

SENATE BILL NO. 380—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA DISTRICT ATTORNEYS ASSOCIATION)

MARCH 19, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning defendants in criminal actions. (BDR 14-279)

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

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

AN ACT relating to criminal procedure; authorizing a plea and verdict of guilty but mentally ill under certain circumstances; 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; revising provisions governing the commitment to and the discharge and conditional release from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services of a criminal defendant following an acquittal based on the insanity defense; revising provisions governing the commitment to and conditional release from the custody of the Administrator of certain other criminal defendants who the court finds to be incompetent; 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 the 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 the insanity defense for  
6 crimes that require an element of intent. Based on this reasoning and because the  
7 Court did not believe the Legislature would wish to preserve the plea of guilty but  
8 mentally ill under these circumstances, the Court struck Senate Bill No. 314 in its



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entirety and reinstated the insanity defense as it existed before Senate Bill No. 314. (*Finger v. State*, 117 Nev. 548, 575 (2001)) In response to *Finger*, the Legislature enacted legislation in 2003, Assembly Bill No. 156, which statutorily abolished the plea of guilty but mentally ill and reinstated the insanity defense.

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

**Section 10** of this bill authorizes the verdict of guilty but mentally ill under certain circumstances. Specifically, **section 10** authorizes a judge or jury to find a defendant guilty but mentally ill if the defendant entered a plea of not guilty by reason of insanity and the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has proven that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for the 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 18** 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, the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is available for his mental illness during his confinement or probation. 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.

**Sections 15 and 31-37** of this bill establish the procedures governing the discharge or conditional release from custody of a person who is committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services following an acquittal by reason of insanity. **Section 15** amends the provisions governing the insanity defense to provide that a defendant who is acquitted by reason of insanity must be committed to the custody of the Division until he is eligible for discharge or conditional release. **Section 34** provides that such a person is eligible for discharge or conditional release from custody if he establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or others. **Section 35** provides the procedure for the initial hearing to determine whether a person is eligible for discharge or conditional release. **Section 36** provides that the court must enter an order within 15 days after the conclusion of such a hearing. **Section 37** provides that if a person is not discharged or conditionally released from the custody of the Administrator following his initial hearing, the person may petition annually for a discharge or conditional release. **Section 37** further provides that the Division may petition for a discharge or conditional release at any time if the petition is accompanied by the affidavit of a physician or licensed psychologist which states that the person's mental condition has improved since the most recent hearing concerning the discharge or conditional release of the person. **Section 37** further provides that the same rules and procedures which apply to the initial hearing generally also apply to a petition for discharge or conditional release.

Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove his insanity at the time of the alleged crime by proving: (1) that he was in a delusional state due to a disease or defect of the mind; (2) that he did not understand the nature or quality of his act or understand that his



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act was wrong, meaning that the act is not authorized by law; and (3) that if the facts of the offense, as believed by the defendant in his delusional state, were true, the facts would justify the commission of the offense. (*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 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)

**Sections 38-45** of this bill establish the procedures for commitment to and conditional release from the custody of the Administrator of a defendant if: (1) the court finds the defendant to be incompetent to stand trial or receive pronouncement of judgment, with no substantial probability of attaining competency in the foreseeable future; and (2) based on such a finding of incompetency, the court ordered the dismissal of the criminal proceedings brought against him.

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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:

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

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

2. If, however, upon the preliminary examination the accused has been discharged, or the affidavit or complaint upon which the examination has been held has not been delivered to the clerk of the proper court, the Attorney General when acting pursuant to a specific statute or the district attorney may, upon affidavit of any person who has knowledge of the commission of an offense, and who is a competent witness to testify in the case, setting forth the offense and the name of the person or persons charged with the



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1 commission thereof, upon being furnished with the names of the  
2 witnesses for the prosecution, by leave of the court first had, file an  
3 information, and process must forthwith be issued thereon. The  
4 affidavit need not be filed in cases where the defendant has waived a  
5 preliminary examination, or upon a preliminary examination has  
6 been bound over to appear at the court having jurisdiction.

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

10 4. If, with the consent of the prosecuting attorney, a defendant  
11 waives his right to a preliminary examination in accordance with an  
12 agreement by the defendant to plead guilty , *guilty but mentally ill*  
13 or nolo contendere to a lesser charge or *to* at least one , but not all,  
14 of the initial charges, the information filed against the defendant  
15 pursuant to this section may contain only the offense or offenses to  
16 which the defendant has agreed to enter a plea of guilty , *guilty but*  
17 *mentally ill* or nolo contendere. If, for any reason, the agreement is  
18 rejected by the district court or withdrawn by the defendant, the  
19 prosecuting attorney may file an amended information charging all  
20 of the offenses which were in the criminal complaint upon which the  
21 preliminary examination was waived. The defendant must then be  
22 arraigned in accordance with the amended information.

