

ASSEMBLY BILL NO. 193—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S
SUBCOMMITTEE TO STUDY SENTENCING AND
PARDONS, AND PAROLE AND PROBATION)

FEBRUARY 27, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning pleas, defenses
and verdicts in criminal actions. (BDR 14-152)

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 crimes; establishing the requirements for
determining whether a person is insane for purposes of
the plea of not guilty by reason of insanity and for the
insanity defense; authorizing a plea and verdict of guilty
but mentally ill under certain circumstances; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 In 1995, the Legislature enacted Senate Bill No. 314 which abolished the
2 insanity defense in criminal cases and instead authorized a plea of guilty but
3 mentally ill. In 2001, the Nevada Supreme Court interpreted the provisions of
4 Senate Bill No. 314 and ruled that the federal and state constitutions require the
5 State to provide to criminal defendants the option of raising an insanity defense for
6 crimes that require an element of intent. (*Finger v. State*, 117 Nev. 548 (2001))
7 Based on this reasoning and because the Court did not believe that the Legislature
8 would wish to preserve the plea of guilty but mentally ill under these
9 circumstances, the Court struck Senate Bill No. 314 in its entirety and reinstated the
10 insanity defense as it existed before Senate Bill No. 314. (*Finger*, 117 Nev. at 575)
11 In response to *Finger*, the Legislature enacted legislation in 2003, Assembly Bill
12 No. 156, which statutorily abolished the plea of guilty but mentally ill and
13 reinstated the insanity defense.

14 **Section 4** of this bill reinstates the plea of guilty but mentally ill as an
15 additional plea. **Section 4** also provides that a defendant who pleads guilty but
16 mentally ill bears the burden of establishing his mental illness by a preponderance
17 of the evidence and that generally such a defendant is subject to the same penalties
18 and procedures as a defendant who pleads guilty. (NRS 174.035)



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Section 10 of this bill authorizes the verdict of guilty but mentally ill. Specifically, **section 10** authorizes a judge or jury to find a defendant guilty but mentally ill if the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has established that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for purposes of the defense of insanity. Generally, a defendant who is found guilty but mentally ill is subject to the same penalties and procedures as a defendant who is found guilty.

Section 17 of this bill provides the types of sentences a court may impose upon a defendant who pleads or is found guilty but mentally ill. Regardless of whether a defendant is mentally ill at the time of sentencing, the court is required to impose any sentence available to the court for a defendant who pleads or is found guilty of the same offense. However, if the defendant is mentally ill at the time of sentencing and the sentence includes a term of confinement, the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is medically indicated for his mental illness during his confinement. This bill contains many of the same provisions that were included in Senate Bill No. 314 of the 1995 Legislative Session, as well as many new sections that were included to provide for the plea and verdict of guilty but mentally ill.

Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove that he was in a delusional state at the time of the alleged crime and due to that delusional state, he either: (1) did not understand the nature or capacity of his act; or (2) did not appreciate that his act was wrong, meaning that the act is not authorized by law. (*Finger*, 117 Nev. at 576) This standard for establishing insanity is commonly referred to as the "M'Naghten Rule." The Nevada Supreme Court has recognized that the Legislature may determine that legal insanity be proven by the defendant by any one of the established standards, including by the M'Naghten Rule. (*Finger*, 117 Nev. at 575) **Section 4** of this bill codifies the M'Naghten Rule, as stated above, as the standard for establishing insanity for purposes of the insanity defense. (NRS 174.035)

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

Section 1. NRS 169.195 is hereby amended to read as follows:
169.195 1. "Trial" means that portion of a criminal action
which:

(a) If a jury is used, begins with the impaneling of the jury and ends with the return of the verdict, both inclusive.

(b) If no jury is used, begins with the opening statement, or if there is no opening statement, when the first witness is sworn, and ends with the closing argument or upon submission of the cause to the court without argument, both inclusive.

2. "Trial" does not include any proceeding had upon a plea of guilty **or guilty but mentally ill** to determine the degree of guilt or to fix the punishment.

Sec. 2. NRS 173.035 is hereby amended to read as follows:

173.035 1. An information may be filed against any person for any offense when the person:



1 (a) Has had a preliminary examination as provided by law
2 before a justice of the peace, or other examining officer or
3 magistrate, and has been bound over to appear at the court having
4 jurisdiction; or

5 (b) Has waived his right to a preliminary examination.

6 2. If, however, upon the preliminary examination the accused
7 has been discharged, or the affidavit or complaint upon which the
8 examination has been held has not been delivered to the clerk of the
9 proper court, the Attorney General when acting pursuant to a
10 specific statute or the district attorney may, upon affidavit of
11 any person who has knowledge of the commission of an offense,
12 and who is a competent witness to testify in the case, setting forth
13 the offense and the name of the person or persons charged with the
14 commission thereof, upon being furnished with the names of the
15 witnesses for the prosecution, by leave of the court first had, file an
16 information, and process must forthwith be issued thereon. The
17 affidavit need not be filed in cases where the defendant has waived a
18 preliminary examination, or upon a preliminary examination has
19 been bound over to appear at the court having jurisdiction.

20 3. The information must be filed within 15 days after the
21 holding or waiver of the preliminary examination. Each information
22 must set forth the crime committed according to the facts.

23 4. If, with the consent of the prosecuting attorney, a defendant
24 waives his right to a preliminary examination in accordance with an
25 agreement by the defendant to plead guilty , *guilty but mentally ill*
26 or nolo contendere to a lesser charge or *to* at least one , but not all,
27 of the initial charges, the information filed against the defendant
28 pursuant to this section may contain only the offense or offenses to
29 which the defendant has agreed to enter a plea of guilty , *guilty but*
30 *mentally ill* or nolo contendere. If, for any reason, the agreement is
31 rejected by the district court or withdrawn by the defendant, the
32 prosecuting attorney may file an amended information charging all
33 of the offenses which were in the criminal complaint upon which the
34 preliminary examination was waived. The defendant must then be
35 arraigned in accordance with the amended information.

36 **Sec. 3.** NRS 173.125 is hereby amended to read as follows:

37 173.125 The prosecution is not required to elect between the
38 different offenses or counts set forth in the indictment or
39 information, and a plea of guilty *or guilty but mentally ill* to one or
40 more offenses charged in the indictment or information does not
41 preclude prosecution for the other offenses.

42 **Sec. 4.** NRS 174.035 is hereby amended to read as follows:

43 174.035 1. A defendant may plead not guilty, guilty , *guilty*
44 *but mentally ill* or, with the consent of the court, nolo contendere.



1 The court may refuse to accept a plea of guilty ~~or~~ *or guilty but*
2 *mentally ill*.

3 2. If a plea of guilty *or guilty but mentally ill* is made in a
4 written plea agreement, the agreement must be in substantially the
5 form prescribed in NRS 174.063. If a plea of guilty *or guilty but*
6 *mentally ill* is made orally, the court shall not accept such a plea or a
7 plea of nolo contendere without first addressing the defendant
8 personally and determining that the plea is made voluntarily with
9 understanding of the nature of the charge and consequences of the
10 plea.

11 3. With the consent of the court and the district attorney, a
12 defendant may enter a conditional plea of guilty *, guilty but*
13 *mentally ill* or nolo contendere, reserving in writing the right, on
14 appeal from the judgment, to a review of the adverse determination
15 of any specified pretrial motion. A defendant who prevails on appeal
16 must be allowed to withdraw the plea.

17 4. *A plea of guilty but mentally ill must be entered not less*
18 *than 21 days before the date set for trial. A defendant who has*
19 *entered a plea of guilty but mentally ill has the burden of*
20 *establishing his mental illness by a preponderance of the evidence.*
21 *Except as otherwise provided by specific statute, a defendant who*
22 *enters such a plea is subject to the same criminal, civil and*
23 *administrative penalties and procedures as a defendant who pleads*
24 *guilty.*

25 5. The defendant may, in the alternative or in addition to any
26 one of the pleas permitted by subsection 1, plead not guilty by
27 reason of insanity. A plea of not guilty by reason of insanity must be
28 entered not less than 21 days before the date set for trial. A
29 defendant who has not so pleaded may offer the defense of insanity
30 during trial upon good cause shown. Under such a plea or defense,
31 the burden of proof is upon the defendant to establish ~~this insanity~~
32 by a preponderance of the evidence ~~that~~.

33 ~~—5.1~~ *that:*

34 (a) *Due to a disease or defect of the mind, he was in a*
35 *delusional state at the time of the alleged offense; and*

36 (b) *Due to the delusional state, he either did not:*

37 (1) *Know or understand the nature and capacity of his act;*

38 *or*

39 (2) *Appreciate that his conduct was wrong, meaning not*
40 *authorized by law.*

41 6. If a defendant refuses to plead or if the court refuses to
42 accept a plea of guilty *or guilty but mentally ill* or if a defendant
43 corporation fails to appear, the court shall enter a plea of not guilty.



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~~6.1~~ 7. A defendant may not enter a plea of guilty *or guilty but mentally ill* pursuant to a plea bargain for an offense punishable as a felony for which:

- (a) Probation is not allowed; or
- (b) The maximum prison sentence is more than 10 years, unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. *As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.*

Sec. 5. NRS 174.055 is hereby amended to read as follows:

174.055 In ~~the~~ a justice court, if the defendant pleads guilty ~~or guilty but mentally ill~~, the court may, before entering such a plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed. If it appears to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail or to answer any indictment that may be found against him or any information which may be filed by the district attorney.

Sec. 6. NRS 174.061 is hereby amended to read as follows:

174.061 1. If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty , *guilty but mentally ill* or nolo contendere to a lesser charge or for a recommendation of a reduced sentence, the agreement:

- (a) Is void if the defendant's testimony is false.
- (b) Must be in writing and include a statement that the agreement is void if the defendant's testimony is false.

2. A prosecuting attorney shall not enter into an agreement with a defendant which:

- (a) Limits the testimony of the defendant to a predetermined formula.
- (b) Is contingent on the testimony of the defendant contributing to a specified conclusion.

Sec. 7. NRS 174.063 is hereby amended to read as follows:

174.063 1. If a plea of guilty *or guilty but mentally ill* is made in a written plea agreement, the agreement must be substantially in the following form:

Case No.....

Dept. No.....



IN THE JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF.....,

The State of Nevada ,
PLAINTIFF,

v.

(Name of defendant) ,
DEFENDANT.

**GUILTY *OR GUILTY BUT MENTALLY*
ILL PLEA AGREEMENT**

I hereby agree to plead guilty *or guilty but mentally ill* to: (List charges to which defendant is pleading guilty ~~H~~ *or guilty but mentally ill*), as more fully alleged in the charging document attached hereto as Exhibit 1.

My decision to plead guilty *or guilty but mentally ill* is based upon the plea agreement in this case which is as follows:

(State the terms of the agreement.)

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty *or guilty but mentally ill* I admit the facts which support all the elements of the offenses to which I now plead as set forth in Exhibit 1.

I understand that as a consequence of my plea of guilty *or guilty but mentally ill* I may be imprisoned for a period of not more than (maximum term of imprisonment) and that I (may or will) be fined up to (maximum amount of fine). I understand that the law requires me to pay an administrative assessment fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offenses to which I am pleading guilty *or guilty but mentally ill* and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for expenses ~~related~~ *relating* to my extradition, if any.

I understand that I (am or am not) eligible for probation for the offense to which I am pleading guilty ~~H~~ *or guilty but mentally ill*. (I understand that, except as otherwise provided by statute, the question of whether I receive probation is in the discretion of the sentencing judge, or I understand that I must serve a mandatory minimum term of (term of imprisonment) or pay a minimum mandatory fine of (amount of fine) or serve a mandatory minimum term (term of imprisonment) and pay a minimum mandatory fine of (amount of fine).)



1 I understand that if more than one sentence of imprisonment is
2 imposed and I am eligible to serve the sentences concurrently, the
3 sentencing judge has the discretion to order the sentences served
4 concurrently or consecutively.

5 I understand that information regarding charges not filed,
6 dismissed charges or charges to be dismissed pursuant to this
7 agreement may be considered by the judge at sentencing.

8 I have not been promised or guaranteed any particular sentence
9 by anyone. I know that my sentence is to be determined by the court
10 within the limits prescribed by statute. I understand that if my
11 attorney or the State of Nevada or both recommend any specific
12 punishment to the court, the court is not obligated to accept the
13 recommendation.

14 I understand that the Division of Parole and Probation of the
15 Department of Public Safety may or will prepare a report for the
16 sentencing judge before sentencing. This report will include matters
17 relevant to the issue of sentencing, including my criminal history. I
18 understand that this report may contain hearsay information
19 regarding my background and criminal history. My attorney (if
20 represented by counsel) and I will each have the opportunity to
21 comment on the information contained in the report at the time of
22 sentencing.
23

24 WAIVER OF RIGHTS

25 By entering my plea of guilty **H or guilty but mentally ill**, I
26 understand that I have waived the following rights and privileges:

27 1. The constitutional privilege against self-incrimination,
28 including the right to refuse to testify at trial, in which event the
29 prosecution would not be allowed to comment to the jury about my
30 refusal to testify.

31 2. The constitutional right to a speedy and public trial by an
32 impartial jury, free of excessive pretrial publicity prejudicial to the
33 defense, at which trial I would be entitled to the assistance of an
34 attorney, either appointed or retained. At trial, the State would bear
35 the burden of proving beyond a reasonable doubt each element of
36 the offense charged.

37 3. The constitutional right to confront and cross-examine any
38 witnesses who would testify against me.

39 4. The constitutional right to subpoena witnesses to testify on
40 my behalf.

41 5. The constitutional right to testify in my own defense.

42 6. The right to appeal the conviction, with the assistance of an
43 attorney, either appointed or retained, unless the appeal is based
44 upon reasonable constitutional, jurisdictional or other grounds that



1 challenge the legality of the proceedings and except as otherwise
2 provided in subsection 3 of NRS 174.035.

3
4 VOLUNTARINESS OF PLEA

5 I have discussed the elements of all the original charges against
6 me with my attorney (if represented by counsel) and I understand
7 the nature of these charges against me.

8 I understand that the State would have to prove each element of
9 the charge against me at trial.

10 I have discussed with my attorney (if represented by counsel)
11 any possible defenses and circumstances which might be in my
12 favor.

13 All of the foregoing elements, consequences, rights and waiver
14 of rights have been thoroughly explained to me by my attorney (if
15 represented by counsel).

16 I believe that pleading guilty *or guilty but mentally ill* and
17 accepting this plea bargain is in my best interest and that a trial
18 would be contrary to my best interest.

19 I am signing this agreement voluntarily, after consultation with
20 my attorney (if represented by counsel) and I am not acting under
21 duress or coercion or by virtue of any promises of leniency, except
22 for those set forth in this agreement.

23 I am not now under the influence of intoxicating liquor, a
24 controlled substance or other drug which would in any manner
25 impair my ability to comprehend or understand this agreement or
26 the proceedings surrounding my entry of this plea.

27 My attorney (if represented by counsel) has answered all my
28 questions regarding this guilty *or guilty but mentally ill* plea
29 agreement and its consequences to my satisfaction and I am satisfied
30 with the services provided by my attorney.

31
32 Dated: This day of the month of of the
33 year

34
35
36 Defendant.
37

38 Agreed to on this day of the month of of the
39 year

40
41
42 Deputy District Attorney.



2. If the defendant is represented by counsel, the written plea agreement must also include a certificate of counsel that is substantially in the following form:

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for the defendant named herein and as an officer of the court hereby certify that:

1. I have fully explained to the defendant the allegations contained in the charges to which guilty *or guilty but mentally ill* pleas are being entered.

2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.

3. All pleas of guilty *or guilty but mentally ill* offered by the defendant pursuant to this agreement are consistent with all the facts known to me and are made with my advice to the defendant and are in the best interest of the defendant.

4. To the best of my knowledge and belief, the defendant:

(a) Is competent and understands the charges and the consequences of pleading guilty *or guilty but mentally ill* as provided in this agreement.

(b) Executed this agreement and will enter all guilty *or guilty but mentally ill* pleas pursuant hereto voluntarily.

(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

Dated: This day of the month of of the year

.....
Attorney for defendant.

Sec. 8. NRS 174.065 is hereby amended to read as follows:
174.065 Except as otherwise provided in NRS 174.061:

1. On a plea of guilty *or guilty but mentally ill* to an information or indictment accusing a defendant of a crime divided into degrees, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify the degree, and in such event the defendant shall not be punished for a higher degree than that specified in the plea.

2. On a plea of guilty *or guilty but mentally ill* to an indictment or information for murder of the first degree, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify a punishment less than death. The specified



1 punishment, or any lesser punishment, may be imposed by a single
2 judge.

3 **Sec. 9.** NRS 174.075 is hereby amended to read as follows:

4 174.075 1. Pleadings in criminal proceedings are the
5 indictment, the information and, in justice court, the complaint, and
6 the pleas of guilty, *guilty but mentally ill*, not guilty, *not guilty by*
7 *reason of insanity* and nolo contendere.

8 2. All other pleas, ~~and~~ demurrers and motions to quash are
9 abolished, and defenses and objections raised before trial which
10 could have been raised by one or more of them may be raised only
11 by motion to dismiss or to grant appropriate relief, as provided in
12 this title.

13 **Sec. 10.** Chapter 175 of NRS is hereby amended by adding
14 thereto a new section to read as follows:

15 *1. During a trial, upon a plea of not guilty by reason of*
16 *insanity, the trier of fact may find the defendant guilty but*
17 *mentally ill if the trier of fact finds all of the following:*

18 *(a) The defendant is guilty beyond a reasonable doubt of an*
19 *offense;*

20 *(b) The defendant has established by a preponderance of the*
21 *evidence that due to a disease or defect of the mind, he was*
22 *mentally ill at the time of the commission of the offense; and*

23 *(c) The defendant has not established by a preponderance of*
24 *the evidence that he is not guilty by reason of insanity pursuant to*
25 *subsection 5 of NRS 174.035.*

26 *2. Except as otherwise provided by specific statute, a*
27 *defendant who is found guilty but mentally ill is subject to the*
28 *same criminal, civil and administrative penalties and procedures*
29 *as a defendant who is found guilty.*

30 *3. As used in this section, a "disease or defect of the mind"*
31 *does not include a disease or defect which is caused solely by*
32 *voluntary intoxication.*

33 **Sec. 11.** NRS 175.101 is hereby amended to read as follows:

34 175.101 If by reason of absence from the judicial district,
35 death, sickness or other disability the judge before whom the
36 defendant has been tried is unable to perform the duties to be
37 performed by the court after a verdict or finding of ~~guilt,~~ *guilty or*
38 *guilty but mentally ill*, any other judge regularly sitting in or
39 assigned to the court may perform those duties, ~~or~~ but if such other
40 judge is satisfied that he cannot perform those duties because he did
41 not preside at the trial or for any other reason, he may in his
42 discretion grant a new trial.

