant's blood or breath at the



1 time of the offense was 0.18 or more, or any second violation of
2 NRS 484.379 within 7 years, the court shall, before sentencing the
3 offender, require an evaluation of the offender pursuant to
4 subsection 3, 4 ~~{or 5}~~, 5 or 6 to determine whether he is an abuser
5 of alcohol or other drugs.

6 2. If a person is convicted of a first violation of NRS 484.379
7 and he is under 21 years of age at the time of the violation, the court
8 shall, before sentencing the offender, require an evaluation of the
9 offender pursuant to subsection 3, 4 ~~{or 5}~~, 5 or 6 to determine
10 whether he is an abuser of alcohol or other drugs.

11 3. Except as otherwise provided in subsection 4 ~~{or 5}~~, 5 or 6,
12 the evaluation of an offender pursuant to this section must be
13 conducted at an evaluation center by:

14 (a) An alcohol and drug abuse counselor who is licensed or
15 certified pursuant to chapter 641C of NRS to make that evaluation;
16 or

17 (b) A physician who is certified to make that evaluation by the
18 Board of Medical Examiners,
19 ➤ who shall report to the court the results of the evaluation and
20 make a recommendation to the court concerning the length and type
21 of treatment required for the offender.

22 4. The evaluation of an offender who resides more than 30
23 miles from an evaluation center may be conducted outside an
24 evaluation center by a person who has the qualifications set forth in
25 subsection 3. The person who conducts the evaluation shall report to
26 the court the results of the evaluation and make a recommendation
27 to the court concerning the length and type of treatment required for
28 the offender.

29 5. *The evaluation of an offender who resides more than 50*
30 *miles from an evaluation center may, upon approval of the court,*
31 *be conducted through the use of audiovisual technology by a*
32 *person who has the qualifications set forth in subsection 3. The*
33 *person who conducts the evaluation shall report to the court the*
34 *results of the evaluation and make a recommendation to the court*
35 *concerning the length and type of treatment required for the*
36 *offender.*

37 6. The evaluation of an offender who resides in another state
38 may, upon approval of the court, be conducted in the state where the
39 offender resides by a physician or other person who is authorized by
40 the appropriate governmental agency in that state to conduct such an
41 evaluation. The offender shall ensure that the results of the
42 evaluation and the recommendation concerning the length and type
43 of treatment for the offender are reported to the court.

44 ~~{6}~~ 7. An offender who is evaluated pursuant to this section
45 shall pay the cost of the evaluation. An evaluation center or a person



1 who conducts an evaluation in this State outside an evaluation
2 center shall not charge an offender more than \$100 for the
3 evaluation.

4 *8. As used in this section, "audiovisual technology" includes,*
5 *without limitation, closed-circuit video and videoconferencing.*

6 **Sec. 4.** NRS 484.37945 is hereby amended to read as follows:

7 484.37945 1. When a program of treatment is ordered
8 pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792,
9 the court shall place the offender under the clinical supervision of a
10 treatment facility for treatment for a period not to exceed 1 year, in
11 accordance with the report submitted to the court pursuant to
12 subsection 3, 4 ~~for 5~~, *5 or 6* of NRS 484.37943. The court shall:

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

15 (b) Release the offender for treatment in the community,

16 ➔ for the period of supervision ordered by the court.

17 2. The court shall:

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

20 (b) Order the offender, to the extent of his financial resources, to
21 pay any charges for his treatment pursuant to this section. If the
22 offender does not have the financial resources to pay all those
23 charges, the court shall, to the extent possible, arrange for the
24 offender to obtain his treatment from a treatment facility that
25 receives a sufficient amount of federal or state money to offset the
26 remainder of the charges.

27 3. A treatment facility is not liable for any damages to person
28 or property caused by a person who:

29 (a) Drives, operates or is in actual physical control of a vehicle
30 or a vessel under power or sail while under the influence of
31 intoxicating liquor or a controlled substance; or

32 (b) Engages in any other conduct prohibited by NRS 484.379,
33 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420
34 or a law of any other jurisdiction that prohibits the same or similar
35 conduct,

36 ➔ after the treatment facility has certified to his successful
37 completion of a program of treatment ordered pursuant to paragraph
38 (a) or (b) of subsection 1 of NRS 484.3792.

39 **Sec. 5.** This act becomes effective on July 1, 2005.