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

24 173.125 The prosecution is not required to elect between the  
25 different offenses or counts set forth in the indictment or  
26 information, and a plea of guilty *or guilty but mentally ill* to one or  
27 more offenses charged in the indictment or information does not  
28 preclude prosecution for the other offenses.

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

30 174.035 1. A defendant may plead not guilty, guilty , *guilty*  
31 *but mentally ill* or, with the consent of the court, nolo contendere.  
32 The court may refuse to accept a plea of guilty ~~to~~ *or guilty but*  
33 *mentally ill*.

34 2. If a plea of guilty *or guilty but mentally ill* is made in a  
35 written plea agreement, the agreement must be in substantially the  
36 form prescribed in NRS 174.063. If a plea of guilty *or guilty but*  
37 *mentally ill* is made orally, the court shall not accept such a plea or a  
38 plea of nolo contendere without first addressing the defendant  
39 personally and determining that the plea is made voluntarily with  
40 understanding of the nature of the charge and consequences of the  
41 plea.

42 3. With the consent of the court and the district attorney, a  
43 defendant may enter a conditional plea of guilty , *guilty but*  
44 *mentally ill* or nolo contendere, reserving in writing the right, on  
45 appeal from the judgment, to a review of the adverse determination



1 of any specified pretrial motion. A defendant who prevails on appeal  
2 must be allowed to withdraw the plea.

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

11 5. The defendant may, in the alternative or in addition to any  
12 one of the pleas permitted by subsection 1, plead not guilty by  
13 reason of insanity. A plea of not guilty by reason of insanity must be  
14 entered not less than 21 days before the date set for trial. A  
15 defendant who has not so pleaded may offer the defense of insanity  
16 during trial upon good cause shown. Under such a plea or defense,  
17 the burden of proof is upon the defendant to establish ~~this insanity~~  
18 by a preponderance of the evidence ~~that~~.

19 ~~—5.1~~ that:

20 (a) *The defendant was in a delusional state due to a disease or*  
21 *defect of the mind;*

22 (b) *Due to the delusional state, the defendant could not know*  
23 *or understand the nature and capacity of his conduct or the*  
24 *defendant could not appreciate that his conduct was wrong,*  
25 *meaning not authorized by law; and*

26 (c) *If the facts of the offense, as believed by the defendant in*  
27 *his delusional state, were true, the facts would justify the*  
28 *commission of the offense.*

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

32 ~~6.1~~ 7. A defendant may not enter a plea of guilty *or guilty but*  
33 *mentally ill* pursuant to a plea bargain for an offense punishable as a  
34 felony for which:

35 (a) Probation is not allowed; or

36 (b) The maximum prison sentence is more than 10 years,  
37 ➔ unless the plea bargain is set forth in writing and signed by the  
38 defendant, the defendant's attorney, if he is represented by counsel,  
39 and the prosecuting attorney.

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

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

44 174.055 In ~~the~~ a justice court, if the defendant pleads guilty  
45 ~~that~~ *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 ~~or~~ *or guilty but*



1 *mentally ill*), as more fully alleged in the charging document  
2 attached hereto as Exhibit 1.

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

5 (State the terms of the agreement.)  
6

7 CONSEQUENCES OF THE PLEA

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

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

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

22 I understand that I (am or am not) eligible for probation for the  
23 offense to which I am pleading guilty ~~[-]~~ *or guilty but mentally ill*.  
24 (I understand that, except as otherwise provided by statute, the  
25 question of whether I receive probation is in the discretion of the  
26 sentencing judge, or I understand that I must serve a mandatory  
27 minimum term of (term of imprisonment) or pay a minimum  
28 mandatory fine of (amount of fine) or serve a mandatory minimum  
29 term (term of imprisonment) and pay a minimum mandatory fine of  
30 (amount of fine).)

31 I understand that if more than one sentence of imprisonment is  
32 imposed and I am eligible to serve the sentences concurrently, the  
33 sentencing judge has the discretion to order the sentences served  
34 concurrently or consecutively.