43 **Sec. 12.** NRS 175.282 is hereby amended to read as follows:

44 175.282 If a prosecuting attorney enters into an agreement with
45 a defendant in which the defendant agrees to testify against another



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1 defendant in exchange for a plea of guilty , *guilty but mentally ill* or
2 nolo contendere to a lesser charge or for a recommendation of a
3 reduced sentence, the court shall:

4 1. After excising any portion it deems irrelevant or prejudicial,
5 permit the jury to inspect the agreement;

6 2. If the defendant who is testifying has not entered his plea or
7 been sentenced pursuant to the agreement, instruct the jury
8 regarding the possible related pressures on the defendant by
9 providing the jury with an appropriate cautionary instruction; and

10 3. Allow the defense counsel to cross-examine fully the
11 defendant who is testifying concerning the agreement.

12 **Sec. 13.** NRS 175.381 is hereby amended to read as follows:

13 175.381 1. If, at any time after the evidence on either side is
14 closed, the court deems the evidence insufficient to warrant a
15 conviction, it may advise the jury to acquit the defendant, but the
16 jury is not bound by such advice.

17 2. The court may, on a motion of a defendant or on its own
18 motion, which is made after the jury returns a verdict of guilty ~~H~~ or
19 *guilty but mentally ill*, set aside the verdict and enter a judgment of
20 acquittal if the evidence is insufficient to sustain a conviction. The
21 motion for a judgment of acquittal must be made within 7 days after
22 the jury is discharged or within such further time as the court may
23 fix during that period.

24 3. If a motion for a judgment of acquittal after a verdict of
25 guilty or *guilty but mentally ill* pursuant to this section is granted,
26 the court shall also determine whether any motion for a new trial
27 should be granted if the judgment of acquittal is thereafter vacated
28 or reversed. The court shall specify the grounds for that
29 determination. If the motion for a new trial is granted conditionally,
30 the order thereon does not affect the finality of the judgment. If the
31 motion for a new trial is granted conditionally and the judgment is
32 reversed on appeal, the new trial must proceed unless the appellate
33 court has otherwise ordered. If the motion is denied conditionally,
34 the defendant on appeal may assert error in that denial, and if the
35 judgment is reversed on appeal, subsequent proceedings must be in
36 accordance with the order of the appellate court.

37 **Sec. 14.** NRS 175.501 is hereby amended to read as follows:

38 175.501 The defendant may be found guilty or *guilty but*
39 *mentally ill* of an offense necessarily included in the offense
40 charged or of an attempt to commit either the offense charged or an
41 offense necessarily included therein if the attempt is an offense.

42 **Sec. 15.** NRS 175.547 is hereby amended to read as follows:

43 175.547 1. In any case in which a defendant pleads or is
44 found guilty or *guilty but mentally ill* of murder in the first or
45 second degree, kidnapping in the first or second degree, false



1 imprisonment, burglary or invasion of the home, the court shall, at
2 the request of the prosecuting attorney, conduct a separate hearing to
3 determine whether the offense was sexually motivated. A request
4 for such a hearing may not be submitted to the court unless the
5 prosecuting attorney, before the commencement of the trial, files
6 and serves upon the defendant a written notice of his intention to
7 request such a hearing.

8 2. A hearing requested pursuant to subsection 1 must be
9 conducted before:

- 10 (a) The court imposes its sentence; or
11 (b) A separate penalty hearing is conducted.

12 3. At the hearing, only evidence concerning the question of
13 whether the offense was sexually motivated may be presented. The
14 prosecuting attorney must prove beyond a reasonable doubt that the
15 offense was sexually motivated.

16 4. The court shall enter its finding in the record.

17 5. For the purposes of this section, an offense is "sexually
18 motivated" if one of the purposes for which the person committed
19 the offense was his sexual gratification.

20 **Sec. 16.** NRS 175.552 is hereby amended to read as follows:

21 175.552 1. Except as otherwise provided in subsection 2, in
22 every case in which there is a finding that a defendant is guilty **or**
23 **guilty but mentally ill** of murder of the first degree, whether or not
24 the death penalty is sought, the court shall conduct a separate
25 penalty hearing. The separate penalty hearing must be conducted as
26 follows:

27 (a) If the finding is made by a jury, the separate penalty hearing
28 must be conducted in the trial court before the trial jury, as soon as
29 practicable.

30 (b) If the finding is made upon a plea of guilty **or guilty but**
31 **mentally ill** or a trial without a jury and the death penalty is sought,
32 the separate penalty hearing must be conducted before a jury
33 impaneled for that purpose, as soon as practicable.

34 (c) If the finding is made upon a plea of guilty **or guilty but**
35 **mentally ill** or a trial without a jury and the death penalty is not
36 sought, the separate penalty hearing must be conducted **as soon as**
37 **practicable** before the judge who conducted the trial or who
38 accepted the plea. ~~{of guilty, as soon as practicable.}~~

39 2. In a case in which the death penalty is not sought or in
40 which a court has made a finding that the defendant is mentally
41 retarded and has stricken the notice of intent to seek the death
42 penalty pursuant to NRS 174.098, the parties may by stipulation
43 waive the separate penalty hearing required in subsection 1. When
44 stipulating to such a waiver, the parties may also include an
45 agreement to have the sentence, if any, imposed by the trial judge.



Any stipulation pursuant to this subsection must be in writing and signed by the defendant, his attorney, if any, and the prosecuting attorney.

3. During the hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, defendant or victim and on any other matter which the court deems relevant to sentence, whether or not the evidence is ordinarily admissible. Evidence may be offered to refute hearsay matters. No evidence which was secured in violation of the Constitution of the United States or the Constitution of the State of Nevada may be introduced. The State may introduce evidence of additional aggravating circumstances as set forth in NRS 200.033, other than the aggravated nature of the offense itself, only if it has been disclosed to the defendant before the commencement of the penalty hearing.

4. In a case in which the death penalty is not sought or in which a court has found the defendant to be mentally retarded and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the jury or the trial judge shall determine whether the defendant should be sentenced to life with the possibility of parole or life without the possibility of parole.

Sec. 17. Chapter 176 of NRS is hereby amended by adding a new section to read as follows:

1. If a defendant is found guilty but mentally ill pursuant to section 10 of this act or the court accepts his plea of guilty but mentally ill entered pursuant to NRS 174.035, and the court finds by a preponderance of the evidence that:

(a) The defendant is not mentally ill at the time of sentencing, the court shall impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; or

(b) The defendant is mentally ill at the time of sentencing, the court shall:

(1) Impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; and

(2) Include in that sentence an order that the defendant, during the period of his confinement or probation, be given or obtain such treatment as is medically indicated for his mental illness.

2. If the sentence of a defendant includes a period of confinement, the Department of Corrections shall provide any treatment ordered by a court pursuant to subsection 1 at a facility designated by the Department to provide such treatment. The Department shall separate such a person from the general



population of the prison and shall not return the person to that population until a licensed psychiatrist or psychologist finds that the person is no longer mentally ill.

Sec. 18. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
\$5 to \$49.....	\$25
50 to 59.....	40
60 to 69.....	45
70 to 79.....	50
80 to 89.....	55
90 to 99.....	60
100 to 199.....	70
200 to 299.....	80
300 to 399.....	90
400 to 499.....	100
500 to 1,000.....	115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been



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determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services



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1 to juvenile offenders. Any money remaining in the special account
2 after 2 fiscal years must be deposited in the county general fund if it
3 has not been committed for expenditure. The county treasurer shall
4 provide, upon request by a juvenile court, monthly reports of the
5 revenue credited to and expenditures made from the special account.

6 (b) Seven dollars for credit to a special revenue fund for the use
7 of the justice courts. Any money remaining in the special revenue
8 fund after 2 fiscal years must be deposited in the county general
9 fund if it has not been committed for expenditure. The county
10 treasurer shall provide, upon request by a justice court, monthly
11 reports of the revenue credited to and expenditures made from the
12 special revenue fund.

13 (c) The remainder of each assessment to the State Controller for
14 credit to a special account in the State General Fund.

15 7. The money apportioned to a juvenile court, a justice court or
16 a municipal court pursuant to this section must be used, in addition
17 to providing services to juvenile offenders in the juvenile court, to
18 improve the operations of the court, or to acquire appropriate
19 advanced technology or the use of such technology, or both. Money
20 used to improve the operations of the court may include
21 expenditures for:

- 22 (a) Training and education of personnel;
- 23 (b) Acquisition of capital goods;
- 24 (c) Management and operational studies; or
- 25 (d) Audits.

26 8. Of the total amount deposited in the State General Fund
27 pursuant to subsections 5 and 6, the State Controller shall distribute
28 the money received to the following public agencies in the
29 following manner:

30 (a) Not less than 51 percent to the Office of Court Administrator
31 for allocation as follows:

32 (1) Eighteen and one-half percent of the amount distributed
33 to the Office of Court Administrator for the administration of the
34 courts.

35 (2) Nine percent of the amount distributed to the Office of
36 Court Administrator for the development of a uniform system for
37 judicial records.

38 (3) Nine percent of the amount distributed to the Office of
39 Court Administrator for continuing judicial education.

40 (4) Sixty percent of the amount distributed to the Office of
41 Court Administrator for the Supreme Court.

42 (5) Three and one-half percent of the amount distributed to
43 the Office of Court Administrator for the payment for the services of
44 retired justices and retired district judges.



(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Nevada Highway Patrol of a computerized switching system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; and

(5) The Advisory Council for Prosecuting Attorneys.

9. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 19. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or *guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount



1 posted for bail pursuant to this subsection must be disbursed in the
2 manner set forth in subsection 6 or 7. If the defendant is found not
3 guilty or the charges are dismissed, the money deposited with the
4 court must be returned to the defendant. If the justice or judge
5 cancels a fine because the fine has been determined to be
6 uncollectible, any balance of the fine and the administrative
7 assessment remaining unpaid shall be deemed to be uncollectible
8 and the defendant is not required to pay it. If a fine is determined to
9 be uncollectible, the defendant is not entitled to a refund of the fine
10 or administrative assessment he has paid and the justice or judge
11 shall not recalculate the administrative assessment.

12 5. If the justice or judge permits the fine and administrative
13 assessment for the provision of court facilities to be paid in
14 installments, the payments must be applied in the following order:

15 (a) To pay the unpaid balance of an administrative assessment
16 imposed pursuant to NRS 176.059;

17 (b) To pay the unpaid balance of an administrative assessment
18 for the provision of court facilities pursuant to this section;

19 (c) To pay the unpaid balance of an administrative assessment
20 for the provision of specialty court programs pursuant to NRS
21 176.0613; and

22 (d) To pay the fine.

23 6. The money collected for administrative assessments for the
24 provision of court facilities in municipal courts must be paid by the
25 clerk of the court to the city treasurer on or before the fifth day of
26 each month for the preceding month. The city treasurer shall deposit
27 the money received in a special revenue fund. The city may use the
28 money in the special revenue fund only to:

29 (a) Acquire land on which to construct additional facilities for
30 the municipal courts or a regional justice center that includes the
31 municipal courts.

32 (b) Construct or acquire additional facilities for the municipal
33 courts or a regional justice center that includes the municipal courts.

34 (c) Renovate or remodel existing facilities for the municipal
35 courts.

36 (d) Acquire furniture, fixtures and equipment necessitated by the
37 construction or acquisition of additional facilities or the renovation
38 of an existing facility for the municipal courts or a regional justice
39 center that includes the municipal courts. This paragraph does not
40 authorize the expenditure of money from the fund for furniture,
41 fixtures or equipment for judicial chambers.

42 (e) Acquire advanced technology for use in the additional or
43 renovated facilities.

44 (f) Pay debt service on any bonds issued pursuant to subsection
45 3 of NRS 350.020 for the acquisition of land or facilities or the



1 construction or renovation of facilities for the municipal courts or a
2 regional justice center that includes the municipal courts.

3 ➔ Any money remaining in the special revenue fund after 5 fiscal
4 years must be deposited in the municipal general fund for the
5 continued maintenance of court facilities if it has not been
6 committed for expenditure pursuant to a plan for the construction or
7 acquisition of court facilities or improvements to court facilities.
8 The city treasurer shall provide, upon request by a municipal court,
9 monthly reports of the revenue credited to and expenditures made
10 from the special revenue fund.

11 7. The money collected for administrative assessments for the
12 provision of court facilities in justice courts must be paid by the
13 clerk of the court to the county treasurer on or before the fifth day of
14 each month for the preceding month. The county treasurer shall
15 deposit the money received to a special revenue fund. The county
16 may use the money in the special revenue fund only to:

17 (a) Acquire land on which to construct additional facilities for
18 the justice courts or a regional justice center that includes the justice
19 courts.

20 (b) Construct or acquire additional facilities for the justice
21 courts or a regional justice center that includes the justice courts.

22 (c) Renovate or remodel existing facilities for the justice courts.

23 (d) Acquire furniture, fixtures and equipment necessitated by the
24 construction or acquisition of additional facilities or the renovation
25 of an existing facility for the justice courts or a regional justice
26 center that includes the justice courts. This paragraph does not
27 authorize the expenditure of money from the fund for furniture,
28 fixtures or equipment for judicial chambers.

29 (e) Acquire advanced technology for use in the additional or
30 renovated facilities.

31 (f) Pay debt service on any bonds issued pursuant to subsection
32 3 of NRS 350.020 for the acquisition of land or facilities or the
33 construction or renovation of facilities for the justice courts or a
34 regional justice center that includes the justice courts.

35 ➔ Any money remaining in the special revenue fund after 5 fiscal
36 years must be deposited in the county general fund for the continued
37 maintenance of court facilities if it has not been committed for
38 expenditure pursuant to a plan for the construction or acquisition of
39 court facilities or improvements to court facilities. The county
40 treasurer shall provide, upon request by a justice court, monthly
41 reports of the revenue credited to and expenditures made from the
42 special revenue fund.

43 8. If money collected pursuant to this section is to be used to
44 acquire land on which to construct a regional justice center, to
45 construct a regional justice center or to pay debt service on bonds



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1 issued for these purposes, the county and the participating cities
2 shall, by interlocal agreement, determine such issues as the size of
3 the regional justice center, the manner in which the center will be
4 used and the apportionment of fiscal responsibility for the center.

5 **Sec. 20.** NRS 176.0613 is hereby amended to read as follows:

6 176.0613 1. The justices or judges of the justice or municipal
7 courts shall impose, in addition to an administrative assessment
8 imposed pursuant to NRS 176.059 and 176.0611, an administrative
9 assessment for the provision of specialty court programs.

10 2. Except as otherwise provided in subsection 3, when a
11 defendant pleads guilty *or guilty but mentally ill* or is found guilty
12 *or guilty but mentally ill* of a misdemeanor, including the violation
13 of any municipal ordinance, the justice or judge shall include in the
14 sentence the sum of \$7 as an administrative assessment for the
15 provision of specialty court programs and render a judgment against
16 the defendant for the assessment. If a defendant is sentenced to
17 perform community service in lieu of a fine, the sentence must
18 include the administrative assessment required pursuant to this
19 subsection.

20 3. The provisions of subsection 2 do not apply to:

21 (a) An ordinance regulating metered parking; or

22 (b) An ordinance which is specifically designated as imposing a
23 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

24 4. The money collected for an administrative assessment
25 for the provision of specialty court programs must not be deducted
26 from the fine imposed by the justice or judge but must be taxed
27 against the defendant in addition to the fine. The money collected
28 for such an administrative assessment must be stated separately on
29 the court's docket and must be included in the amount posted for
30 bail. If bail is forfeited, the administrative assessment included in
31 the bail pursuant to this subsection must be disbursed pursuant to
32 subsection 6 or 7. If the defendant is found not guilty or the charges
33 are dismissed, the money deposited with the court must be returned
34 to the defendant. If the justice or judge cancels a fine because the
35 fine has been determined to be uncollectible, any balance of the fine
36 and the administrative assessment remaining unpaid shall be
37 deemed to be uncollectible and the defendant is not required to pay
38 it. If a fine is determined to be uncollectible, the defendant is not
39 entitled to a refund of the fine or administrative assessment he has
40 paid and the justice or judge shall not recalculate the administrative
41 assessment.

42 5. If the justice or judge permits the fine and administrative
43 assessment for the provision of specialty court programs to be paid
44 in installments, the payments must be applied in the following
45 order:



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1 (a) To pay the unpaid balance of an administrative assessment
2 imposed pursuant to NRS 176.059;

3 (b) To pay the unpaid balance of an administrative assessment
4 for the provision of court facilities pursuant to NRS 176.0611;

5 (c) To pay the unpaid balance of an administrative assessment
6 for the provision of specialty court programs; and

7 (d) To pay the fine.

8 6. The money collected for an administrative assessment for
9 the provision of specialty court programs in municipal court must be
10 paid by the clerk of the court to the city treasurer on or before the
11 fifth day of each month for the preceding month. On or before the
12 15th day of that month, the city treasurer shall deposit the money
13 received for each administrative assessment with the State
14 Controller for credit to a special account in the State General Fund
15 administered by the Office of Court Administrator.

16 7. The money collected for an administrative assessment for
17 the provision of specialty court programs in justice courts must be
18 paid by the clerk of the court to the county treasurer on or before the
19 fifth day of each month for the preceding month. On or before the
20 15th day of that month, the county treasurer shall deposit the money
21 received for each administrative assessment with the State
22 Controller for credit to a special account in the State General Fund
23 administered by the Office of Court Administrator.

24 8. The Office of Court Administrator shall allocate the money
25 credited to the State General Fund pursuant to subsections 6 and 7 to
26 courts to assist with the funding or establishment of specialty court
27 programs.

28 9. Money that is apportioned to a court from administrative
29 assessments for the provision of specialty court programs must be
30 used by the court to:

31 (a) Pay for the treatment and testing of persons who participate
32 in the program; and

33 (b) Improve the operations of the specialty court program by any
34 combination of:

35 (1) Acquiring necessary capital goods;

36 (2) Providing for personnel to staff and oversee the specialty
37 court program;

38 (3) Providing training and education to personnel;

39 (4) Studying the management and operation of the program;

40 (5) Conducting audits of the program;

41 (6) Supplementing the funds used to pay for judges to
42 oversee a specialty court program; or

43 (7) Acquiring or using appropriate technology.

44 10. As used in this section:



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(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 21. NRS 176.062 is hereby amended to read as follows:

176.062 1. When a defendant pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a felony or gross misdemeanor, the judge shall include in the sentence the sum of \$25 as an administrative assessment and render a judgment against the defendant for the assessment.

2. The money collected for an administrative assessment:

(a) Must not be deducted from any fine imposed by the judge;

(b) Must be taxed against the defendant in addition to the fine; and

(c) Must be stated separately on the court's docket.

3. The money collected for administrative assessments in district courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Five dollars for credit to a special account in the county general fund for the use of the district court.

(b) The remainder of each assessment to the State Controller.

4. The State Controller shall credit the money received pursuant to subsection 3 to a special account for the assistance of criminal justice in the State General Fund, and distribute the money from the account to the Attorney General as authorized by the Legislature. Any amount received in excess of the amount authorized by the Legislature for distribution must remain in the account.

Sec. 22. NRS 176.135 is hereby amended to read as follows:

176.135 1. Except as otherwise provided in this section and NRS 176.151, the Division shall make a presentence investigation and report to the court on each defendant who pleads guilty, *guilty but mentally ill* or nolo contendere to, or is found guilty *or guilty but mentally ill* of, a felony.

2. If a defendant is convicted of a felony that is a sexual offense, the presentence investigation and report:

(a) Must be made before the imposition of sentence or the granting of probation; and



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(b) If the sexual offense is an offense for which the suspension of sentence or the granting of probation is permitted, must include a psychosexual evaluation of the defendant.

3. If a defendant is convicted of a felony other than a sexual offense, the presentence investigation and report must be made before the imposition of sentence or the granting of probation unless:

(a) A sentence is fixed by a jury; or

(b) Such an investigation and report on the defendant has been made by the Division within the 5 years immediately preceding the date initially set for sentencing on the most recent offense.

4. Upon request of the court, the Division shall make presentence investigations and reports on defendants who plead guilty, *guilty but mentally ill* or nolo contendere to, or are found guilty *or guilty but mentally ill* of, gross misdemeanors.

Sec. 23. NRS 176.151 is hereby amended to read as follows:

176.151 1. If a defendant pleads guilty, *guilty but mentally ill* or nolo contendere to, or is found guilty *or guilty but mentally ill* of, one or more category E felonies, but no other felonies, the Division shall not make a presentence investigation and report on the defendant pursuant to NRS 176.135, unless the Division has not made a presentence investigation and report on the defendant pursuant to NRS 176.135 within the 5 years immediately preceding the date initially set for sentencing on the category E felony or felonies and:

(a) The court requests a presentence investigation and report; or

(b) The prosecuting attorney possesses evidence that would support a decision by the court to deny probation to the defendant pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

2. If the Division does not make a presentence investigation and report on a defendant pursuant to subsection 1, the Division shall, not later than 45 days after the date on which the defendant is sentenced, make a general investigation and report on the defendant that contains:

(a) Any prior criminal record of the defendant;

(b) Information concerning the characteristics of the defendant, the circumstances affecting his behavior and the circumstances of his offense that may be helpful to persons responsible for the supervision or correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of



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1 the victim, and the extent of any investigation or examination and
2 the extent of the information included in the report is solely at the
3 discretion of the Division;

4 (d) Data or information concerning reports and investigations
5 thereof made pursuant to chapter 432B of NRS that relate to the
6 defendant and are made available pursuant to NRS 432B.290; and

7 (e) Any other information that the Division believes may be
8 helpful to persons responsible for the supervision or correctional
9 treatment of the defendant.

10 **Sec. 24.** NRS 176.165 is hereby amended to read as follows:

11 176.165 Except as otherwise provided in this section, a motion
12 to withdraw a plea of guilty , *guilty but mentally ill* or nolo
13 contendere may be made only before sentence is imposed or
14 imposition of sentence is suspended. To correct manifest injustice,
15 the court after sentence may set aside the judgment of conviction
16 and permit the defendant to withdraw his plea.

17 **Sec. 25.** NRS 176A.255 is hereby amended to read as follows:

18 176A.255 1. A justice court or a municipal court may, upon
19 approval of the district court, transfer original jurisdiction to the
20 district court of a case involving an eligible defendant.

21 2. As used in this section, "eligible defendant" means a person
22 who:

23 (a) Has not tendered a plea of guilty , *guilty but mentally ill* or
24 nolo contendere to, or been found guilty *or guilty but mentally ill*
25 of, an offense that is a misdemeanor;

26 (b) Appears to suffer from mental illness or to be mentally
27 retarded; and

28 (c) Would benefit from assignment to a program established
29 pursuant to NRS 176A.250.

30 **Sec. 26.** NRS 176A.260 is hereby amended to read as follows:

31 176A.260 1. Except as otherwise provided in subsection 2, if
32 a defendant who suffers from mental illness or is mentally retarded
33 tenders a plea of guilty , *guilty but mentally ill* or nolo contendere
34 to, or is found guilty *or guilty but mentally ill* of, any offense for
35 which the suspension of sentence or the granting of probation is not
36 prohibited by statute, the court may, without entering a judgment of
37 conviction and with the consent of the defendant, suspend further
38 proceedings and place the defendant on probation upon terms and
39 conditions that must include attendance and successful completion
40 of a program established pursuant to NRS 176A.250.

41 2. If the offense committed by the defendant involved the use
42 or threatened use of force or violence or if the defendant was
43 previously convicted in this State or in any other jurisdiction of a
44 felony that involved the use or threatened use of force or violence,



1 the court may not assign the defendant to the program unless the
2 prosecuting attorney stipulates to the assignment.

3 3. Upon violation of a term or condition:

4 (a) The court may enter a judgment of conviction and proceed as
5 provided in the section pursuant to which the defendant was
6 charged.

7 (b) Notwithstanding the provisions of paragraph (e) of
8 subsection 2 of NRS 193.130, the court may order the defendant to
9 the custody of the Department of Corrections if the offense is
10 punishable by imprisonment in the state prison.

11 4. Upon fulfillment of the terms and conditions, the court shall
12 discharge the defendant and dismiss the proceedings against him.
13 Discharge and dismissal pursuant to this section is without
14 adjudication of guilt and is not a conviction for purposes of this
15 section or for purposes of employment, civil rights or any statute or
16 regulation or license or questionnaire or for any other public or
17 private purpose, but is a conviction for the purpose of additional
18 penalties imposed for second or subsequent convictions or the
19 setting of bail. Discharge and dismissal restores the defendant, in the
20 contemplation of the law, to the status occupied before the arrest,
21 indictment or information. The defendant may not be held thereafter
22 under any law to be guilty of perjury or otherwise giving a false
23 statement by reason of failure to recite or acknowledge that arrest,
24 indictment, information or trial in response to an inquiry made of
25 him for any purpose.

26 **Sec. 27.** NRS 177.015 is hereby amended to read as follows:

27 177.015 The party aggrieved in a criminal action may appeal
28 only as follows:

29 1. Whether that party is the State or the defendant:

30 (a) To the district court of the county from a final judgment of
31 the justice court.

32 (b) To the Supreme Court from an order of the district court
33 granting a motion to dismiss, a motion for acquittal or a motion in
34 arrest of judgment, or granting or refusing a new trial.

35 (c) To the Supreme Court from a determination of the district
36 court about whether a defendant is mentally retarded that is made as
37 a result of a hearing held pursuant to NRS 174.098. If the Supreme
38 Court entertains the appeal, it shall enter an order staying the
39 criminal proceedings against the defendant for such time as may be
40 required.

41 2. The State may, upon good cause shown, appeal to the
42 Supreme Court from a pretrial order of the district court granting or
43 denying a motion to suppress evidence made pursuant to NRS
44 174.125. Notice of the appeal must be filed with the clerk of the
45 district court within 2 judicial days and with the Clerk of the



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1 Supreme Court within 5 judicial days after the ruling by the district
2 court. The clerk of the district court shall notify counsel for the
3 defendant or, in the case of a defendant without counsel, the
4 defendant within 2 judicial days after the filing of the notice of
5 appeal. The Supreme Court may establish such procedures as it
6 determines proper in requiring the appellant to make a preliminary
7 showing of the propriety of the appeal and whether there may be a
8 miscarriage of justice if the appeal is not entertained. If the Supreme
9 Court entertains the appeal, or if it otherwise appears necessary, it
10 may enter an order staying the trial for such time as may be
11 required.

12 3. The defendant only may appeal from a final judgment or
13 verdict in a criminal case.

14 4. Except as otherwise provided in subsection 3 of NRS
15 174.035, the defendant in a criminal case shall not appeal a final
16 judgment or verdict resulting from a plea of guilty , *guilty but*
17 *mentally ill* or nolo contendere that the defendant entered into
18 voluntarily and with a full understanding of the nature of the charge
19 and the consequences of the plea, unless the appeal is based upon
20 reasonable constitutional, jurisdictional or other grounds that
21 challenge the legality of the proceedings. The Supreme Court may
22 establish procedures to require the defendant to make a preliminary
23 showing of the propriety of the appeal.

24 **Sec. 28.** NRS 177.075 is hereby amended to read as follows:

25 177.075 1. Except where appeal is automatic, an appeal from
26 a district court to the Supreme Court is taken by filing a notice of
27 appeal with the clerk of the district court. Bills of exception and
28 assignments of error in cases governed by this chapter are abolished.

29 2. When a court imposes sentence upon a defendant who has
30 not pleaded guilty *or guilty but mentally ill* and who is without
31 counsel, the court shall advise the defendant of his right to appeal,
32 and if he so requests, the clerk shall prepare and file forthwith a
33 notice of appeal on his behalf.

34 3. A notice of appeal must be signed:

- 35 (a) By the appellant or appellant's attorney; or
36 (b) By the clerk if prepared by him.

37 **Sec. 29.** NRS 178.388 is hereby amended to read as follows:

38 178.388 1. Except as otherwise provided in this title, the
39 defendant must be present at the arraignment, at every stage of
40 the trial including the impaneling of the jury and the return of the
41 verdict, and at the imposition of sentence. A corporation may appear
42 by counsel for all purposes.

43 2. In prosecutions for offenses not punishable by death:



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(a) The defendant's voluntary absence after the trial has been commenced in his presence must not prevent continuing the trial to and including the return of the verdict.

(b) If the defendant was present at the trial through the time he pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* but at the time of his sentencing is incarcerated in another jurisdiction, he may waive his right to be present at the sentencing proceedings and agree to be sentenced in this State in his absence. The defendant's waiver is valid only if it is:

(1) Made knowingly, intelligently and voluntarily after consulting with an attorney licensed to practice in this State;

(2) Signed and dated by the defendant and notarized by a notary public or judicial officer; and

(3) Signed and dated by his attorney after it has been signed by the defendant and notarized.

3. In prosecutions for offenses punishable by fine or by imprisonment for not more than 1 year, or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence, if the court determines that the defendant was fully aware of his applicable constitutional rights when he gave his consent.

4. The presence of the defendant is not required at the arraignment or any preceding stage if the court has provided for the use of a closed-circuit television to facilitate communication between the court and the defendant during the proceeding. If closed-circuit television is provided for, members of the news media may observe and record the proceeding from both locations unless the court specifically provides otherwise.

5. The defendant's presence is not required at the settling of jury instructions.

Sec. 30. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;



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(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State, and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty, *guilty but mentally ill* or nolo contendere to, the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 31. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a justice or judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the justice or judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the justice or judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a justice or judge from the exercise of office without salary if the justice or judge:



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(a) Pleads guilty , *guilty but mentally ill* or no contest to a charge of; or

(b) Is found guilty *or guilty but mentally ill* of, a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the justice or judge must be paid his salary for the period of suspension.

3. The Commission may suspend a justice or judge from the exercise of office with salary if the Commission determines, pending a final determination in a judicial disciplinary proceeding, that the justice or judge poses a substantial threat of serious harm to the public or to the administration of justice.

4. A justice or judge suspended pursuant to this section may appeal the suspension to the Supreme Court for reconsideration of the order.

5. The Commission may suspend a justice or judge pursuant to this section only in accordance with its procedural rules.

Sec. 32. NRS 33.400 is hereby amended to read as follows:

33.400 1. In addition to any other remedy provided by law, the parent or guardian of a child may petition any court of competent jurisdiction on behalf of the child for a temporary or extended order against a person who is 18 years of age or older and who the parent or guardian reasonably believes has committed or is committing a crime involving:

(a) Physical or mental injury to the child of a nonaccidental nature; or

(b) Sexual abuse or sexual exploitation of the child.

2. If such an order on behalf of a child is granted, the court may direct the person who allegedly committed or is committing the crime to:

(a) Stay away from the home, school, business or place of employment of the child and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court , who may include, without limitation, a member of the family or the household of the child.

3. If a defendant charged with committing a crime described in subsection 1 is released from custody before trial or is found guilty *or guilty but mentally ill* during the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:



(a) Stay away from the home, school, business or place of employment of the child against whom the alleged crime was committed and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child against whom the alleged crime was committed and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court , who may include, without limitation, a member of the family or the household of the child.

4. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

5. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

6. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

Sec. 33. NRS 33.440 is hereby amended to read as follows:

33.440 1. Upon the request of the parent or guardian of a child, the prosecuting attorney in any trial brought against a person for a crime described in subsection 1 of NRS 33.400 shall inform the parent or guardian of the final disposition of the case.

2. If the defendant is found guilty *or guilty but mentally ill* and the court issues an order or provides a condition of his sentence restricting the ability of the defendant to have contact with the child



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1 against whom the crime was committed or witnesses, the clerk of
2 the court shall:

3 (a) Keep a record of the order or condition of the sentence; and

4 (b) Provide a certified copy of the order or condition of the
5 sentence to the parent or guardian of the child and other persons
6 named in the order.

7 **Sec. 34.** NRS 34.735 is hereby amended to read as follows:

8 34.735 A petition must be in substantially the following form,
9 with appropriate modifications if the petition is filed in the Supreme
10 Court:

11
12 Case No.....

13 Dept. No.....

14
15 IN THE JUDICIAL DISTRICT COURT OF THE
16 STATE OF NEVADA IN AND FOR THE COUNTY OF

17
18
19 Petitioner,

20
21 v.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

22
23
24 Respondent.

25
26
27 INSTRUCTIONS:

28 (1) This petition must be legibly handwritten or typewritten,
29 signed by the petitioner and verified.

30 (2) Additional pages are not permitted except where noted or
31 with respect to the facts which you rely upon to support your
32 grounds for relief. No citation of authorities need be furnished. If
33 briefs or arguments are submitted, they should be submitted in the
34 form of a separate memorandum.

35 (3) If you want an attorney appointed, you must complete the
36 Affidavit in Support of Request to Proceed in Forma Pauperis. You
37 must have an authorized officer at the prison complete the certificate
38 as to the amount of money and securities on deposit to your credit in
39 any account in the institution.

40 (4) You must name as respondent the person by whom you are
41 confined or restrained. If you are in a specific institution of the
42 Department of Corrections, name the warden or head of the
43 institution. If you are not in a specific institution of the Department
44 but within its custody, name the Director of the Department of
45 Corrections.



(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty:

2. Name and location of court which entered the judgment of conviction under attack:

3. Date of judgment of conviction:

4. Case number:

5. (a) Length of sentence:

(b) If sentence is death, state any date upon which execution is scheduled:

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes No If "yes," list crime, case number and sentence being served at this time:

7. Nature of offense involved in conviction being challenged:

8. What was your plea? (check one)



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- 1 (a) Not guilty
2 (b) Guilty
3 (c) **Guilty but mentally ill**
4 (d) Nolo contendere

5 9. If you entered a plea of guilty **or guilty but mentally ill** to
6 one count of an indictment or information, and a plea of not guilty
7 to another count of an indictment or information, or if a plea of
8 guilty **or guilty but mentally ill** was negotiated, give details:
9

10
11 10. If you were found guilty **or guilty but mentally ill** after a
12 plea of not guilty, was the finding made by: (check one)

- 13 (a) Jury
14 (b) Judge without a jury

15 11. Did you testify at the trial? Yes No

16 12. Did you appeal from the judgment of conviction? Yes
17 No

18 13. If you did appeal, answer the following:

- 19 (a) Name of court:
20 (b) Case number or citation:
21 (c) Result:
22 (d) Date of result:
23 (Attach copy of order or decision, if available.)

24 14. If you did not appeal, explain briefly why you did not:
25
26

27 15. Other than a direct appeal from the judgment of conviction
28 and sentence, have you previously filed any petitions, applications
29 or motions with respect to this judgment in any court, state or
30 federal? Yes No

31 16. If your answer to No. 15 was "yes," give the following
32 information:

- 33 (a) (1) Name of court:
34 (2) Nature of proceeding:
35

36 (3) Grounds raised:
37
38

39 (4) Did you receive an evidentiary hearing on your petition,
40 application or motion? Yes No

41 (5) Result:
42 (6) Date of result:

43 (7) If known, citations of any written opinion or date of
44 orders entered pursuant to such result:
45



(b) As to any second petition, application or motion, give the same information:

(1) Name of court:

(2) Nature of proceeding:

(3) Grounds raised:

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result:

(6) Date of result:

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes No

Citation or date of decision:

(2) Second petition, application or motion? Yes

No

Citation or date of decision:

(3) Third or subsequent petitions, applications or motions?

Yes No

Citation or date of decision:

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same:

(b) The proceedings in which these grounds were raised:

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches



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1 attached to the petition. Your response may not exceed five
2 handwritten or typewritten pages in length.)
3

4 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d),
5 or listed on any additional pages you have attached, were not
6 previously presented in any other court, state or federal, list briefly
7 what grounds were not so presented, and give your reasons for not
8 presenting them. (You must relate specific facts in response to this
9 question. Your response may be included on paper which is 8 1/2 by
10 11 inches attached to the petition. Your response may not exceed
11 five handwritten or typewritten pages in length.)
12

13 19. Are you filing this petition more than 1 year following the
14 filing of the judgment of conviction or the filing of a decision on
15 direct appeal? If so, state briefly the reasons for the delay. (You
16 must relate specific facts in response to this question. Your response
17 may be included on paper which is 8 1/2 by 11 inches attached to
18 the petition. Your response may not exceed five handwritten or
19 typewritten pages in length.)
20

21 20. Do you have any petition or appeal now pending in any
22 court, either state or federal, as to the judgment under attack?
23 Yes No
24 If yes, state what court and the case number:
25

26 21. Give the name of each attorney who represented you in the
27 proceeding resulting in your conviction and on direct appeal:
28

29 22. Do you have any future sentences to serve after you
30 complete the sentence imposed by the judgment under attack?
31 Yes No
32 If yes, specify where and when it is to be served, if you know:
33

34 23. State concisely every ground on which you claim that you
35 are being held unlawfully. Summarize briefly the facts supporting
36 each ground. If necessary you may attach pages stating additional
37 grounds and facts supporting same.

38 (a) Ground one:
39
40 Supporting FACTS (Tell your story briefly without citing cases or
41 law.):
42
43

44 (b) Ground two:
45



Supporting FACTS (Tell your story briefly without citing cases or law.):

(c) Ground three:

Supporting FACTS (Tell your story briefly without citing cases or law.):

(d) Ground four:

Supporting FACTS (Tell your story briefly without citing cases or law.):

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at on the day of the month of of the year

.....
Signature of petitioner

.....
Address

.....
Signature of attorney (if any)

.....
Attorney for petitioner

.....
Address

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

.....
Petitioner

.....
Attorney for petitioner



CERTIFICATE OF SERVICE BY MAIL

I,, hereby certify, pursuant to N.R.C.P. 5(b), that on this day of the month of of the year, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

.....
Respondent prison or jail official

.....
Address

.....
Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710

.....
District Attorney of County of Conviction

.....
Address

.....
Signature of Petitioner

Sec. 35. NRS 34.810 is hereby amended to read as follows:

34.810 1. The court shall dismiss a petition if the court determines that:

(a) The petitioner's conviction was upon a plea of guilty **or guilty but mentally ill** and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel.