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

38 I have not been promised or guaranteed any particular sentence  
39 by anyone. I know that my sentence is to be determined by the court  
40 within the limits prescribed by statute. I understand that if my  
41 attorney or the State of Nevada or both recommend any specific  
42 punishment to the court, the court is not obligated to accept the  
43 recommendation.

44 I understand that the Division of Parole and Probation of the  
45 Department of Public Safety may or will prepare a report for the



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1 sentencing judge before sentencing. This report will include matters  
2 relevant to the issue of sentencing, including my criminal history. I  
3 understand that this report may contain hearsay information  
4 regarding my background and criminal history. My attorney (if  
5 represented by counsel) and I will each have the opportunity to  
6 comment on the information contained in the report at the time of  
7 sentencing.

### 8 9 WAIVER OF RIGHTS

10 By entering my plea of guilty ☒ *or guilty but mentally ill*, I  
11 understand that I have waived the following rights and privileges:

12 1. The constitutional privilege against self-incrimination,  
13 including the right to refuse to testify at trial, in which event the  
14 prosecution would not be allowed to comment to the jury about my  
15 refusal to testify.

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

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

24 4. The constitutional right to subpoena witnesses to testify on  
25 my behalf.

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

27 6. The right to appeal the conviction, with the assistance of an  
28 attorney, either appointed or retained, unless the appeal is based  
29 upon reasonable constitutional, jurisdictional or other grounds that  
30 challenge the legality of the proceedings and except as otherwise  
31 provided in subsection 3 of NRS 174.035.

### 32 33 VOLUNTARINESS OF PLEA

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

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

39 I have discussed with my attorney (if represented by counsel)  
40 any possible defenses and circumstances which might be in my  
41 favor.

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





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

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

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

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

16  
17 Dated: This ..... day of the month of ..... of the year  
18 .....

19  
20 .....  
21 Defendant.

22  
23 Agreed to on this ..... day of the month of ..... of the year  
24 .....

25  
26 .....  
27 Deputy District Attorney.

28  
29 2. If the defendant is represented by counsel, the written plea  
30 agreement must also include a certificate of counsel that is  
31 substantially in the following form:

32  
33 CERTIFICATE OF COUNSEL

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

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

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

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

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

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

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

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

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

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

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



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

4       (c) *The defendant has not established by a preponderance of*  
5 *the evidence that:*

6           (1) *The defendant was in a delusional state due to a disease*  
7 *or defect of the mind;*

8           (2) *Due to the delusional state, the defendant could not*  
9 *know or understand the nature and capacity of his conduct or the*  
10 *defendant could not appreciate that his conduct was wrong,*  
11 *meaning not authorized by law; and*

12           (3) *If the facts of the offense, as believed by the defendant*  
13 *in his delusional state, were true, the facts would justify the*  
14 *commission of the offense.*

15       2. *Except as otherwise provided by specific statute, a*  
16 *defendant who is found guilty but mentally ill is subject to the*  
17 *same criminal, civil and administrative penalties and procedures*  
18 *as a defendant who is found guilty.*

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

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

23       175.101 If by reason of absence from the judicial district,  
24 death, sickness or other disability the judge before whom the  
25 defendant has been tried is unable to perform the duties to be  
26 performed by the court after a verdict or finding of ~~[guilt,]~~ *guilty or*  
27 *guilty but mentally ill*, any other judge regularly sitting in or  
28 assigned to the court may perform those duties, ~~[,]~~ but if such other  
29 judge is satisfied that he cannot perform those duties because he did  
30 not preside at the trial or for any other reason, he may in his  
31 discretion grant a new trial.

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

33       175.282 If a prosecuting attorney enters into an agreement with  
34 a defendant in which the defendant agrees to testify against another  
35 defendant in exchange for a plea of guilty, *guilty but mentally ill* or  
36 nolo contendere to a lesser charge or for a recommendation of a  
37 reduced sentence, the court shall:

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

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

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



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

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

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

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

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

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

**Sec. 15.** NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, ~~[the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and]~~ the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are ~~employed by a division facility; and~~

~~—(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the~~



~~person to examine the advisers, introduce other evidence and cross-examine witnesses.~~

~~2. If the court finds, after the hearing:~~

~~(a) That there is not clear and convincing evidence that the person is a mentally ill person, the court must order his discharge; or~~

~~(b) That there is clear and convincing evidence that the person is a mentally ill person, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is regularly discharged therefrom in accordance with law.~~

~~The court shall issue its finding within 90 days after the defendant is acquitted.~~

~~3. The Administrator shall make the same reports and the court shall proceed in the same manner in the case of a person committed to the custody of the Division of Mental Health and Developmental Services pursuant to this section as of a person committed because he is incompetent to stand trial pursuant to NRS 178.400 to 178.460, inclusive, except that the determination to be made by the Administrator and the district judge on the question of release is whether the person has recovered from his mental illness or has improved to such an extent that he is no longer a mentally ill person.~~

~~4.] appointed by the court; and~~

*(c) Order that the person be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until the person is eligible for discharge or conditional release pursuant to the provisions of sections 31 to 37, inclusive, of this act.*

2. As used in this section, unless the context otherwise requires

[-

~~(a) "Division facility" has the meaning ascribed to it in NRS 433.094.~~

~~(b) "Forensic], "forensic~~ facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for mentally disordered offenders and defendants. The term includes, without limitation, Lakes Crossing Center.

~~[(c) "Mentally ill person" has the meaning ascribed to it in NRS 433A.115.]~~

**Sec. 16.** NRS 175.547 is hereby amended to read as follows:

175.547 1. In any case in which a defendant pleads or is found guilty *or guilty but mentally ill* of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home, the court shall, at



1 the 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, before the commencement of the trial, files  
5 and serves upon the defendant a written notice of his intention to  
6 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. The court shall enter its finding in the record.

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

19 **Sec. 17.** NRS 175.552 is hereby amended to read as follows:

20 175.552 1. Except as otherwise provided in subsection 2, in  
21 every case in which there is a finding that a defendant is guilty *or*  
22 *guilty but mentally ill* of murder of the first degree, whether or not  
23 the death penalty is sought, the court shall conduct a separate  
24 penalty hearing. The separate penalty hearing must be conducted as  
25 follows:

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

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

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

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



1 signed by the defendant, his attorney, if any, and the prosecuting  
2 attorney.

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

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

21 **Sec. 18.** Chapter 176 of NRS is hereby amended by adding  
22 thereto a new section to read as follows:

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

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

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

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

36 *(2) Include in that sentence an order that the defendant,*  
37 *during the period of his confinement or probation, be given such*  
38 *treatment as is available for his mental illness, if the court*  
39 *determines that the relative risks and benefits of the available*  
40 *treatment are such that a reasonable person would consent to such*  
41 *treatment.*

42 *2. The Department of Corrections shall provide any treatment*  
43 *ordered by a court pursuant to subsection 1.*



**Sec. 19.** 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 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



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1 determined to be uncollectible, the defendant is not entitled to a  
2 refund of the fine or administrative assessment he has paid and the  
3 justice or judge shall not recalculate the administrative assessment.

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

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

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

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

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

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

41 (a) Two dollars for credit to a special account in the county  
42 general fund for the use of the county's juvenile court or for services  
43 to juvenile offenders. Any money remaining in the special account  
44 after 2 fiscal years must be deposited in the county general fund if it  
45 has not been committed for expenditure. The county treasurer shall



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1 provide, upon request by a juvenile court, monthly reports of the  
2 revenue credited to and expenditures made from the special account.

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

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

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

19 (a) Training and education of personnel;

20 (b) Acquisition of capital goods;

21 (c) Management and operational studies; or

22 (d) Audits.

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

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

29 (1) Eighteen and one-half percent of the amount distributed  
30 to the Office of Court Administrator for the administration of the  
31 courts.

32 (2) Nine percent of the amount distributed to the Office of  
33 Court Administrator for the development of a uniform system for  
34 judicial records.

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

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

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

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

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



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1 (2) The Peace Officers' Standards and Training Commission;  
2 (3) The operation by the Nevada Highway Patrol of a  
3 computerized switching system for information related to law  
4 enforcement;

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

6 (5) The Advisory Council for Prosecuting Attorneys.

7 9. As used in this section:

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

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

12 **Sec. 20.** NRS 176.0611 is hereby amended to read as follows:

13 176.0611 1. A county or a city, upon recommendation of the  
14 appropriate court, may, by ordinance, authorize the justices or  
15 judges of the justice or municipal courts within its jurisdiction to  
16 impose for not longer than 50 years, in addition to the administrative  
17 assessments imposed pursuant to NRS 176.059 and 176.0613, an  
18 administrative assessment for the provision of court facilities.