(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

(1) Presented to the trial court;

(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or

(3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence,

➔ unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice



1 finds that the failure of the petitioner to assert those grounds in a
2 prior petition constituted an abuse of the writ.

3 3. Pursuant to subsections 1 and 2, the petitioner has the
4 burden of pleading and proving specific facts that demonstrate:

5 (a) Good cause for the petitioner’s failure to present the claim or
6 for presenting the claim again; and

7 (b) Actual prejudice to the petitioner.

8 ➔ The petitioner shall include in the petition all prior proceedings in
9 which he challenged the same conviction or sentence.

10 4. The court may dismiss a petition that fails to include any
11 prior proceedings of which the court has knowledge through the
12 record of the court or through the pleadings submitted by the
13 respondent.

14 **Sec. 36.** NRS 41B.070 is hereby amended to read as follows:

15 41B.070 “Convicted” and “conviction” mean a judgment based
16 upon:

17 1. A plea of guilty , *guilty but mentally ill* or nolo contendere;

18 2. A finding of ~~guilty~~ *guilty or guilty but mentally ill* by a jury
19 or a court sitting without a jury;

20 3. An adjudication of delinquency or finding of ~~guilty~~ *guilty or*
21 *guilty but mentally ill* by a court having jurisdiction over juveniles;
22 or

23 4. Any other admission or finding of ~~guilty~~ *guilty or guilty but*
24 *mentally ill* in a criminal action or a proceeding in a court having
25 jurisdiction over juveniles.

26 **Sec. 37.** NRS 48.125 is hereby amended to read as follows:

27 48.125 1. Evidence of a plea of guilty ~~or~~ *or guilty but*
28 *mentally ill*, later withdrawn, or of an offer to plead guilty *or guilty*
29 *but mentally ill* to the crime charged or any other crime is not
30 admissible in a criminal proceeding involving the person who made
31 the plea or offer.

32 2. Evidence of a plea of nolo contendere or of an offer to plead
33 nolo contendere to the crime charged or any other crime is not
34 admissible in a civil or criminal proceeding involving the person
35 who made the plea or offer.

36 **Sec. 38.** NRS 50.068 is hereby amended to read as follows:

37 50.068 1. A defendant is not incompetent to be a witness
38 solely by reason of the fact that he enters into an agreement with the
39 prosecuting attorney in which he agrees to testify against another
40 defendant in exchange for a plea of guilty , *guilty but mentally ill* or
41 nolo contendere to a lesser charge or for a recommendation of a
42 reduced sentence.

43 2. The testimony of the defendant who is testifying may be
44 admitted whether or not he has entered his plea or been sentenced
45 pursuant to the agreement with the prosecuting attorney.



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Sec. 39. NRS 51.295 is hereby amended to read as follows:

51.295 1. Evidence of a final judgment, entered after trial or upon a plea of guilty ~~or~~ *or guilty but mentally ill*, but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year ~~is~~ is not inadmissible under the hearsay rule to prove any fact essential to sustain the judgment.

2. This section does not make admissible, when offered by the State in a criminal prosecution for purposes other than impeachment, a judgment against a person other than the accused.

3. The pendency of an appeal may be shown but does not affect admissibility.

Sec. 40. 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) Except as otherwise provided in this subsection, for the first offense within 7 years, require him to participate in weekly



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1 counseling sessions of not less than 1 1/2 hours per week for not
2 less than 6 months, but not more than 12 months, at his expense, in
3 a program for the treatment of persons who commit domestic
4 violence that has been certified pursuant to NRS 228.470.

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

11 ➤ If the person resides more than 70 miles from the nearest location
12 at which counseling services are available, the court may allow the
13 person to participate in counseling sessions in a program for the
14 treatment of persons who commit domestic violence that has been
15 certified pursuant to NRS 228.470 every other week for the number
16 of months required pursuant to paragraph (a) or (b) so long as the
17 number of hours of counseling is not less than 6 hours per month. If
18 the person resides in this State but the nearest location at which
19 counseling services are available is in another state, the court may
20 allow the person to participate in counseling in the other state in a
21 program for the treatment of persons who commit domestic violence
22 that has been certified pursuant to NRS 228.470.

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

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

39 5. In addition to any other penalty, the court may require such a
40 person to participate, at his expense, in a program of treatment for
41 the abuse of alcohol or drugs that has been certified by the Health
42 Division of the Department of Health and Human Services.

43 6. If it appears from information presented to the court that a
44 child under the age of 18 years may need counseling as a result of
45 the commission of a battery which constitutes domestic violence



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pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

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

8. As used in this section:

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

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "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. 41. 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



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(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.

➔ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

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

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

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



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

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

8. As used in this section:

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

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "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. 42. NRS 202.270 is hereby amended to read as follows:

202.270 1. A person who destroys, or attempts to destroy, with dynamite, nitroglycerine, gunpowder or other high explosive, any dwelling house or other building, knowing or having reason to believe that a human being is therein at the time, is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(c) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

↳ in the discretion of the jury, or of the court upon a plea of guilty **or guilty but mentally ill.**

2. A person who conspires with others to commit the offense described in subsection 1 shall be punished in the same manner.

Sec. 43. NRS 202.885 is hereby amended to read as follows:

202.885 1. A person may not be prosecuted or convicted pursuant to NRS 202.882 unless a court in this State or any other



jurisdiction has entered a judgment of conviction against a culpable actor for:

(a) The violent or sexual offense against the child; or

(b) Any other offense arising out of the same facts as the violent or sexual offense against the child.

2. For any violation of NRS 202.882, an indictment must be found or an information or complaint must be filed within 1 year after the date on which:

(a) A court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor as provided in subsection 1; or

(b) The violation is discovered,
↳ whichever occurs later.

3. For the purposes of this section:

(a) A court in “any other jurisdiction” includes, without limitation, a tribal court or a court of the United States or the Armed Forces of the United States.

(b) “Convicted” and “conviction” mean a judgment based upon:

(1) A plea of guilty , *guilty but mentally ill* or nolo contendere;

(2) A finding of ~~guilty~~ *guilty or guilty but mentally ill* by a jury or a court sitting without a jury;

(3) An adjudication of delinquency or finding of ~~guilty~~ *guilty or guilty but mentally ill* by a court having jurisdiction over juveniles; or

(4) Any other admission or finding of ~~guilty~~ *guilty or guilty but mentally ill* in a criminal action or a proceeding in a court having jurisdiction over juveniles.

(c) A court “enters” a judgment of conviction against a person on the date on which guilt is admitted, adjudicated or found, whether or not:

(1) The court has imposed a sentence, a penalty or other sanction for the conviction; or

(2) The person has exercised any right to appeal the conviction.

(d) “Culpable actor” means a person who:

(1) Causes or perpetrates an unlawful act;

(2) Aids, abets, commands, counsels, encourages, hires, induces, procures or solicits another person to cause or perpetrate an unlawful act; or

(3) Is a principal in any degree, accessory before or after the fact, accomplice or conspirator to an unlawful act.



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Sec. 44. NRS 207.016 is hereby amended to read as follows:

207.016 1. A conviction pursuant to NRS 207.010, 207.012 or 207.014 operates only to increase, not to reduce, the sentence otherwise provided by law for the principal crime.

2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is included in an information charging the primary offense, each previous conviction must be alleged in the accusatory pleading, but no such conviction may be alluded to on trial of the primary offense, nor may any allegation of the conviction be read in the presence of a jury trying the offense or a grand jury considering an indictment for the offense. A count pursuant to NRS 207.010, 207.012 or 207.014 may be separately filed after conviction of the primary offense, but if it is so filed, sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing.

3. If a defendant charged pursuant to NRS 207.010, 207.012 or 207.014 pleads guilty *or guilty but mentally ill* to , or is found guilty *or guilty but mentally ill* of , the primary offense but denies any previous conviction charged, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the defendant. At such a hearing, the defendant may not challenge the validity of a previous conviction. The court shall impose sentence:

(a) Pursuant to NRS 207.010 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual criminality;

(b) Pursuant to NRS 207.012 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual felon; or

(c) Pursuant to NRS 207.014 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitually fraudulent felon.

4. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 limits the prosecution in introducing evidence of prior convictions for purposes of impeachment.

5. For the purposes of NRS 207.010, 207.012 and 207.014, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

6. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 prohibits a court from imposing an adjudication of habitual criminality, adjudication of habitual felon or adjudication of habitually fraudulent felon based upon a stipulation of the parties.

Sec. 45. NRS 207.193 is hereby amended to read as follows:

207.193 1. Except as otherwise provided in subsection 4, if a person is convicted of coercion or attempted coercion in violation of paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the



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1 request of the prosecuting attorney, conduct a separate hearing to
2 determine whether the offense was sexually motivated. A request
3 for such a hearing may not be submitted to the court unless the
4 prosecuting attorney, not less than 72 hours before the
5 commencement of the trial, files and serves upon the defendant a
6 written notice of his intention to request such a hearing.

7 2. A hearing requested pursuant to subsection 1 must be
8 conducted before:

9 (a) The court imposes its sentence; or

10 (b) A separate penalty hearing is conducted.

11 3. At the hearing, only evidence concerning the question of
12 whether the offense was sexually motivated may be presented. The
13 prosecuting attorney must prove beyond a reasonable doubt that the
14 offense was sexually motivated.

15 4. A person may stipulate that his offense was sexually
16 motivated before a hearing held pursuant to subsection 1 or as part
17 of an agreement to plead nolo contendere , *guilty* or guilty ~~H~~ *but*
18 *mentally ill*.

19 5. The court shall enter in the record:

20 (a) Its finding from a hearing held pursuant to subsection 1; or

21 (b) A stipulation made pursuant to subsection 4.

22 6. For the purposes of this section, an offense is "sexually
23 motivated" if one of the purposes for which the person committed
24 the offense was his sexual gratification.

25 **Sec. 46.** NRS 212.189 is hereby amended to read as follows:

26 212.189 1. Except as otherwise provided in subsection 9, a
27 prisoner who is in lawful custody or confinement, other than
28 residential confinement, shall not knowingly:

29 (a) Store or stockpile any human excrement or bodily fluid;

30 (b) Sell, supply or provide any human excrement or bodily fluid
31 to any other person;

32 (c) Buy, receive or acquire any human excrement or bodily fluid
33 from any other person; or

34 (d) Use, propel, discharge, spread or conceal, or cause to be
35 used, propelled, discharged, spread or concealed, any human
36 excrement or bodily fluid:

37 (1) With the intent to have the excrement or bodily fluid
38 come into physical contact with any portion of the body of an
39 officer or employee of a prison or any other person, whether or not
40 such physical contact actually occurs; or

41 (2) Under circumstances in which the excrement or bodily
42 fluid is reasonably likely to come into physical contact with any
43 portion of the body of an officer or employee of a prison or any
44 other person, whether or not such physical contact actually occurs.



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2. Except as otherwise provided in subsection 3, if a prisoner violates any provision of subsection 1, the prisoner is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. If a prisoner violates any provision of paragraph (d) of subsection 1 and, at the time of the offense, the prisoner knew that any portion of the excrement or bodily fluid involved in the offense contained a communicable disease that causes or is reasonably likely to cause substantial bodily harm, whether or not the communicable disease was transmitted to a victim as a result of the offense, the prisoner is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

and may be further punished by a fine of not more than \$50,000.

4. A sentence imposed upon a prisoner pursuant to subsection 2 or 3:

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon him for the offense or offenses for which the prisoner was in lawful custody or confinement when he violated the provisions of subsection 1.

5. In addition to any other penalty, the court shall order a prisoner who violates any provision of paragraph (d) of subsection 1 to reimburse the appropriate person or governmental body for the cost of any examinations or testing:

(a) Conducted pursuant to paragraphs (a) and (b) of subsection 7; or

(b) Paid for pursuant to subparagraph (2) of paragraph (c) of subsection 7.

6. The warden, sheriff, administrator or other person responsible for administering a prison shall immediately and fully investigate any act described in subsection 1 that is reported or suspected to have been committed in the prison.

7. If there is probable cause to believe that an act described in paragraph (d) of subsection 1 has been committed in a prison:

(a) Each prisoner believed to have committed the act or to have been the bodily source of any portion of the excrement or bodily fluid involved in the act must submit to any appropriate examinations and testing to determine whether each such prisoner has any communicable disease.



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(b) If possible, a sample of the excrement or bodily fluid involved in the act must be recovered and tested to determine whether any communicable disease is present in the excrement or bodily fluid.

(c) If the excrement or bodily fluid involved in the act came into physical contact with any portion of the body of an officer or employee of a prison or any other person:

(1) The results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be provided to each such officer, employee or other person; and

(2) For each such officer or employee, the person or governmental body operating the prison where the act was committed shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act.

(d) The results of the investigation conducted pursuant to subsection 6 and the results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be submitted to the district attorney of the county in which the act was committed or to the Office of the Attorney General for possible prosecution of each prisoner who committed the act.

8. If a prisoner is charged with committing an act described in paragraph (d) of subsection 1 and a victim or an intended victim of the act was an officer or employee of a prison, the prosecuting attorney shall not dismiss the charge in exchange for a plea of guilty **, guilty but mentally ill** or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

9. The provisions of this section do not apply to a prisoner who commits an act described in subsection 1 if the act:

(a) Is otherwise lawful and is authorized by the warden, sheriff, administrator or other person responsible for administering the prison, or his designee, and the prisoner performs the act in accordance with the directions or instructions given to him by that person;

(b) Involves the discharge of human excrement or bodily fluid directly from the body of the prisoner and the discharge is the direct result of a temporary or permanent injury, disease or medical condition afflicting the prisoner that prevents the prisoner from having physical control over the discharge of his own excrement or bodily fluid; or

(c) Constitutes voluntary sexual conduct with another person in violation of the provisions of NRS 212.187.



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Sec. 47. NRS 244.3485 is hereby amended to read as follows:

244.3485 1. The board of county commissioners of each county shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in an unincorporated area of the county to obtain a license issued by the board before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the board of county commissioners in a form prescribed by the board.

(b) With his application a complete set of his fingerprints and written permission authorizing the board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The board of county commissioners shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered a plea of guilty , *guilty but mentally ill* or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The board of county commissioners may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than \$500.

(2) For the second offense, by a fine of not more than \$1,000.

(3) For the third offense, by a fine of not more than \$2,000 and by revocation of the license of the secondhand dealer.

Sec. 48. NRS 244.3695 is hereby amended to read as follows:

244.3695 1. The board of county commissioners shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty *or guilty but mentally ill* of violating a county ordinance that prohibits graffiti or



1 other defacement of property, the court shall include an
2 administrative assessment of \$250 for each violation in addition to
3 any other fine or penalty. The money collected must be paid by the
4 clerk of the court to the county treasurer on or before the fifth day of
5 each month for credit to the graffiti reward and abatement fund.

6 3. If sufficient money is available in the graffiti reward and
7 abatement fund, a county law enforcement agency may offer a
8 reward, not to exceed \$1,000, for information leading to the
9 identification, apprehension and conviction of a person who violates
10 a county ordinance that prohibits graffiti or other defacement of
11 property. The reward must be paid out of the graffiti reward and
12 abatement fund upon approval of the board of county
13 commissioners.

14 **Sec. 49.** NRS 268.0974 is hereby amended to read as follows:

15 268.0974 1. The governing body of an incorporated city in
16 this State, whether organized pursuant to general law or special
17 charter shall, by ordinance, require each person who wishes to
18 engage in the business of a secondhand dealer in the incorporated
19 city to obtain a license issued by the governing body before he
20 engages in the business of a secondhand dealer.

21 2. The ordinance must require the applicant to submit:

22 (a) An application for a license to the governing body of the
23 incorporated city in a form prescribed by the governing body.

24 (b) With his application a complete set of his fingerprints and
25 written permission authorizing the governing body of the
26 incorporated city to forward those fingerprints to the Central
27 Repository for Nevada Records of Criminal History for submission
28 to the Federal Bureau of Investigation for its report.

29 3. The governing body of the incorporated city shall not issue a
30 license pursuant to this section to an applicant who has been
31 convicted of, or entered a plea of guilty , *guilty but mentally ill* or
32 nolo contendere to, a felony involving moral turpitude or related to
33 the qualifications, functions or duties of a secondhand dealer.

34 4. The governing body of the incorporated city may:

35 (a) Establish and collect a fee for the issuance or renewal of a
36 license;

37 (b) Establish and collect a fee to cover the costs of the
38 investigation of an applicant, including a fee to process the
39 fingerprints of the applicant;

40 (c) Place conditions, limitations or restrictions upon the license;

41 (d) Establish any other requirements necessary to carry out the
42 provisions of this section; or

43 (e) Enact an ordinance which covers the same or similar subject
44 matter included in the provisions of NRS 647.140 and which



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1 provides that any person who violates any provision of that
2 ordinance shall be punished:

- 3 (1) For the first offense, by a fine of not more than \$500.
 - 4 (2) For the second offense, by a fine of not more than \$1,000.
 - 5 (3) For the third offense, by a fine of not more than \$2,000
- 6 and by revocation of the license of the secondhand dealer.

7 **Sec. 50.** NRS 268.4085 is hereby amended to read as follows:

8 268.4085 1. The governing body of each city shall create a
9 graffiti reward and abatement fund. The money in the fund must be
10 used to pay a reward to a person who, in response to the offer of a
11 reward, provides information which results in the identification,
12 apprehension and conviction of a person who violated a city
13 ordinance that prohibits graffiti or other defacement of property.

14 2. When a defendant pleads or is found guilty *or guilty but*
15 *mentally ill* of violating a city ordinance that prohibits graffiti or
16 other defacement of property, the court shall include an
17 administrative assessment of \$250 for each violation in addition to
18 any other fine or penalty. The money collected must be paid by the
19 clerk of the court to the city treasurer on or before the fifth day of
20 each month for credit to the graffiti reward and abatement fund.

21 3. If sufficient money is available in the graffiti reward and
22 abatement fund, a law enforcement agency for the city may offer a
23 reward, not to exceed \$1,000, for information leading to the
24 identification, apprehension and conviction of a person who violates
25 a city ordinance that prohibits graffiti or other defacement of
26 property. The reward must be paid out of the graffiti reward and
27 abatement fund upon approval of the governing body of the city.

28 **Sec. 51.** NRS 357.170 is hereby amended to read as follows:

29 357.170 1. An action pursuant to this chapter may not be
30 commenced more than 3 years after the date of discovery of the
31 fraudulent activity by the Attorney General or more than 5 years
32 after the fraudulent activity occurred, whichever is earlier. Within
33 those limits, an action may be based upon fraudulent activity that
34 occurred before October 1, 1999.

35 2. In an action pursuant to this chapter, the standard of proof is
36 a preponderance of the evidence. A finding of ~~[guilt]~~ *guilty or guilty*
37 *but mentally ill* in a criminal proceeding charging false statement or
38 fraud, whether upon a verdict of guilty *or guilty but mentally ill* or a
39 plea of guilty, *guilty but mentally ill* or nolo contendere, estops the
40 person found guilty *or guilty but mentally ill* from denying an
41 essential element of that offense in an action pursuant to this chapter
42 based upon the same transaction as the criminal proceeding.

43 **Sec. 52.** NRS 453.3363 is hereby amended to read as follows:

44 453.3363 1. If a person who has not previously been
45 convicted of any offense pursuant to NRS 453.011 to 453.552,



1 inclusive, or pursuant to any statute of the United States or of any
2 state relating to narcotic drugs, marijuana, or stimulant, depressant
3 or hallucinogenic substances tenders a plea of guilty, *guilty but*
4 *mentally ill*, nolo contendere or similar plea to a charge pursuant to
5 subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325,
6 subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is
7 found guilty *or guilty but mentally ill* of one of those charges, the
8 court, without entering a judgment of conviction and with the
9 consent of the accused, may suspend further proceedings and place
10 him on probation upon terms and conditions that must include
11 attendance and successful completion of an educational program or,
12 in the case of a person dependent upon drugs, of a program of
13 treatment and rehabilitation pursuant to NRS 453.580.

14 2. Upon violation of a term or condition, the court may enter a
15 judgment of conviction and proceed as provided in the section
16 pursuant to which the accused was charged. Notwithstanding the
17 provisions of paragraph (e) of subsection 2 of NRS 193.130, upon
18 violation of a term or condition, the court may order the person to
19 the custody of the Department of Corrections.

20 3. Upon fulfillment of the terms and conditions, the court shall
21 discharge the accused and dismiss the proceedings against him. A
22 nonpublic record of the dismissal must be transmitted to and
23 retained by the Division of Parole and Probation of the Department
24 of Public Safety solely for the use of the courts in determining
25 whether, in later proceedings, the person qualifies under this section.

26 4. Except as otherwise provided in subsection 5, discharge and
27 dismissal under this section is without adjudication of guilt and is
28 not a conviction for purposes of this section or for purposes of
29 employment, civil rights or any statute or regulation or license or
30 questionnaire or for any other public or private purpose, but is a
31 conviction for the purpose of additional penalties imposed for
32 second or subsequent convictions or the setting of bail. Discharge
33 and dismissal restores the person discharged, in the contemplation
34 of the law, to the status occupied before the arrest, indictment or
35 information. He may not be held thereafter under any law to be
36 guilty of perjury or otherwise giving a false statement by reason of
37 failure to recite or acknowledge that arrest, indictment, information
38 or trial in response to an inquiry made of him for any purpose.
39 Discharge and dismissal under this section may occur only once
40 with respect to any person.

41 5. A professional licensing board may consider a proceeding
42 under this section in determining suitability for a license or liability
43 to discipline for misconduct. Such a board is entitled for those
44 purposes to a truthful answer from the applicant or licensee
45 concerning any such proceeding with respect to him.



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1 **Sec. 53.** NRS 453.348 is hereby amended to read as follows:

2 453.348 In any proceeding brought under NRS 453.316,
3 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401,
4 any previous convictions of the offender for a felony relating to
5 controlled substances must be alleged in the indictment or
6 information charging the primary offense, but the conviction may
7 not be alluded to on the trial of the primary offense nor may any
8 evidence of the previous offense be produced in the presence of the
9 jury except as otherwise prescribed by law. If the offender pleads
10 guilty *or guilty but mentally ill* to , or is convicted of , the primary
11 offense but denies any previous conviction charged, the court shall
12 determine the issue after hearing all relevant evidence. A certified
13 copy of a conviction of a felony is prima facie evidence of the
14 conviction.

15 **Sec. 54.** NRS 453.575 is hereby amended to read as follows:

16 453.575 1. If a defendant pleads guilty *or guilty but mentally*
17 *ill* to , or is found guilty *or guilty but mentally ill* of, any violation
18 of this chapter and an analysis of a controlled substance or other
19 substance or drug was performed in relation to his case, the court
20 shall include in the sentence an order that the defendant pay the sum
21 of \$60 as a fee for the analysis of the controlled substance or other
22 substance or drug.

23 2. Except as otherwise provided in this subsection, any money
24 collected for such an analysis must not be deducted from, and is in
25 addition to, any fine otherwise imposed by the court and must be:

26 (a) Collected from the defendant before or at the same time that
27 the fine is collected.

28 (b) Stated separately in the judgment of the court or on the
29 court's docket.

30 3. The money collected pursuant to subsection 1 in any district,
31 municipal or justice court must be paid by the clerk of the court to
32 the county or city treasurer, as appropriate, on or before the fifth day
33 of each month for the preceding month.

34 4. The board of county commissioners of each county shall by
35 ordinance create in the county treasury a fund to be designated as
36 the fund for forensic services. The governing body of each city shall
37 create in the city treasury a fund to be designated as the fund for
38 forensic services. Upon receipt, the county or city treasurer, as
39 appropriate, shall deposit any fee for the analyses of controlled
40 substances or other substances or drugs in the fund. The money
41 from such deposits must be accounted for separately within the
42 fund.

43 5. Except as otherwise provided in subsection 6, each month
44 the treasurer shall, from the money credited to the fund pursuant to
45 subsection 3, pay any amount owed for forensic services and deposit



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1 any remaining money in the county or city general fund, as
2 appropriate.

3 6. In counties which do not receive forensic services under a
4 contract with the State, the money deposited in the fund for forensic
5 services pursuant to subsection 4 must be expended, except as
6 otherwise provided in this subsection:

7 (a) To pay for the analyses of controlled substances or other
8 substances or drugs performed in connection with criminal
9 investigations within the county;

10 (b) To purchase and maintain equipment to conduct these
11 analyses; and

12 (c) For the training and continuing education of the employees
13 who conduct these analyses.

14 ➔ Money from the fund must not be expended to cover the costs of
15 analyses conducted by, equipment used by or training for employees
16 of an analytical laboratory not registered with the Drug Enforcement
17 Administration of the United States Department of Justice.

18 **Sec. 55.** NRS 454.358 is hereby amended to read as follows:

19 454.358 1. When a defendant pleads guilty *or guilty but*
20 *mentally ill* to , or is found guilty *or guilty but mentally ill* of , any
21 violation of this chapter and an analysis of a dangerous drug was
22 performed in relation to his case, the justice or judge shall include in
23 the sentence the sum of \$50 as a fee for the analysis of the
24 dangerous drug.

25 2. The money collected for such an analysis must not be
26 deducted from the fine imposed by the justice or judge, but must be
27 taxed against the defendant in addition to the fine. The money
28 collected for such an analysis must be stated separately on the
29 court's docket and must be included in the amount posted for bail. If
30 the defendant is found not guilty or the charges are dropped, the
31 money deposited with the court must be returned to the defendant.

32 3. The money collected pursuant to subsection 1 in municipal
33 court must be paid by the clerk of the court to the county treasurer
34 on or before the fifth day of each month for the preceding month.

35 4. The money collected pursuant to subsection 1 in justice
36 courts must be paid by the clerk of the court to the county treasurer
37 on or before the fifth day of each month for the preceding month.

38 5. The board of county commissioners of each county shall by
39 ordinance, before September 1, 1987, create in the county treasury a
40 fund to be designated as the fund for forensic services. Upon receipt,
41 the county treasurer shall deposit any fee for the analyses of
42 dangerous drugs in the fund.

43 6. In counties which receive forensic services under a contract
44 with the State, any money in the fund for forensic services must be
45 paid monthly by the county treasurer to the State Treasurer for



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1 deposit in the State General Fund, after retaining 2 percent of the
2 money to cover his administrative expenses.

3 7. In counties which do not receive forensic services under a
4 contract with the State, money in the fund for forensic services must
5 be expended, except as otherwise provided in this subsection:

6 (a) To pay for the analyses of dangerous drugs performed in
7 connection with criminal investigations within the county;

8 (b) To purchase and maintain equipment to conduct these
9 analyses; and

10 (c) For the training and continuing education of the employees
11 who conduct these analyses.

12 ➤ Money from the fund must not be expended to cover the costs of
13 analyses conducted by, equipment used by or training for employees
14 of an analytical laboratory not registered with the Drug Enforcement
15 Administration of the United States Department of Justice.

16 **Sec. 56.** NRS 483.560 is hereby amended to read as follows:

17 483.560 1. Except as otherwise provided in subsection 2, any
18 person who drives a motor vehicle on a highway or on premises to
19 which the public has access at a time when his driver's license has
20 been cancelled, revoked or suspended is guilty of a misdemeanor.

21 2. Except as otherwise provided in this subsection, if the
22 license of the person was suspended, revoked or restricted because
23 of:

24 (a) A violation of NRS 484.379, 484.3795 or 484.384;

25 (b) A homicide resulting from driving or being in actual
26 physical control of a vehicle while under the influence of
27 intoxicating liquor or a controlled substance or resulting from any
28 other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;
29 or

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

32 ➤ the person shall be punished by imprisonment in jail for not less
33 than 30 days nor more than 6 months or by serving a term of
34 residential confinement for not less than 60 days nor more than 6
35 months, and shall be further punished by a fine of not less than \$500
36 nor more than \$1,000. A person who is punished pursuant to this
37 subsection may not be granted probation, and a sentence imposed
38 for such a violation may not be suspended. A prosecutor may not
39 dismiss a charge of such a violation in exchange for a plea of guilty ,
40 **guilty but mentally ill** or ~~to~~ nolo contendere to a lesser charge or
41 for any other reason, unless in his judgment the charge is not
42 supported by probable cause or cannot be proved at trial. The
43 provisions of this subsection do not apply if the period of revocation
44 has expired but the person has not reinstated his license.



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3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 must run consecutively.

5. If the Department receives a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, the Department shall extend the period of the suspension for an additional like period.

(b) Revoked, the Department shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, the Department shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or cancelled for an indefinite period, the Department shall suspend his license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations imposed pursuant to this section must run consecutively.

Sec. 57. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Unless a greater penalty is provided pursuant to NRS 484.3795 or 484.37955, and except as otherwise provided in subsection 2, a person who violates the provisions of NRS 484.379:

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

(1) Except as otherwise provided in subparagraph (4) or subsection 7, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in



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1 distinctive garb that identifies him as having violated the provisions
2 of NRS 484.379;

3 (3) Fine him not less than \$400 nor more than \$1,000; and

4 (4) If he is found to have a concentration of alcohol of 0.18
5 or more in his blood or breath, order him to attend a program of
6 treatment for the abuse of alcohol or drugs pursuant to the
7 provisions of NRS 484.37945.

8 (b) For a second offense within 7 years, is guilty of a
9 misdemeanor. Unless the sentence is reduced pursuant to NRS
10 484.3794, the court shall:

11 (1) Sentence him to:

12 (I) Imprisonment for not less than 10 days nor more than
13 6 months in jail; or

14 (II) Residential confinement for not less than 10 days nor
15 more than 6 months, in the manner provided in NRS 4.376 to
16 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

17 (2) Fine him not less than \$750 nor more than \$1,000, or
18 order him to perform an equivalent number of hours of community
19 service while dressed in distinctive garb that identifies him as
20 having violated the provisions of NRS 484.379; and

21 (3) Order him to attend a program of treatment for the abuse
22 of alcohol or drugs pursuant to the provisions of NRS 484.37945.

23 ➤ A person who willfully fails or refuses to complete successfully a
24 term of residential confinement or a program of treatment ordered
25 pursuant to this paragraph is guilty of a misdemeanor.

26 (c) For a third offense within 7 years, is guilty of a category B
27 felony and shall be punished by imprisonment in the state prison for
28 a minimum term of not less than 1 year and a maximum term of not
29 more than 6 years, and shall be further punished by a fine of not less
30 than \$2,000 nor more than \$5,000. An offender so imprisoned must,
31 insofar as practicable, be segregated from offenders whose crimes
32 were violent and, insofar as practicable, be assigned to an institution
33 or facility of minimum security.

34 2. Unless a greater penalty is provided in NRS 484.37955, a
35 person who has previously been convicted of:

36 (a) A violation of NRS 484.379 that is punishable as a felony
37 pursuant to paragraph (c) of subsection 1;

38 (b) A violation of NRS 484.3795;

39 (c) A homicide resulting from driving or being in actual physical
40 control of a vehicle while under the influence of intoxicating liquor
41 or a controlled substance or resulting from any other conduct
42 prohibited by NRS 484.379, 484.3795 or 484.37955; or

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



1 ➡ and who violates the provisions of NRS 484.379 is guilty of a
2 category B felony and shall be punished by imprisonment in the
3 state prison for a minimum term of not less than 2 years and a
4 maximum term of not more than 15 years, and shall be further
5 punished by a fine of not less than \$2,000 nor more than \$5,000. An
6 offender so imprisoned must, insofar as practicable, be segregated
7 from offenders whose crimes were violent and, insofar as
8 practicable, be assigned to an institution or facility of minimum
9 security.

10 3. Except as otherwise provided in this subsection, an offense
11 that occurred within 7 years immediately preceding the date of the
12 principal offense or after the principal offense constitutes a prior
13 offense for the purposes of this section when evidenced by a
14 conviction, without regard to the sequence of the offenses and
15 convictions. An offense which is listed in paragraphs (a) to (d),
16 inclusive, of subsection 2 that occurred on any date preceding the
17 date of the principal offense or after the principal offense constitutes
18 a prior offense for the purposes of this section when evidenced by a
19 conviction, without regard for the sequence of the offenses and
20 convictions. The facts concerning a prior offense must be alleged in
21 the complaint, indictment or information, must not be read to the
22 jury or proved at trial but must be proved at the time of sentencing
23 and, if the principal offense is alleged to be a felony, must also be
24 shown at the preliminary examination or presented to the grand jury.

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

36 5. A term of confinement imposed pursuant to the provisions
37 of this section may be served intermittently at the discretion of the
38 judge or justice of the peace, except that a person who is convicted
39 of a second or subsequent offense within 7 years must be confined
40 for at least one segment of not less than 48 consecutive hours. This
41 discretion must be exercised after considering all the circumstances
42 surrounding the offense, and the family and employment of the
43 offender, but any sentence of 30 days or less must be served within
44 6 months after the date of conviction or, if the offender was
45 sentenced pursuant to NRS 484.37937 or 484.3794 and the



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

4 6. Jail sentences simultaneously imposed pursuant to this
5 section and NRS 482.456, 483.560 or 485.330 must run
6 consecutively.

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

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

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

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

25 9. For the purpose of determining whether one offense occurs
26 within 7 years of another offense, any period of time between the
27 two offenses during which, for any such offense, the offender is
28 imprisoned, serving a term of residential confinement, confined in a
29 treatment facility, on parole or on probation must be excluded.

30 10. As used in this section, unless the context otherwise
31 requires:

32 (a) "Concentration of alcohol of 0.18 or more in his blood or
33 breath" means 0.18 gram or more of alcohol per 100 milliliters of
34 the blood of a person or per 210 liters of his breath.

35 (b) "Offense" means:

36 (1) A violation of NRS 484.379 or 484.3795;

37 (2) A homicide resulting from driving or being in actual
38 physical control of a vehicle while under the influence of
39 intoxicating liquor or a controlled substance or resulting from any
40 other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;
41 or

42 (3) A violation of a law of any other jurisdiction that
43 prohibits the same or similar conduct as set forth in subparagraph
44 (1) or (2).



(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 58. NRS 484.3795 is hereby amended to read as follows:
484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➔ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, *guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to



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1 have a concentration of alcohol of 0.08 or more in his blood or
2 breath. A defendant who intends to offer this defense at a trial
3 or preliminary hearing must, not less than 14 days before the trial or
4 hearing or at such other time as the court may direct, file and serve
5 on the prosecuting attorney a written notice of that intent.

6 4. If the defendant was transporting a person who is less than
7 15 years of age in the motor vehicle at the time of the violation, the
8 court shall consider that fact as an aggravating factor in determining
9 the sentence of the defendant.

10 **Sec. 59.** NRS 484.3795 is hereby amended to read as follows:
11 484.3795 1. Unless a greater penalty is provided pursuant to
12 NRS 484.37955, a person who:

13 (a) Is under the influence of intoxicating liquor;

14 (b) Has a concentration of alcohol of 0.10 or more in his blood
15 or breath;

16 (c) Is found by measurement within 2 hours after driving or
17 being in actual physical control of a vehicle to have a concentration
18 of alcohol of 0.10 or more in his blood or breath;

19 (d) Is under the influence of a controlled substance or is under
20 the combined influence of intoxicating liquor and a controlled
21 substance;

22 (e) Inhales, ingests, applies or otherwise uses any chemical,
23 poison or organic solvent, or any compound or combination of any
24 of these, to a degree which renders him incapable of safely driving
25 or exercising actual physical control of a vehicle; or

26 (f) Has a prohibited substance in his blood or urine in an amount
27 that is equal to or greater than the amount set forth in subsection 3
28 of NRS 484.379,

29 ➡ and does any act or neglects any duty imposed by law while
30 driving or in actual physical control of any vehicle on or off the
31 highways of this State, if the act or neglect of duty proximately
32 causes the death of, or substantial bodily harm to, a person other
33 than himself, is guilty of a category B felony and shall be punished
34 by imprisonment in the state prison for a minimum term of not less
35 than 2 years and a maximum term of not more than 20 years and
36 must be further punished by a fine of not less than \$2,000 nor more
37 than \$5,000. A person so imprisoned must, insofar as practicable, be
38 segregated from offenders whose crimes were violent and, insofar as
39 practicable, be assigned to an institution or facility of minimum
40 security.

41 2. A prosecuting attorney shall not dismiss a charge of
42 violating the provisions of subsection 1 in exchange for a plea of
43 guilty , **guilty but mentally ill** or nolo contendere to a lesser charge
44 or for any other reason unless he knows or it is obvious that the
45 charge is not supported by probable cause or cannot be proved at the



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1 time of trial. A sentence imposed pursuant to subsection 1 may not
2 be suspended nor may probation be granted.

3 3. If consumption is proven by a preponderance of the
4 evidence, it is an affirmative defense under paragraph (c) of
5 subsection 1 that the defendant consumed a sufficient quantity of
6 alcohol after driving or being in actual physical control of the
7 vehicle, and before his blood or breath was tested, to cause him to
8 have a concentration of alcohol of 0.10 or more in his blood or
9 breath. A defendant who intends to offer this defense at a trial
10 or preliminary hearing must, not less than 14 days before the trial or
11 hearing or at such other time as the court may direct, file and serve
12 on the prosecuting attorney a written notice of that intent.

13 4. If the defendant was transporting a person who is less than
14 15 years of age in the motor vehicle at the time of the violation, the
15 court shall consider that fact as an aggravating factor in determining
16 the sentence of the defendant.