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

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

32 (a) An ordinance regulating metered parking; or

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

35 4. The money collected for an administrative assessment for  
36 the provision of court facilities must not be deducted from the fine  
37 imposed by the justice or judge but must be taxed against the  
38 defendant in addition to the fine. The money collected for such an  
39 administrative assessment must be stated separately on the court's  
40 docket and must be included in the amount posted for bail. If bail is  
41 forfeited, the administrative assessment included in the amount  
42 posted for bail pursuant to this subsection must be disbursed in the  
43 manner set forth in subsection 6 or 7. If the defendant is found not  
44 guilty or the charges are dismissed, the money deposited with the  
45 court must be returned to the defendant. If the justice or judge



1 cancels a fine because the fine has been determined to be  
2 uncollectible, any balance of the fine and the administrative  
3 assessment remaining unpaid shall be deemed to be uncollectible  
4 and the defendant is not required to pay it. If a fine is determined to  
5 be uncollectible, the defendant is not entitled to a refund of the fine  
6 or administrative assessment he has paid and the justice or judge  
7 shall not recalculate the administrative assessment.

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

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

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

15 (c) To pay the unpaid balance of an administrative assessment  
16 for the provision of specialty court programs pursuant to NRS  
17 176.0613; and

18 (d) To pay the fine.

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

25 (a) Acquire land on which to construct additional facilities for  
26 the municipal courts or a regional justice center that includes the  
27 municipal courts.

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

30 (c) Renovate or remodel existing facilities for the municipal  
31 courts.

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

38 (e) Acquire advanced technology for use in the additional or  
39 renovated facilities.

40 (f) Pay debt service on any bonds issued pursuant to subsection  
41 3 of NRS 350.020 for the acquisition of land or facilities or the  
42 construction or renovation of facilities for the municipal courts or a  
43 regional justice center that includes the municipal courts.

44 ➤ Any money remaining in the special revenue fund after 5 fiscal  
45 years must be deposited in the municipal general fund for the



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1 continued maintenance of court facilities if it has not been  
2 committed for expenditure pursuant to a plan for the construction or  
3 acquisition of court facilities or improvements to court facilities.  
4 The city treasurer shall provide, upon request by a municipal court,  
5 monthly reports of the revenue credited to and expenditures made  
6 from the special revenue fund.

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

13 (a) Acquire land on which to construct additional facilities for  
14 the justice courts or a regional justice center that includes the justice  
15 courts.

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

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

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

25 (e) Acquire advanced technology for use in the additional or  
26 renovated facilities.

27 (f) Pay debt service on any bonds issued pursuant to subsection  
28 3 of NRS 350.020 for the acquisition of land or facilities or the  
29 construction or renovation of facilities for the justice courts or a  
30 regional justice center that includes the justice courts.

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

39 8. If money collected pursuant to this section is to be used to  
40 acquire land on which to construct a regional justice center, to  
41 construct a regional justice center or to pay debt service on bonds  
42 issued for these purposes, the county and the participating cities  
43 shall, by interlocal agreement, determine such issues as the size of  
44 the regional justice center, the manner in which the center will be  
45 used and the apportionment of fiscal responsibility for the center.



1     **Sec. 21.** NRS 176.0613 is hereby amended to read as follows:

2     176.0613 1. The justices or judges of the justice or municipal  
3 courts shall impose, in addition to an administrative assessment  
4 imposed pursuant to NRS 176.059 and 176.0611, an administrative  
5 assessment for the provision of specialty court programs.

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

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

17     (a) An ordinance regulating metered parking; or

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

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

38     5. If the justice or judge permits the fine and administrative  
39 assessment for the provision of specialty court programs to be paid  
40 in installments, the payments must be applied in the following  
41 order:

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

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



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

(d) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs 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. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs 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. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

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

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

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

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

(1) Acquiring necessary capital goods;

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

(3) Providing training and education to personnel;

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

(5) Conducting audits of the program;

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

(7) Acquiring or using appropriate technology.

10. As used in this section:

(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



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1 determined suffer from a mental illness or abuses alcohol or drugs.  
2 Such a program includes, without limitation, a program established  
3 pursuant to NRS 176A.250 or 453.580.

4 **Sec. 22.** NRS 176.062 is hereby amended to read as follows:

5 176.062 1. When a defendant pleads guilty *or guilty but*  
6 *mentally ill* or is found guilty *or guilty but mentally ill* of a felony  
7 or gross misdemeanor, the judge shall include in the sentence the  
8 sum of \$25 as an administrative assessment and render a judgment  
9 against the defendant for the assessment.