17 **Sec. 60.** NRS 484.37955 is hereby amended to read as
18 follows:

19 484.37955 1. A person commits vehicular homicide if he:

20 (a) Drives or is in actual physical control of a vehicle on or off
21 the highways of this State and:

22 (1) Is under the influence of intoxicating liquor;

23 (2) Has a concentration of alcohol of 0.08 or more in his
24 blood or breath;

25 (3) Is found by measurement within 2 hours after driving or
26 being in actual physical control of a vehicle to have a concentration
27 of alcohol of 0.08 or more in his blood or breath;

28 (4) Is under the influence of a controlled substance or is
29 under the combined influence of intoxicating liquor and a controlled
30 substance;

31 (5) Inhales, ingests, applies or otherwise uses any chemical,
32 poison or organic solvent, or any compound or combination of any
33 of these, to a degree which renders him incapable of safely driving
34 or exercising actual physical control of a vehicle; or

35 (6) Has a prohibited substance in his blood or urine in an
36 amount that is equal to or greater than the amount set forth in
37 subsection 3 of NRS 484.379;

38 (b) Proximately causes the death of a person other than himself
39 while driving or in actual physical control of a vehicle on or off the
40 highways of this State; and

41 (c) Has previously been convicted of at least three offenses.

42 2. A person who commits vehicular homicide is guilty of a
43 category A felony and shall be punished by imprisonment in the
44 state prison:



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(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty, *guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 484.379 or 484.3795; or

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

Sec. 61. NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;



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(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty, *guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days



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1 before the trial or hearing or at such other time as the court may
2 direct, file and serve on the prosecuting attorney a written notice of
3 that intent.

4 6. If the defendant was transporting a person who is less than
5 15 years of age in the vehicle at the time of the violation, the court
6 shall consider that fact as an aggravating factor in determining the
7 sentence of the defendant.

8 7. As used in this section, "offense" means:

9 (a) A violation of NRS 484.379 or 484.3795;

10 (b) A homicide resulting from driving or being in actual
11 physical control of a vehicle while under the influence of
12 intoxicating liquor or a controlled substance or resulting from any
13 other conduct prohibited by this section or NRS 484.379 or
14 484.3795; or

15 (c) A violation of a law of any other jurisdiction that prohibits
16 the same or similar conduct as set forth in paragraph (a) or (b).

17 **Sec. 62.** NRS 484.3797 is hereby amended to read as follows:

18 484.3797 1. The judge or judges in each judicial district shall
19 cause the preparation and maintenance of a list of the panels of
20 persons who:

21 (a) Have been injured or had members of their families or close
22 friends injured or killed by a person who was driving or in actual
23 physical control of a vehicle while under the influence of
24 intoxicating liquor or a controlled substance or who was engaging in
25 any other conduct prohibited by NRS 484.379, 484.3795 or
26 484.37955 or a law of any other jurisdiction that prohibits the same
27 or similar conduct; and

28 (b) Have, by contacting the judge or judges in the district,
29 expressed their willingness to discuss collectively the personal
30 effect of those crimes.

31 ➤ The list must include the name and telephone number of the
32 person to be contacted regarding each such panel and a schedule of
33 times and locations of the meetings of each such panel. The judge or
34 judges shall establish, in cooperation with representatives of the
35 members of the panels, a fee, if any, to be paid by defendants who
36 are ordered to attend a meeting of the panel. The amount of the fee,
37 if any, must be reasonable. The panel may not be operated for profit.

38 2. Except as otherwise provided in this subsection, if a
39 defendant pleads guilty *or guilty but mentally ill* to , or is found
40 guilty *or guilty but mentally ill* of , any violation of NRS 484.379,
41 484.3795 or 484.37955, the court shall, in addition to imposing any
42 other penalties provided by law, order the defendant to:

43 (a) Attend, at the defendant's expense, a meeting of a panel of
44 persons who have been injured or had members of their families or
45 close friends injured or killed by a person who was driving or in



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1 actual physical control of a vehicle while under the influence of
2 intoxicating liquor or a controlled substance or who was engaging in
3 any other conduct prohibited by NRS 484.379, 484.3795 or
4 484.37955 or a law of any other jurisdiction that prohibits the same
5 or similar conduct, in order to have the defendant understand the
6 effect such a crime has on other persons; and

7 (b) Pay the fee, if any, established by the court pursuant to
8 subsection 1.

9 ➔ The court may, but is not required to, order the defendant to
10 attend such a meeting if one is not available within 60 miles of the
11 defendant's residence.

12 3. A person ordered to attend a meeting pursuant to subsection
13 2 shall, after attending the meeting, present evidence or other
14 documentation satisfactory to the court that he attended the meeting
15 and remained for its entirety.

16 **Sec. 63.** NRS 484.3798 is hereby amended to read as follows:

17 484.3798 1. If a defendant pleads guilty *or guilty but*
18 *mentally ill* to , or is found guilty *or guilty but mentally ill* of , any
19 violation of NRS 484.379, 484.3795 or 484.37955 and a chemical
20 analysis of his blood, urine, breath or other bodily substance was
21 conducted, the court shall, in addition to any penalty provided by
22 law, order the defendant to pay the sum of \$60 as a fee for the
23 chemical analysis. Except as otherwise provided in this subsection,
24 any money collected for the chemical analysis must not be deducted
25 from, and is in addition to, any fine otherwise imposed by the court
26 and must be:

27 (a) Collected from the defendant before or at the same time that
28 the fine is collected.

29 (b) Stated separately in the judgment of the court or on the
30 court's docket.

31 2. All money collected pursuant to subsection 1 must be paid
32 by the clerk of the court to the county or city treasurer, as
33 appropriate, on or before the fifth day of each month for the
34 preceding month.

35 3. The treasurer shall deposit all money received by him
36 pursuant to subsection 2 in the county or city treasury, as
37 appropriate, for credit to the fund for forensic services created
38 pursuant to NRS 453.575. The money must be accounted for
39 separately within the fund.

40 4. Except as otherwise provided in subsection 5, each month
41 the treasurer shall, from the money credited to the fund pursuant to
42 subsection 3, pay any amount owed for forensic services and deposit
43 any remaining money in the county or city general fund, as
44 appropriate.



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5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by ~~H~~ or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

Sec. 64. NRS 484.3945 is hereby amended to read as follows:

484.3945 1. A person required to install a device pursuant to NRS 484.3943 shall not operate a motor vehicle without a device or tamper with the device.

2. A person who violates any provision of subsection 1:

(a) Must have his driving privilege revoked in the manner set forth in subsection 4 of NRS 483.460; and

(b) Shall be:

(1) Punished by imprisonment in jail for not less than 30 days nor more than 6 months; or

(2) Sentenced to a term of not less than 60 days in residential confinement nor more than 6 months, and by a fine of not less than \$500 nor more than \$1,000.

➡ No person who is punished pursuant to this section may be granted probation, and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty, *guilty but mentally ill* or ~~to~~ nolo contendere to a lesser charge or for any other reason unless, in his judgment, the charge is not supported by probable cause or cannot be proved at trial.

Sec. 65. NRS 484.777 is hereby amended to read as follows:

484.777 1. The provisions of this chapter are applicable and uniform throughout this State on all highways to which the public has a right of access or to which persons have access as invitees or licensees.

2. Unless otherwise provided by specific statute, any local authority may enact by ordinance traffic regulations which cover the same subject matter as the various sections of this chapter if the



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provisions of the ordinance are not in conflict with this chapter. It may also enact by ordinance regulations requiring the registration and licensing of bicycles.

3. A local authority shall not enact an ordinance:

(a) Governing the registration of vehicles and the licensing of drivers;

(b) Governing the duties and obligations of persons involved in traffic accidents, other than the duties to stop, render aid and provide necessary information; or

(c) Providing a penalty for an offense for which the penalty prescribed by this chapter is greater than that imposed for a misdemeanor.

4. No person convicted or adjudged guilty *or guilty but mentally ill* of a violation of a traffic ordinance may be charged or tried in any other court in this State for the same offense.

Sec. 66. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or 597.480 to 597.590, inclusive.

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of ~~guilt~~ *guilty or guilty but mentally ill* by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.



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2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 67. NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➤ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more



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1 than \$5,000. A person so imprisoned must, insofar as practicable, be
2 segregated from offenders whose crimes were violent and, insofar as
3 practicable, be assigned to an institution or facility of minimum
4 security.

5 2. A prosecuting attorney shall not dismiss a charge of
6 violating the provisions of subsection 1 in exchange for a plea of
7 guilty , *guilty but mentally ill* or nolo contendere to a lesser charge
8 or for any other reason unless he knows or it is obvious that the
9 charge is not supported by probable cause or cannot be proved at the
10 time of trial. A sentence imposed pursuant to subsection 1 must not
11 be suspended, and probation must not be granted.

12 3. If consumption is proven by a preponderance of the
13 evidence, it is an affirmative defense under paragraph (c) of
14 subsection 1 that the defendant consumed a sufficient quantity of
15 alcohol after operating or being in actual physical control of the
16 vessel under power or sail, and before his blood was tested, to cause
17 him to have a concentration of alcohol of 0.08 or more in his blood
18 or breath. A defendant who intends to offer this defense at a trial or
19 preliminary hearing must, not less than 14 days before the trial or
20 hearing or at such other time as the court may direct, file and serve
21 on the prosecuting attorney a written notice of that intent.

22 4. If a person less than 15 years of age was in the vessel at the
23 time of the defendant's violation, the court shall consider that fact as
24 an aggravating factor in determining the sentence of the defendant.

25 **Sec. 68.** NRS 488.420 is hereby amended to read as follows:

26 488.420 1. Unless a greater penalty is provided pursuant to
27 NRS 488.425, a person who:

28 (a) Is under the influence of intoxicating liquor;

29 (b) Has a concentration of alcohol of 0.10 or more in his blood
30 or breath;

31 (c) Is found by measurement within 2 hours after operating or
32 being in actual physical control of a vessel under power or sail to
33 have a concentration of alcohol of 0.10 or more in his blood or
34 breath;

35 (d) Is under the influence of a controlled substance or is under
36 the combined influence of intoxicating liquor and a controlled
37 substance;

38 (e) Inhales, ingests, applies or otherwise uses any chemical,
39 poison or organic solvent, or any compound or combination of any
40 of these, to a degree which renders him incapable of safely
41 operating or being in actual physical control of a vessel under power
42 or sail; or

43 (f) Has a prohibited substance in his blood or urine in an amount
44 that is equal to or greater than the amount set forth in subsection 3
45 of NRS 488.410,



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1 ➡ and does any act or neglects any duty imposed by law while
2 operating or being in actual physical control of any vessel under
3 power or sail, if the act or neglect of duty proximately causes the
4 death of, or substantial bodily harm to, a person other than himself,
5 is guilty of a category B felony and shall be punished by
6 imprisonment in the state prison for a minimum term of not less
7 than 2 years and a maximum term of not more than 20 years and
8 shall be further punished by a fine of not less than \$2,000 nor more
9 than \$5,000. A person so imprisoned must, insofar as practicable, be
10 segregated from offenders whose crimes were violent and, insofar as
11 practicable, be assigned to an institution or facility of minimum
12 security.

13 2. A prosecuting attorney shall not dismiss a charge of
14 violating the provisions of subsection 1 in exchange for a plea of
15 guilty, *guilty but mentally ill* or nolo contendere to a lesser charge
16 or for any other reason unless he knows or it is obvious that the
17 charge is not supported by probable cause or cannot be proved at the
18 time of trial. A sentence imposed pursuant to subsection 1 must not
19 be suspended, and probation must not be granted.

20 3. If consumption is proven by a preponderance of the
21 evidence, it is an affirmative defense under paragraph (c) of
22 subsection 1 that the defendant consumed a sufficient quantity of
23 alcohol after operating or being in actual physical control of the
24 vessel under power or sail, and before his blood was tested, to cause
25 him to have a concentration of alcohol of 0.10 or more in his blood
26 or breath. A defendant who intends to offer this defense at a trial or
27 preliminary hearing must, not less than 14 days before the trial or
28 hearing or at such other time as the court may direct, file and serve
29 on the prosecuting attorney a written notice of that intent.

30 4. If a person less than 15 years of age was in the vessel at the
31 time of the defendant's violation, the court shall consider that fact as
32 an aggravating factor in determining the sentence of the defendant.

33 **Sec. 69.** NRS 488.425 is hereby amended to read as follows:

34 488.425 1. A person commits homicide by vessel if he:

35 (a) Operates or is in actual physical control of a vessel under
36 power or sail on the waters of this State and:

37 (1) Is under the influence of intoxicating liquor;

38 (2) Has a concentration of alcohol of 0.08 or more in his
39 blood or breath;

40 (3) Is found by measurement within 2 hours after operating
41 or being in actual physical control of a vessel under power or sail to
42 have a concentration of alcohol of 0.08 or more in his blood or
43 breath;



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(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty , *guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.



6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

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

Sec. 70. NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.420;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.



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3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty, *guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

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

Sec. 71. NRS 488.427 is hereby amended to read as follows:

488.427 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who violates the provisions of NRS 488.410 and who has previously been convicted of a violation of NRS 488.420 or 488.425 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct as set forth in NRS 488.420 or 488.425 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender so imprisoned must,



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1 insofar as practicable, be segregated from offenders whose crimes
2 were violent and, insofar as practicable, be assigned to an institution
3 or facility of minimum security.

4 2. The facts concerning a prior violation of NRS 488.420 or
5 488.425 must be alleged in the complaint, indictment or
6 information, must not be read to the jury or proved at trial but must
7 be proved at the time of sentencing.

8 3. A prosecuting attorney shall not dismiss a charge of
9 violating the provisions of NRS 488.410 against a person previously
10 convicted of violating NRS 488.420 or 488.425 in exchange for a
11 plea of guilty , *guilty but mentally ill* or nolo contendere to a lesser
12 charge or for any other reason unless he knows or it is obvious that
13 the charge is not supported by probable cause or cannot be proved at
14 the time of trial. A sentence imposed pursuant to subsection 1 must
15 not be suspended, and probation must not be granted.

16 4. If a person less than 15 years of age was in the vessel at the
17 time of the defendant's violation, the court shall consider that fact as
18 an aggravating factor in determining the sentence of the defendant.

19 **Sec. 72.** NRS 488.440 is hereby amended to read as follows:

20 488.440 1. If a defendant pleads guilty *or guilty but mentally*
21 *ill* to , or is found guilty *or guilty but mentally ill* of, a violation of
22 NRS 488.410, 488.420 or 488.425 and a chemical analysis of his
23 blood, urine, breath or other bodily substance was conducted, the
24 court shall, in addition to any penalty provided by law, order the
25 defendant to pay the sum of \$60 as a fee for the chemical analysis.
26 Except as otherwise provided in this subsection, any money
27 collected for the chemical analysis must not be deducted from, and
28 is in addition to, any fine otherwise imposed by the court and must
29 be:

30 (a) Collected from the defendant before or at the same time that
31 the fine is collected.

32 (b) Stated separately in the judgment of the court or on the
33 court's docket.

34 2. All money collected pursuant to subsection 1 must be paid
35 by the clerk of the court to the county or city treasurer, as
36 appropriate, on or before the fifth day of each month for the
37 preceding month.

38 3. The treasurer shall deposit all money received by him
39 pursuant to subsection 2 in the county or city treasury, as
40 appropriate, for credit to the fund for forensic services created
41 pursuant to NRS 453.575. The money must be accounted for
42 separately within the fund.

43 4. Except as otherwise provided in subsection 5, each month
44 the treasurer shall, from the money credited to the fund pursuant to
45 subsection 3, pay any amount owed for forensic services and deposit



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1 any remaining money in the county or city general fund, as
2 appropriate.

3 5. In counties that do not receive forensic services under a
4 contract with the State, the money credited to the fund pursuant to
5 subsection 3:

6 (a) Except as otherwise provided in paragraph (b), must be:

7 (1) Expended to pay for the chemical analyses performed
8 within the county;

9 (2) Expended to purchase and maintain equipment to conduct
10 such analyses;

11 (3) Expended for the training and continuing education of the
12 employees who conduct such analyses; and

13 (4) Paid to law enforcement agencies which conduct such
14 analyses to be used by those agencies in the manner provided in this
15 subsection.

16 (b) May only be expended to cover the costs of chemical
17 analyses conducted by, equipment used by or training for employees
18 of an analytical laboratory that is approved by the Committee on
19 Testing for Intoxication created in NRS 484.388.

20 **Sec. 73.** NRS 489.421 is hereby amended to read as follows:

21 489.421 The following grounds, among others, constitute
22 grounds for disciplinary action under NRS 489.381:

23 1. Revocation or denial of a license issued pursuant to this
24 chapter or an equivalent license in any other state, territory or
25 country.

26 2. Failure of the licensee to maintain any other license required
27 by any political subdivision of this State.

28 3. Failure to respond to a notice served by the Division as
29 provided by law within the time specified in the notice.

30 4. Failure to take the corrective action required in a notice of
31 violation issued pursuant to NRS 489.291.

32 5. Failure or refusing to permit access by the Administrator to
33 documentary materials set forth in NRS 489.231.

34 6. Disregarding or violating any order of the Administrator,
35 any agreement with the Division, or any provision of this chapter or
36 any regulation adopted under it.

37 7. Conviction of a misdemeanor for violation of any of the
38 provisions of this chapter.

39 8. Conviction of or entering a plea of guilty , *guilty but*
40 *mentally ill* or nolo contendere to:

41 (a) A felony relating to the position for which the applicant has
42 applied or the licensee has been licensed pursuant to this chapter; or

43 (b) A crime of moral turpitude in this State or any other state,
44 territory or country.



9. Any other conduct that constitutes deceitful, fraudulent or dishonest dealing.

Sec. 74. NRS 597.1143 is hereby amended to read as follows:

597.1143 1. A supplier shall not terminate, fail to renew or substantially change the terms of a dealer agreement without good cause.

2. Except as otherwise provided in this section, a supplier may terminate or refuse to renew a dealer agreement for good cause if the supplier provides to the dealer a written notice setting forth the reasons for the termination or nonrenewal of the dealer agreement at least 180 days before the termination or nonrenewal of the dealer agreement.

3. A supplier shall include in the written notice required by subsection 2 an explanation of the deficiencies of the dealer and the manner in which those deficiencies must be corrected. If the dealer corrects the deficiencies set forth in the notice within 60 days after he receives the notice, the supplier shall not terminate or fail to renew the dealer agreement for the reasons set forth in the notice.

4. A supplier shall not terminate or refuse to renew a dealer agreement based solely on the failure of the dealer to comply with the requirements of the dealer agreement concerning the share of the market the dealer was required to obtain unless the supplier has, for not less than 1 year, provided assistance to the dealer in the dealer's effort to obtain the required share of the market.

5. A supplier is not required to comply with the provisions of subsections 2 and 3 if the supplier terminates or refuses to renew a dealer agreement for any reason set forth in paragraphs (b) to (i), inclusive, of subsection 6.

6. As used in this section, "good cause" means:

(a) A dealer fails to comply with the terms of a dealer agreement, if the terms are not substantially different from the terms required for other dealers in this State or any other state;

(b) A closeout or sale of a substantial part of the business assets of a dealer or a commencement of the dissolution or liquidation of the business assets of the dealer;

(c) A dealer changes its principal place of business or adds other places of business without the prior approval of the supplier, which may not be unreasonably withheld;

(d) A dealer substantially defaults under a chattel mortgage or other security agreement between the dealer and the supplier;

(e) A guarantee of a present or future obligation of a dealer to the supplier is revoked or discontinued;

(f) A dealer fails to operate in the normal course of business for at least 7 consecutive days;

(g) A dealer abandons the dealership;



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(h) A dealer pleads guilty *or guilty but mentally ill* to , or is convicted of , a felony affecting the business relationship between the dealer and supplier; or

(i) A dealer transfers a financial interest in the dealership, a person who has a substantial financial interest in the ownership or control of the dealership dies or withdraws from the dealership, or the financial interest of a partner or major shareholder in the dealership is substantially reduced.