10 2. The money collected for an administrative assessment:

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

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

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

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

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

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

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

31 **Sec. 23.** NRS 176.135 is hereby amended to read as follows:

32 176.135 1. Except as otherwise provided in this section and  
33 NRS 176.151, the Division shall make a presentence investigation  
34 and report to the court on each defendant who pleads guilty, *guilty*  
35 *but mentally ill* or nolo contendere to, or is found guilty *or guilty*  
36 *but mentally ill* of, a felony.

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

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

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

44 3. If a defendant is convicted of a felony other than a sexual  
45 offense, the presentence investigation and report must be made



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1 before the imposition of sentence or the granting of probation  
2 unless:

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

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

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

11 **Sec. 24.** NRS 176.151 is hereby amended to read as follows:

12 176.151 1. If a defendant pleads guilty, *guilty but mentally*  
13 *ill* or nolo contendere to, or is found guilty *or guilty but mentally ill*  
14 of, one or more category E felonies, but no other felonies, the  
15 Division shall not make a presentence investigation and report on  
16 the defendant pursuant to NRS 176.135, unless the Division has not  
17 made a presentence investigation and report on the defendant  
18 pursuant to NRS 176.135 within the 5 years immediately preceding  
19 the date initially set for sentencing on the category E felony or  
20 felonies and:

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

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

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

30 (a) Any prior criminal record of the defendant;

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

35 (c) Information concerning the effect that the offense committed  
36 by the defendant has had upon the victim, including, without  
37 limitation, any physical or psychological harm or financial loss  
38 suffered by the victim, to the extent that such information is  
39 available from the victim or other sources, but the provisions of this  
40 paragraph do not require any particular examination or testing of the  
41 victim, and the extent of any investigation or examination and the  
42 extent of the information included in the report is solely at  
43 the discretion of the Division;



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

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

**Sec. 25.** NRS 176.165 is hereby amended to read as follows:

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

**Sec. 26.** NRS 176A.255 is hereby amended to read as follows:

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

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

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

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

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

**Sec. 27.** NRS 176A.260 is hereby amended to read as follows:

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

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.

3. Upon violation of a term or condition:



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

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

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

23 **Sec. 28.** NRS 177.015 is hereby amended to read as follows:

24 177.015 The party aggrieved in a criminal action may appeal  
25 only as follows:

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

27 (a) To the district court of the county from a final judgment of  
28 the justice court.

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

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

38 2. The State may, upon good cause shown, appeal to the  
39 Supreme Court from a pretrial order of the district court granting or  
40 denying a motion to suppress evidence made pursuant to NRS  
41 174.125. Notice of the appeal must be filed with the clerk of the  
42 district court within 2 judicial days and with the Clerk of the  
43 Supreme Court within 5 judicial days after the ruling by the district  
44 court. The clerk of the district court shall notify counsel for the  
45 defendant or, in the case of a defendant without counsel, the



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1 defendant within 2 judicial days after the filing of the notice of  
2 appeal. The Supreme Court may establish such procedures as it  
3 determines proper in requiring the appellant to make a preliminary  
4 showing of the propriety of the appeal and whether there may be a  
5 miscarriage of justice if the appeal is not entertained. If the Supreme  
6 Court entertains the appeal, or if it otherwise appears necessary, it  
7 may enter an order staying the trial for such time as may be  
8 required.

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

11 4. Except as otherwise provided in subsection 3 of NRS  
12 174.035, the defendant in a criminal case shall not appeal a final  
13 judgment or verdict resulting from a plea of guilty , *guilty but*  
14 *mentally ill* or nolo contendere that the defendant entered into  
15 voluntarily and with a full understanding of the nature of the charge  
16 and the consequences of the plea, unless the appeal is based upon  
17 reasonable constitutional, jurisdictional or other grounds that  
18 challenge the legality of the proceedings. The Supreme Court may  
19 establish procedures to require the defendant to make a preliminary  
20 showing of the propriety of the appeal.

21 **Sec. 29.** NRS 177.075 is hereby amended to read as follows:

22 177.075 1. Except where appeal is automatic, an appeal from  
23 a district court to the Supreme Court is taken by filing a notice of  
24 appeal with the clerk of the district court. Bills of exception and  
25 assignments of error in cases governed by this chapter are abolished.

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

31 3. A notice of appeal must be signed:

32 (a) By the appellant or appellant's attorney; or

33 (b) By the clerk if prepared by him.

34 **Sec. 30.** Chapter 178 of NRS is hereby amended by adding  
35 thereto the provisions set forth as sections 31 to 45, inclusive, of this  
36 act.