➔ For the purposes of this section, good cause does not exist if the supplier consents to any action described in this section.

Sec. 75. NRS 597.155 is hereby amended to read as follows:

597.155 1. Except as otherwise provided in subsection 2, a supplier must, at least 90 days before he terminates or refuses to continue any franchise with a wholesaler or causes a wholesaler to resign from any franchise, send a notice by certified mail, return receipt requested, to the wholesaler. The notice must include:

(a) The reason for the proposed action and a description of any failure of the wholesaler to comply with the terms, provisions and conditions of the franchise alleged by the supplier pursuant to NRS 597.160; and

(b) A statement that the wholesaler may correct any such failure within the period prescribed in NRS 597.160.

2. Any action taken by a supplier pursuant to subsection 1 becomes effective on the date the wholesaler receives the notice required pursuant to subsection 1 if the wholesaler:

(a) Has had his license to sell alcoholic beverages issued pursuant to state or federal law revoked or suspended for more than 31 days;

(b) Is insolvent pursuant to 11 U.S.C. § 101;

(c) Has had an order for relief entered against him pursuant to 11 U.S.C. §§ 701 et seq.;

(d) Has had his ability to conduct business substantially affected by a liquidation or dissolution;

(e) Or any other person who has a financial interest in the wholesaler of not less than 10 percent and is active in the management of the wholesaler has been convicted of , or has pleaded guilty *or guilty but mentally ill* to , a felony and the supplier determines that the conviction or plea substantially and adversely affects the ability of the wholesaler to sell the products of the supplier;

(f) Has committed fraud or has made a material misrepresentation in his dealings with the supplier or the products of the supplier;

(g) Has sold alcoholic beverages which the wholesaler received from the supplier to:



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(1) A retailer who the wholesaler knows or should know does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler; or

(2) Any person who the wholesaler knows or should know sells or supplies alcoholic beverages to any retailer who does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler;

(h) Has failed to pay for any product ordered and delivered pursuant to the provisions of an agreement between the supplier and wholesaler within 7 business days after the supplier sends to the wholesaler a written notice which includes a statement that he has failed to pay for the product and a demand for immediate payment;

(i) Has made an assignment for the benefit of creditors or a similar disposition of substantially all the assets of his franchise;

(j) Or any other person who has a financial interest in the wholesaler has:

(1) Transferred or attempted to transfer the assets of the franchise, voting stock of the wholesaler or voting stock of any parent corporation of the wholesaler; or

(2) Changed or attempted to change the beneficial ownership or control of any such entity,

➤ unless the wholesaler first notified the supplier in writing and the supplier has not unreasonably withheld his approval; or

(k) Discontinues selling the products of the supplier, unless:

(1) The discontinuance is a result of an accident which the wholesaler was unable to prevent;

(2) The wholesaler has, if applicable, taken action to correct the condition which caused the accident; and

(3) The wholesaler has notified the supplier of the accident if he has discontinued selling the products of the supplier for more than 10 days.

Sec. 76. NRS 597.818 is hereby amended to read as follows:

597.818 1. A person who violates any provision of NRS 597.814 is guilty of a misdemeanor.

2. If a person is found guilty *or guilty but mentally ill* of, or has pleaded guilty , *guilty but mentally ill* or nolo contendere to, violating any provision of NRS 597.814, his telephone service to which a device for automatic dialing and announcing has been connected must be suspended for a period determined by the court.

Sec. 77. NRS 616A.250 is hereby amended to read as follows:

616A.250 "Incarcerated" means confined in:

1. Any local detention facility, county jail, state prison, reformatory or other correctional facility as a result of a conviction or a plea of guilty , *guilty but mentally ill* or nolo contendere in a criminal proceeding; or



2. Any institution or facility for the mentally ill as a result of a plea of not guilty by reason of insanity in a criminal proceeding, in this State, another state or a foreign country.

Sec. 78. NRS 623.270 is hereby amended to read as follows:

623.270 1. The Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand him, fine him not more than \$10,000, suspend or revoke his license, impose the costs of investigation and prosecution upon him or take any combination of these disciplinary actions for any of the following acts:

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or *found guilty or guilty but mentally ill* by a court of justice of any fraud, deceit or concealment of a material fact in his professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

(1) The practice of architecture or residential design; or

(2) His practice as a registered interior designer.

(d) The holder of a certificate has affixed his signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by him or in his office, or under his responsible control, or has permitted the use of his name to assist any person who is not a registered architect, registered interior designer or residential designer to evade any provision of this chapter.

(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

(1) Architecture or residential design; or

(2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted by the Board.

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

(a) Restriction on the scope of professional practice.

(b) Peer review.

(c) Required education or counseling.



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(d) Payment of restitution to each person who suffered harm or loss.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) "Gross negligence" means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) "Incompetency" means conduct which, in:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer,
→ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) "Negligence" means a deviation from the normal standard of professional care exercised generally by other members in:

(1) The profession of architecture or residential design; or

(2) Practice as a registered interior designer.

Sec. 79. NRS 624.165 is hereby amended to read as follows:

624.165 1. The Board shall:

(a) Designate one or more of its employees for the investigation of constructional fraud;

(b) Cooperate with other local, state or federal investigative and law enforcement agencies, and the Attorney General;

(c) Assist the Attorney General or any official of an investigative or a law enforcement agency of this State, any other state or the Federal Government who requests assistance in investigating any act of constructional fraud; and

(d) Furnish to those officials any information concerning its investigation or report on any act of constructional fraud.

2. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty *and guilty but mentally ill* pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

→ for the investigation of constructional fraud.

3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:



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(a) Misapplies money under the circumstances described in NRS 205.310;

(b) Obtains money, property or labor by false pretense as described in NRS 205.380;

(c) Receives payments and fails to state his own true name, or states a false name, contractor's license number, address or telephone number of the person offering a service;

(d) Diverts money or commits any act of theft, forgery, fraud or embezzlement, in connection with a construction project, that violates a criminal statute of this State;

(e) Acts as a contractor without:

(1) Possessing a contractor's license issued pursuant to this chapter; or

(2) Possessing any other license required by this State or a political subdivision of this State;

(f) In any report relating to a contract for a public work, submits false information concerning a payroll to a public officer or agency; or

(g) Otherwise fails to disclose a material fact.

Sec. 80. NRS 624.265 is hereby amended to read as follows:

624.265 1. An applicant for a contractor's license or a licensed contractor and each officer, director, partner and associate thereof must possess good character. Lack of character may be established by showing that the applicant or licensed contractor, or any officer, director, partner or associate thereof, has:

(a) Committed any act which would be grounds for the denial, suspension or revocation of a contractor's license;

(b) A bad reputation for honesty and integrity;

(c) Entered a plea of *guilty, guilty but mentally ill or* nolo contendere ~~for guilty~~ to, been found guilty *or guilty but mentally ill* of , or been convicted, in this State or any other jurisdiction, of a crime arising out of, in connection with or related to the activities of such person in such a manner as to demonstrate his unfitness to act as a contractor, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal; or

(d) Had a license revoked or suspended for reasons that would preclude the granting or renewal of a license for which the application has been made.

2. Upon the request of the Board, an applicant for a contractor's license, and any officer, director, partner or associate of the applicant, must submit to the Board completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of his fingerprints to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation. The fingerprint cards and authorization



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1 form submitted must be those that are provided to the applicant by
2 the Board. The applicant's fingerprints may be taken by an agent of
3 the Board or an agency of law enforcement.

4 3. The Board shall keep the results of the investigation
5 confidential and not subject to inspection by the general public.

6 4. The Board shall establish by regulation the fee for
7 processing the fingerprints to be paid by the applicant. The fee must
8 not exceed the sum of the amounts charged by the Central
9 Repository for Nevada Records of Criminal History and the Federal
10 Bureau of Investigation for processing the fingerprints.

11 5. The Board may obtain records of a law enforcement agency
12 or any other agency that maintains records of criminal history,
13 including, without limitation, records of:

- 14 (a) Arrests;
- 15 (b) Guilty *and guilty but mentally ill* pleas;
- 16 (c) Sentencing;
- 17 (d) Probation;
- 18 (e) Parole;
- 19 (f) Bail;
- 20 (g) Complaints; and
- 21 (h) Final dispositions,

22 ➔ for the investigation of a licensee or an applicant for a
23 contractor's license.

24 **Sec. 81.** NRS 632.320 is hereby amended to read as follows:

25 632.320 The Board may deny, revoke or suspend any license
26 or certificate applied for or issued pursuant to this chapter, or take
27 other disciplinary action against a licensee or holder of a certificate,
28 upon determining that he:

29 1. Is guilty of fraud or deceit in procuring or attempting to
30 procure a license or certificate pursuant to this chapter.

31 2. Is guilty of any offense:

32 (a) Involving moral turpitude; or

33 (b) Related to the qualifications, functions or duties of a licensee
34 or holder of a certificate,

35 ➔ in which case the record of conviction is conclusive evidence
36 thereof.

37 3. Has been convicted of violating any of the provisions of
38 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
39 inclusive.

40 4. Is unfit or incompetent by reason of gross negligence or
41 recklessness in carrying out usual nursing functions.

42 5. Uses any controlled substance, dangerous drug as defined in
43 chapter 454 of NRS, or intoxicating liquor to an extent or in a
44 manner which is dangerous or injurious to any other person or



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1 which impairs his ability to conduct the practice authorized by his
2 license or certificate.

3 6. Is mentally incompetent.

4 7. Is guilty of unprofessional conduct, which includes, but is
5 not limited to, the following:

6 (a) Conviction of practicing medicine without a license in
7 violation of chapter 630 of NRS, in which case the record of
8 conviction is conclusive evidence thereof.

9 (b) Impersonating any applicant or acting as proxy for an
10 applicant in any examination required pursuant to this chapter for
11 the issuance of a license or certificate.

12 (c) Impersonating another licensed practitioner or holder of a
13 certificate.

14 (d) Permitting or allowing another person to use his license or
15 certificate to practice as a licensed practical nurse, registered nurse
16 or nursing assistant.

17 (e) Repeated malpractice, which may be evidenced by claims of
18 malpractice settled against him.

19 (f) Physical, verbal or psychological abuse of a patient.

20 (g) Conviction for the use or unlawful possession of a controlled
21 substance or dangerous drug as defined in chapter 454 of NRS.

22 8. Has willfully or repeatedly violated the provisions of this
23 chapter. The voluntary surrender of a license or certificate issued
24 pursuant to this chapter is prima facie evidence that the licensee or
25 certificate holder has committed or expects to commit a violation of
26 this chapter.

27 9. Is guilty of aiding or abetting any person in a violation of
28 this chapter.

29 10. Has falsified an entry on a patient's medical chart
30 concerning a controlled substance.

31 11. Has falsified information which was given to a physician,
32 pharmacist, podiatric physician or dentist to obtain a controlled
33 substance.

34 12. Has been disciplined in another state in connection with a
35 license to practice nursing or a certificate to practice as a nursing
36 assistant or has committed an act in another state which would
37 constitute a violation of this chapter.

38 13. Has engaged in conduct likely to deceive, defraud or
39 endanger a patient or the general public.

40 14. Has willfully failed to comply with a regulation, subpoena
41 or order of the Board.

42 ➔ For the purposes of this section, a plea or verdict of guilty **or**
43 **guilty but mentally ill** or a plea of nolo contendere constitutes a
44 conviction of an offense. The Board may take disciplinary action
45 pending the appeal of a conviction.



1 **Sec. 82.** NRS 639.006 is hereby amended to read as follows:
2 639.006 "Conviction" means a plea or verdict of guilty *or*
3 *guilty but mentally ill* or a conviction following a plea of nolo
4 contendere to a charge of a felony, any offense involving moral
5 turpitude or any violation of the provisions of this chapter or chapter
6 453 or 454 of NRS.

7 **Sec. 83.** NRS 639.500 is hereby amended to read as follows:
8 639.500 1. In addition to the requirements for an application
9 set forth in NRS 639.100, each applicant for a license to engage in
10 wholesale distribution shall submit with his application a complete
11 set of his fingerprints and written permission authorizing the Board
12 to forward the fingerprints to the Central Repository for Nevada
13 Records of Criminal History for submission to the Federal Bureau
14 of Investigation for its report. If the applicant is a:

- 15 (a) Natural person, that person must submit his fingerprints.
16 (b) Partnership, each partner must submit his fingerprints.
17 (c) Corporation, each officer and director of the corporation
18 must submit his fingerprints.
19 (d) Sole proprietorship, that sole proprietor must submit his
20 fingerprints.

21 2. In addition to the requirements of subsection 1, the applicant
22 shall submit with his application a list containing each employee,
23 agent, independent contractor, consultant, guardian, personal
24 representative, lender or holder of indebtedness of the applicant. The
25 Board may require any person on the applicant's list to submit a
26 complete set of his fingerprints to the Board if the Board determines
27 that the person has the power to exercise significant influence over
28 the operation of the applicant as a licensed wholesaler. The
29 fingerprints must be submitted with written permission authorizing
30 the Board to forward the fingerprints to the Central Repository for
31 Nevada Records of Criminal History for submission to the Federal
32 Bureau of Investigation for its report. The provisions of this
33 subsection do not apply to a:

34 (a) Lender or holder of indebtedness of an applicant who is a
35 commercial bank, bank holding company, subsidiary or affiliate of a
36 bank holding company, personal property broker, consumer finance
37 lender, commercial finance lender or insurer, or any other person
38 engaged in the business of extending credit, who is regulated by an
39 officer or agency of the State or the Federal Government.

40 (b) Common motor carrier or other delivery service that delivers
41 a drug at the direction of a manufacturer.

42 3. The Board may issue a provisional license to an applicant
43 pending receipt of the reports from the Federal Bureau of
44 Investigation if the Board determines that the applicant is otherwise
45 qualified.



4. An applicant who is issued a license by the Board shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty , *guilty but mentally ill* or nolo contendere to, a felony or offense involving moral turpitude or related to the qualifications, functions or duties of that person in connection with the operation of the wholesaler.

5. The Board shall not issue a license to an applicant if the requirements of this section are not satisfied.

Sec. 84. NRS 639.505 is hereby amended to read as follows:

639.505 1. On an annual basis, each licensed wholesaler shall submit to the Board an updated list of each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the wholesaler who is employed by or otherwise contracts with the wholesaler for the provision of services in connection with the operation of the licensee as a wholesaler. Any changes to the list must be submitted to the Board not later than 30 days after the change is made.

2. If a person identified on an updated list of the wholesaler is employed by or otherwise contracts with the wholesaler after the wholesaler is issued a license and that person did not submit his fingerprints pursuant to NRS 639.500, the Board may require that person to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the licensee as a wholesaler. The fingerprints must be submitted within 30 days after being requested to do so by the Board and must include written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of a wholesaler who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. A wholesaler shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any



1 capacity in which he exercises significant influence over the
2 operation of the wholesaler if the:

3 (a) Person does not submit a complete set of his fingerprints in
4 accordance with subsection 2; or

5 (b) Report of the criminal history of the person indicates that he
6 has been convicted of, or entered a plea of guilty , *guilty but*
7 *mentally ill* or nolo contendere to, a felony or offense involving
8 moral turpitude or related to qualifications, functions or duties of
9 that person in connection with the operation of the wholesaler.

10 **Sec. 85.** NRS 645.330 is hereby amended to read as follows:

11 645.330 1. Except as otherwise provided by a specific
12 statute, the Division may approve an application for a license for a
13 person who meets all the following requirements:

14 (a) Has a good reputation for honesty, trustworthiness and
15 integrity and who offers proof of those qualifications satisfactory to
16 the Division.

17 (b) Has not made a false statement of material fact on his
18 application.

19 (c) Is competent to transact the business of a real estate broker,
20 broker-salesman or salesman in a manner which will safeguard the
21 interests of the public.

22 (d) Has passed the examination.

23 (e) Has submitted all information required to complete the
24 application.

25 2. The Division:

26 (a) May deny a license to any person who has been convicted of,
27 or entered a plea of guilty , *guilty but mentally ill* or nolo
28 contendere to, forgery, embezzlement, obtaining money under false
29 pretenses, larceny, extortion, conspiracy to defraud, engaging in a
30 real estate business without a license, possessing for the purpose of
31 sale any controlled substance or any crime involving moral
32 turpitude, in any court of competent jurisdiction in the United States
33 or elsewhere; and

34 (b) Shall not issue a license to such a person until at least 3 years
35 after:

36 (1) The person pays any fine or restitution ordered by the
37 court; or

38 (2) The expiration of the period of the person's parole,
39 probation or sentence,

40 ➔ whichever is later.

41 3. Suspension or revocation of a license pursuant to this
42 chapter or any prior revocation or current suspension in this or any
43 other state, district or territory of the United States or any foreign
44 country before the date of the application is grounds for refusal to
45 grant a license.



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4. Except as otherwise provided in NRS 645.332, a person may not be licensed as a real estate broker unless he has been actively engaged as a full-time licensed real estate broker-salesman or salesman in this State, or actively engaged as a full-time licensed real estate broker, broker-salesman or salesman in another state or the District of Columbia, for at least 2 of the 4 years immediately preceding the issuance of a broker's license.

Sec. 86. NRS 645.350 is hereby amended to read as follows:

645.350 1. An application for a license as a real estate broker, broker-salesman or salesman must be submitted in writing to the Division upon blanks prepared or furnished by the Division.

2. Every application for a real estate broker's, broker-salesman's or salesman's license must set forth the following information:

(a) The name, age and address of the applicant. If the applicant is a partnership or an association which is applying to do business as a real estate broker, the application must contain the name and address of each member thereof. If the application is for a corporation which is applying to do business as a real estate salesman, real estate broker-salesman or real estate broker, the application must contain the name and address of each officer and director thereof. If the applicant is a limited-liability company which is applying to do business as a real estate broker, the company's articles of organization must designate a manager, and the name and address of the manager and each member must be listed in the application.

(b) In the case of a broker, the name under which the business is to be conducted. The name is a fictitious name if it does not contain the name of the applicant or the names of the members of the applicant's company, firm, partnership or association. Except as otherwise provided in NRS 645.387, a license must not be issued under a fictitious name which includes the name of a real estate salesman or broker-salesman. A license must not be issued under the same fictitious name to more than one licensee within the State. All licensees doing business under a fictitious name shall comply with other pertinent statutory regulations regarding the use of fictitious names.

(c) In the case of a broker, the place or places, including the street number, city and county, where the business is to be conducted.

(d) The business or occupation engaged in by the applicant for at least 2 years immediately preceding the date of the application, and the location thereof.

(e) The time and place of the applicant's previous experience in the real estate business as a broker or salesman.



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(f) Whether the applicant has ever been convicted of or is under indictment for a felony or has entered a plea of guilty , *guilty but mentally ill* or nolo contendere to a charge of felony and, if so, the nature of the felony.

(g) Whether the applicant has been convicted of or entered a plea of nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in the business of selling real estate without a license or any crime involving moral turpitude.

(h) Whether the applicant has been refused a real estate broker's, broker-salesman's or salesman's license in any state, or whether his license as a broker or salesman has been revoked or suspended by any other state, district or territory of the United States or any other country.

(i) If the applicant is a member of a limited-liability company, partnership or association, or an officer of a corporation, the name and address of the office of the limited-liability company, partnership, association or corporation of which the applicant is a member or officer.

(j) All information required to complete the application.

3. An applicant for a license as a broker-salesman or salesman shall provide a verified statement from the broker with whom he will be associated, expressing the intent of that broker to associate the applicant with him and to be responsible for the applicant's activities as a licensee.

4. If a limited-liability company, partnership or association is to do business as a real estate broker, the application for a broker's license must be verified by at least two members thereof. If a corporation is to do business as a real estate broker, the application must be verified by the president and the secretary thereof.

Sec. 87. NRS 645.633 is hereby amended to read as follows:

645.633 1. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of any of the following acts:

(a) Willfully using any trade name, service mark or insignie of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or salesman who has not secured his license pursuant to this chapter.



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1 This subsection does not apply to payments to a broker who is
2 licensed in his state of residence.

3 (d) A conviction of, or the entry of a plea of guilty , *guilty but*
4 *mentally ill* or nolo contendere to:

5 (1) A felony relating to the practice of the licensee, property
6 manager or owner-developer; or

7 (2) Any crime involving fraud, deceit, misrepresentation or
8 moral turpitude.

9 (e) Guaranteeing, or having authorized or permitted any person
10 to guarantee, future profits which may result from the resale of real
11 property.

12 (f) Failure to include a fixed date of expiration in any written
13 brokerage agreement or failure to leave a copy of such a brokerage
14 agreement or any property management agreement with the client.

15 (g) Accepting, giving or charging any undisclosed commission,
16 rebate or direct profit on expenditures made for a client.

17 (h) Gross negligence or incompetence in performing any act for
18 which he is required to hold a license pursuant to this chapter,
19 chapter 119, 119A or 119B of NRS.

20 (i) Any other conduct which constitutes deceitful, fraudulent or
21 dishonest dealing.

22 (j) Any conduct which took place before he became licensed
23 which was in fact unknown to the Division and which would have
24 been grounds for denial of a license had the Division been aware of
25 the conduct.

26 (k) Knowingly permitting any person whose license has been
27 revoked or suspended to act as a real estate broker, broker-salesman
28 or salesman, with or on behalf of the licensee.

29 (l) Recording or causing to be recorded a claim pursuant to the
30 provisions of NRS 645.8701 to 645.8811, inclusive, that is
31 determined by a district court to be frivolous and made without
32 reasonable cause pursuant to NRS 645.8791.

33 2. The Commission may take action pursuant to NRS 645.630
34 against a person who is subject to that section for the suspension or
35 revocation of a real estate broker's, broker-salesman's or salesman's
36 license issued to him by any other jurisdiction.

37 3. The Commission may take action pursuant to NRS 645.630
38 against any person who:

39 (a) Holds a permit to engage in property management issued
40 pursuant to NRS 645.6052; and

41 (b) In connection with any property for which the person has
42 obtained a property management agreement pursuant to
43 NRS 645.6056:

44 (1) Is convicted of violating any of the provisions of
45 NRS 202.470;



(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the property management agreement.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

5. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 4; and

(b) Any disciplinary actions taken by the Commission pursuant to subsection 3.

Sec. 88. NRS 645C.290 is hereby amended to read as follows:

645C.290 An application for a certificate or license must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, where the applicant intends to conduct business as an appraiser.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The periods during which, and the locations where, he gained his experience as an intern.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty, *guilty but mentally ill* or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. Whether the applicant has ever been refused a certificate, license or permit to act as an appraiser, or has ever had such a certificate, license or permit suspended or revoked, in any other jurisdiction.



7. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

8. Any other information the Division requires.

Sec. 89. NRS 645C.320 is hereby amended to read as follows:

645C.320 1. The Administrator shall issue a certificate or license, as appropriate, to any person:

(a) Of good moral character, honesty and integrity;

(b) Who meets the educational requirements and has the experience prescribed in NRS 645C.330 or any regulation adopted pursuant to that section;

(c) Who, except as otherwise provided in NRS 645C.360, has satisfactorily passed a written examination approved by the Commission; and

(d) Who submits all information required to complete an application for a certificate or license.

2. The Administrator may deny an application for a certificate or license to any person who:

(a) Has been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application; or

(c) Has had a certificate, license or registration card suspended or revoked pursuant to this chapter, or a certificate, license or permit to act as an appraiser suspended or revoked in any other jurisdiction, within the 10 years immediately preceding the date of his application.

Sec. 90. NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant's education and experience to qualify for a certificate.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty, *guilty but mentally ill* or nolo contendere to:



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1 (a) A felony ~~H~~ and, if so, the nature of the felony.

2 (b) Forgery, embezzlement, obtaining money under false
3 pretenses, larceny, extortion, conspiracy to defraud or any crime
4 involving moral turpitude.

5 6. If the applicant is a member of a partnership or association
6 or is an officer of a corporation, the name and address of the
7 principal office of the partnership, association or corporation.

8 7. Any other information relating to the qualifications or
9 background of the applicant that the Division requires.

10 8. All other information required to complete the application.

11 **Sec. 91.** NRS 645D.200 is hereby amended to read as follows:
12 645D.200 1. The Administrator shall issue a certificate to any
13 person who:

14 (a) Is of good moral character, honesty and integrity;

15 (b) Has the education and experience prescribed in the
16 regulations adopted pursuant to NRS 645D.120;

17 (c) Has submitted proof that he or his employer holds a policy of
18 insurance that complies with the requirements of subsection 1 of
19 NRS 645D.190; and

20 (d) Has submitted all information required to complete an
21 application for a certificate.

22 2. The Administrator may deny an application for a certificate
23 to any person who:

24 (a) Has been convicted of, or entered a plea of guilty, *guilty but*
25 *mentally ill* or nolo contendere to, forgery, embezzlement, obtaining
26 money under false pretenses, larceny, extortion, conspiracy to
27 defraud or any crime involving moral turpitude;

28 (b) Makes a false statement of a material fact on his application;

29 (c) Has had a certificate suspended or revoked pursuant to this
30 chapter within the 10 years immediately preceding the date of his
31 application; or

32 (d) Has not submitted proof that he or his employer holds a
33 policy of insurance that complies with the requirements of
34 subsection 1 of NRS 645D.190.

35 **Sec. 92.** NRS 683A.0892 is hereby amended to read as
36 follows:

37 683A.0892 1. The Commissioner:

38 (a) Shall suspend or revoke the certificate of registration of an
39 administrator if the Commissioner has determined, after notice and a
40 hearing, that the administrator:

41 (1) Is in an unsound financial condition;

42 (2) Uses methods or practices in the conduct of his business
43 that are hazardous or injurious to insured persons or members of the
44 general public; or



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(3) Has failed to pay any judgment against him in this State within 60 days after the judgment became final.

(b) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

(1) Has willfully violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;

(2) Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;

(3) Has, without just cause, refused to pay claims or perform services pursuant to his contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against him to receive full payment or settlement of claims;

(4) Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this State without a certificate of authority or certificate of registration;

(5) Fails to comply with any of the requirements for a certificate of registration;

(6) Has been convicted of , or has entered a plea of guilty , **guilty but mentally ill** or nolo contendere to , a felony, whether or not adjudication was withheld;

(7) Has had his authority to act as an administrator in another state limited, suspended or revoked; or

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of , or has entered a plea of guilty , **guilty but mentally ill** or nolo contendere to , a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

(1) The administrator is impaired or insolvent;

(2) A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or



(3) The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this State.

(e) May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of \$2,000 for each act or violation.

2. As used in this section, "responsible person" means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

Sec. 93. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his application for the license;

(c) Be competent, trustworthy, financially responsible and of good reputation;

(d) Never have been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable him to fulfill the responsibilities of an adjuster;

(f) Pass all examinations required under this chapter; and

(g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.



2. The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:

(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom he is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;

(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or

(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (d) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

Sec. 94. NRS 686A.292 is hereby amended to read as follows:

686A.292 1. A court may, in addition to imposing the penalties set forth in NRS 193.130, order a person who is convicted of, or who pleads guilty, *guilty but mentally ill* or nolo contendere to, insurance fraud to pay:

(a) Court costs; and

(b) The cost of the investigation and prosecution of the insurance fraud for which the person was convicted or to which the person pleaded guilty, *guilty but mentally ill* or nolo contendere.

2. Any money received by the Attorney General pursuant to paragraph (b) of subsection 1 must be accounted for separately and used to pay the expenses of the Fraud Control Unit for Insurance established pursuant to NRS 228.412, and is hereby authorized for expenditure for that purpose. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

3. An insurer or other organization, or any other person, subject to the jurisdiction of the Commissioner pursuant to this title shall be deemed to be a victim for the purposes of restitution in a case that involves insurance fraud or that is related to a claim of insurance fraud.

Sec. 95. NRS 686A.295 is hereby amended to read as follows:

686A.295 If a person who is licensed or registered under the laws of the State of Nevada to engage in a business or profession is convicted of, or pleads guilty *or guilty but mentally ill* to, engaging in an act of insurance fraud, the Commissioner and the Attorney General shall forward to each agency by which the convicted person is licensed or registered a copy of the conviction or plea and all supporting evidence of the act of insurance fraud. An



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1 agency that receives information from the Commissioner and
2 Attorney General pursuant to this section shall, not later than 1 year
3 after the date on which it receives the information, submit a report
4 which sets forth the action taken by the agency against the convicted
5 person, including, but not limited to, the revocation or suspension of
6 the license or any other disciplinary action, to the Director of the
7 Legislative Counsel Bureau for transmittal to the Legislature.

8 **Sec. 96.** NRS 688C.210 is hereby amended to read as follows:

9 688C.210 After notice, and after a hearing if requested, the
10 Commissioner may suspend, revoke, refuse to issue or refuse to
11 renew a license under this chapter if he finds that:

12 1. There was material misrepresentation in the application for
13 the license;

14 2. The licensee or an officer, partner, member or significant
15 managerial employee has been convicted of fraudulent or dishonest
16 practices, is subject to a final administrative action for
17 disqualification, or is otherwise shown to be untrustworthy or
18 incompetent;

19 3. A provider of viatical settlements has engaged in a pattern of
20 unreasonable payments to viators;

21 4. The applicant or licensee has been found guilty *or guilty but*
22 *mentally ill* of, or pleaded guilty *, guilty but mentally ill* or nolo
23 contendere to, a felony or a misdemeanor involving fraud, forgery,
24 embezzlement, obtaining money under false pretenses, larceny,
25 extortion, conspiracy to defraud or any crime involving moral
26 turpitude, whether or not a judgment of conviction has been entered
27 by the court;

28 5. A provider of viatical settlements has entered into a viatical
29 settlement in a form not approved pursuant to NRS 688C.220;

30 6. A provider of viatical settlements has failed to honor
31 obligations of a viatical settlement;

32 7. The licensee no longer meets a requirement for initial
33 licensure;

34 8. A provider of viatical settlements has assigned, transferred
35 or pledged a viaticated policy to a person other than another
36 provider licensed under this chapter, a purchaser of the viatical
37 settlement, a special organization or a trust for a related provider;

38 9. The applicant or licensee has provided materially untrue
39 information to an insurer that issued a policy that is the subject of a
40 viatical settlement;

41 10. The applicant or licensee has failed to pay a tax as required
42 pursuant to the provisions of chapter 363A of NRS; or

43 11. The applicant or licensee has violated a provision of this
44 chapter.



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Sec. 97. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

Sec. 98. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:



(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of his fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

Sec. 99. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.



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(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

Sec. 100. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

Sec. 101. NRS 690B.029 is hereby amended to read as follows:

690B.029 1. A policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle delivered or issued for delivery in this State to a person who is 55 years of age or older must contain a provision for the reduction in the premiums for 3-year periods if the insured:



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(a) Successfully completes, after attaining 55 years of age and every 3 years thereafter, a course of traffic safety approved by the Department of Motor Vehicles; and

(b) For the 3-year period before completing the course of traffic safety and each 3-year period thereafter:

(1) Is not involved in an accident involving a motor vehicle for which the insured is at fault;

(2) Maintains a driving record free of violations; and

(3) Has not been convicted of , or entered a plea of guilty , **guilty but mentally ill** or nolo contendere to , a moving traffic violation or an offense involving:

(I) The operation of a motor vehicle while under the influence of intoxicating liquor or a controlled substance; or

(II) Any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct.

2. The reduction in the premiums provided for in subsection 1 must be based on the actuarial and loss experience data available to each insurer and must be approved by the Commissioner. Each reduction must be calculated based on the amount of the premium before any reduction in that premium is made pursuant to this section, and not on the amount of the premium once it has been reduced.

3. A course of traffic safety that an insured is required to complete as the result of moving traffic violations must not be used as the basis for a reduction in premiums pursuant to this section.

4. The organization that offers a course of traffic safety approved by the Department of Motor Vehicles shall issue a certificate to each person who successfully completes the course. A person must use the certificate to qualify for the reduction in the premiums pursuant to this section.

5. The Commissioner shall review and approve or disapprove a policy of insurance that offers a reduction in the premiums pursuant to subsection 1. An insurer must receive written approval from the Commissioner before delivering or issuing a policy with a provision containing such a reduction.

Sec. 102. NRS 692A.105 is hereby amended to read as follows:

692A.105 1. The Commissioner may refuse to license any title agent or escrow officer or may suspend or revoke any license or impose a fine of not more than \$500 for each violation by entering an order to that effect, with his findings in respect thereto, if , upon a hearing, it is determined that the applicant or licensee:



(a) In the case of a title agent, is insolvent or in such a financial condition that he cannot continue in business with safety to his customers;

(b) Has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;

(c) Has committed fraud in connection with any transaction governed by this chapter;

(d) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact known to him from, any principal or designated agent of the principal in the course of the escrow business;

(e) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from him any information which the applicant or licensee possesses;

(f) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(g) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(h) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(i) Has been convicted of a felony relating to the practice of title agents or any misdemeanor of which an essential element is fraud;

(j) In the case of a title agent, has failed to maintain complete and accurate records of all transactions within the last 7 years;

(k) Has commingled the money of other persons with his own or converted the money of other persons to his own use;

(l) Has failed, before the close of escrow, to obtain written instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(m) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction;

(n) In the case of an escrow officer, has been convicted of, or entered a plea of guilty , *guilty but mentally ill* or nolo contendere to, any crime involving moral turpitude; or



(o) Has failed to obtain and maintain a copy of the executed agreement or contract that establishes the conditions for the sale of real property.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association if any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission directly arising from the business activities of a title agent which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend or revoke the license of a title agent, or impose a fine, if the Commissioner finds that the title agent:

(a) Failed to maintain adequate supervision of an escrow officer or title agent he has appointed or employed.

(b) Instructed an escrow officer to commit an act which would be cause for the revocation of the escrow officer's license and the escrow officer committed the act. An escrow officer is not subject to disciplinary action for committing such an act under instruction by the title agent.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

Sec. 103. NRS 697.150 is hereby amended to read as follows:

697.150 1. Except as otherwise provided in subsection 2, a person is entitled to receive, renew or hold a license as a bail agent if he:

(a) Is a resident of this State and has resided in this State for not less than 1 year immediately preceding the date of the application for the license.

(b) Is a natural person not less than 18 years of age.

(c) Has been appointed as a bail agent by an authorized surety insurer, subject to the issuance of the license.

(d) Is competent, trustworthy and financially responsible.

(e) Has passed any written examination required under this chapter.

(f) Has filed the bond required by NRS 697.190.

(g) Has, on or after July 1, 1999, successfully completed a 6-hour course of instruction in bail bonds that is:

(1) Offered by a state or national organization of bail agents or another organization that administers training programs for bail agents; and

(2) Approved by the Commissioner.



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1 2. A person is not entitled to receive, renew or hold a license as
2 a bail agent if he has been convicted of, or entered a plea of guilty ,
3 *guilty but mentally ill* or nolo contendere to, forgery,
4 embezzlement, obtaining money under false pretenses, larceny,
5 extortion, conspiracy to defraud or any crime involving moral
6 turpitude. A conviction of, or plea of guilty , *guilty but mentally ill*
7 or nolo contendere by, an applicant or licensee for any crime listed
8 in this subsection is a sufficient ground for the Commissioner to
9 deny a license to the applicant or to suspend or revoke the license of
10 the agent.

11 **Sec. 104.** 1. This section and sections 1 to 40, inclusive, 42
12 to 58, inclusive, 60, 62 to 67, inclusive, 69, 71 to 97, inclusive, 99,
13 101, 102 and 103 of this act become effective on October 1, 2007.

14 2. Section 40 of this act expires by limitation on June 30, 2009.

15 3. Sections 58, 60, 67 and 69 of this act expire by limitation on
16 the date of the repeal of the federal law requiring each state to make
17 it unlawful for a person to operate a motor vehicle with a blood
18 alcohol concentration of 0.08 percent or greater as a condition to
19 receiving federal funding for the construction of highways in this
20 State.

21 4. Sections 97 and 99 of this act expire by limitation on the
22 date on which the provisions of 42 U.S.C. § 666 requiring each state
23 to establish procedures under which the state has authority to
24 withhold or suspend, or to restrict the use of professional,
25 occupational and recreational licenses of persons who:

26 (a) Have failed to comply with a subpoena or warrant relating to
27 a proceeding to determine the paternity of a child or to establish or
28 enforce an obligation for the support of a child; or

29 (b) Are in arrears in the payment for the support of one or more
30 children,

31 ➤ are repealed by the Congress of the United States.

32 5. Section 41 of this act becomes effective on July 1, 2009.

33 6. Sections 59, 61, 68 and 70 of this act become effective on
34 the date of the repeal of the federal law requiring each state to make
35 it unlawful for a person to operate a motor vehicle with a blood
36 alcohol concentration of 0.08 percent or greater as a condition to
37 receiving federal funding for the construction of highways in this
38 State.

39 7. Sections 98 and 100 of this act become effective on the date
40 on which the provisions of 42 U.S.C. § 666 requiring each state to
41 establish procedures under which the state has authority to withhold
42 or suspend, or to restrict the use of professional, occupational and
43 recreational licenses of persons who:



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- 1 (a) Have failed to comply with a subpoena or warrant relating to
- 2 a proceeding to determine the paternity of a child or to establish or
- 3 enforce an obligation for the support of a child; or
- 4 (b) Are in arrears in the payment for the support of one or more
- 5 children,
- 6 ➤ are repealed by the Congress of the United States.

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