37 **Sec. 31.** *As used in sections 31 to 37, inclusive, of this act,*  
38 *unless the context otherwise requires, the words and terms defined*  
39 *in sections 32 and 33 of this act have the meanings ascribed to*  
40 *them in those sections.*

41 **Sec. 32.** *"Division" means the Division of Mental Health and*  
42 *Developmental Services of the Department of Health and Human*  
43 *Services.*

44 **Sec. 33.** *"Mental disorder" means a mental illness that*  
45 *results from a psychiatric or neurological disorder that so*



1 *substantially impairs the mental or emotional functioning of a*  
2 *person as to make care or treatment necessary or advisable for the*  
3 *welfare of the person or for the safety of the person or property of*  
4 *another and includes, without limitation, mental retardation and*  
5 *related conditions.*

6 **Sec. 34.** *A person committed to the custody of the*  
7 *Administrator of the Division pursuant to NRS 175.539 is eligible*  
8 *for:*

9 1. *Discharge from commitment if the person establishes by a*  
10 *preponderance of the evidence that he would not be a danger, as a*  
11 *result of any mental disorder, to himself or to the person or*  
12 *property of another if discharged; or*

13 2. *Conditional release from commitment if the person*  
14 *establishes by a preponderance of the evidence that he would not*  
15 *be a danger, as a result of any mental disorder, to himself or to the*  
16 *person or property of another if released from commitment with*  
17 *conditions imposed by the court in consultation with the Division.*  
18 *If the person fails to comply with any condition imposed by the*  
19 *court, the court shall issue an order to have the person*  
20 *recommitted to the custody of the Administrator.*

21 **Sec. 35.** 1. *Except as otherwise provided in subsection 2 or*  
22 *3, within 50 days after a person is committed to the custody of the*  
23 *Administrator of the Division pursuant to NRS 175.539, the court*  
24 *shall hold a hearing to consider any relevant information that will*  
25 *enable the court to determine whether the person is eligible for*  
26 *discharge or conditional release pursuant to section 34 of this act.*

27 2. *The court may postpone the hearing described in*  
28 *subsection 1 for good cause or upon agreement by the person*  
29 *committed to the custody of the Administrator, the court and the*  
30 *Division.*

31 3. *The person committed to the custody of the Administrator*  
32 *may waive the hearing described in subsection 1.*

33 4. *If the person committed to the custody of the Administrator*  
34 *waives the hearing described in subsection 1, the Division shall,*  
35 *within 50 days after the date that the person was committed to the*  
36 *custody of the Administrator:*

37 (a) *Complete an examination and evaluation of the person and*  
38 *complete a report of such examination and evaluation, unless the*  
39 *has previously completed such an examination, evaluation and*  
40 *report of the person within 90 days before the date that the person*  
41 *was committed to the custody of the Administrator; and*

42 (b) *Provide a copy of the report described in paragraph (a) to:*

43 (1) *The person committed to the custody of the*  
44 *Administrator and his attorney;*

45 (2) *The prosecuting attorney; and*



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1       (3) *The court.*

2       5. *If the person committed to the custody of the Administrator*  
3 *has not waived the hearing described in subsection 1, the Division*  
4 *shall, not later than 21 days before the date of that hearing:*

5       (a) *Complete an examination and evaluation of the person and*  
6 *complete a report of such examination and evaluation, unless the*  
7 *Division has previously completed such an examination,*  
8 *evaluation and report of the person within 90 days before the date*  
9 *of the hearing; and*

10      (b) *Provide a copy of the report described in paragraph (a) to:*

11       (1) *The person committed to the custody of the*  
12 *Administrator and his attorney;*

13       (2) *The prosecuting attorney; and*

14       (3) *The court; and*

15      (c) *Provide notice of the hearing to:*

16       (1) *The person committed to the custody of the*  
17 *Administrator and his attorney; and*

18       (2) *The prosecuting attorney.*

19      6. *At the hearing described in subsection 1, the court is not*  
20 *bound by the formal rules of evidence. The court may issue*  
21 *subpoenas for any person or evidence and may admit and consider*  
22 *any relevant evidence.*

23      **Sec. 36. 1.** *Within 15 days after the hearing described in*  
24 *section 35 of this act is concluded or waived, the court shall:*

25       (a) *Determine whether the person committed to the custody of*  
26 *the Administrator of the Division pursuant to NRS 175.539 has*  
27 *established by a preponderance of the evidence that he is eligible*  
28 *for discharge or conditional release pursuant to section 34 of this*  
29 *act; and*

30       (b) *Issue an order which contains a concise statement of the*  
31 *findings of the court and the reasons for those findings and which*  
32 *orders:*

33       (1) *The continued commitment of the person;*

34       (2) *The conditional release of the person; or*

35       (3) *The discharge from commitment of the person.*

36      2. *If the court orders the conditional release of the person,*  
37 *the Division shall, within 30 days after the issuance of the order,*  
38 *release the person under the conditions imposed in the order.*

39      3. *The court shall notify the Central Repository for Nevada*  
40 *Records of Criminal History whenever the court orders the*  
41 *discharge or conditional release of a person pursuant to this*  
42 *section.*

43      **Sec. 37. 1.** *A person committed to the custody of the*  
44 *Administrator of the Division pursuant to NRS 175.539 may*  
45 *petition for discharge or conditional release not earlier than 1 year*



1 *after the initial hearing conducted pursuant to section 35 of this*  
2 *act and not more frequently than once a year thereafter.*

3 2. *The Division may file a petition for discharge or*  
4 *conditional release of a person committed to the custody of the*  
5 *Administrator pursuant to NRS 175.539 at any time if the petition*  
6 *is accompanied by an affidavit of a physician or licensed*  
7 *psychologist which states that the mental condition of the person*  
8 *has improved since the date of the most recent hearing concerning*  
9 *the discharge or conditional release of the person such that the*  
10 *physician or licensed psychologist is able to recommend the*  
11 *discharge or conditional release of the person.*

12 3. *A person who is committed to the custody of the*  
13 *Administrator pursuant to NRS 175.539 and who wishes to apply*  
14 *for discharge or conditional release must:*

15 (a) *File a petition for discharge or conditional release with the*  
16 *court that ordered the person committed pursuant to NRS*  
17 *175.539; and*

18 (b) *Provide a copy of the petition to the Division and the*  
19 *prosecuting attorney.*

20 4. *If the Division files a petition for discharge or conditional*  
21 *release pursuant to subsection 2, the Division must:*

22 (a) *File the petition with the court that ordered the person*  
23 *committed to the custody of the Administrator pursuant to*  
24 *NRS 175.539;*

25 (b) *Include with the petition an affidavit of a physician or*  
26 *licensed psychologist as required pursuant to subsection 2; and*

27 (c) *Provide a copy of the petition to the person committed to*  
28 *the custody of the Administrator, his attorney and the prosecuting*  
29 *attorney.*

30 5. *Except as otherwise provided in subsection 6, within 50*  
31 *days after the Division or the person committed to the custody of*  
32 *the Administrator files a petition for discharge or conditional*  
33 *release, the court shall hold a hearing to consider any relevant*  
34 *information that will enable the court to determine whether the*  
35 *person is eligible for discharge or conditional release pursuant to*  
36 *section 34 of this act.*

37 6. *The court may postpone the hearing described in*  
38 *subsection 5 for good cause or upon agreement by the person*  
39 *committed to the custody of the Administrator, the court and the*  
40 *Division.*

41 7. *Within 50 days after the date that the petition for discharge*  
42 *or conditional release is filed, the Division shall:*

43 (a) *Complete an examination and evaluation of the person*  
44 *committed to the custody of the Administrator and complete a*  
45 *report of such examination and evaluation, unless the Division*



1 *has previously completed such an examination, evaluation and*  
2 *report of the person within 90 days before the date that the petition*  
3 *was filed; and*

4 *(b) Provide a copy of the report described in paragraph (a) to:*

5 *(1) The person committed to the custody of the*  
6 *Administrator and his attorney;*

7 *(2) The prosecuting attorney; and*

8 *(3) The court.*

9 *8. At the hearing described in subsection 5, the court is not*  
10 *bound by the formal rules of evidence. The court may issue*  
11 *subpoenas for any person or evidence and may admit and consider*  
12 *any relevant evidence.*

13 *9. The provisions of section 36 of this act apply to a petition*  
14 *for discharge or release filed pursuant to this section.*

15 **Sec. 38.** *As used in NRS 178.399 to 178.460, inclusive, and*  
16 *sections 38 to 45, inclusive, of this act, unless the context*  
17 *otherwise requires, the words and terms defined in NRS 178.399*  
18 *and sections 39, 40 and 41 of this act have the meanings ascribed*  
19 *to them in those sections.*

20 **Sec. 39.** *“Division” means the Division of Mental Health and*  
21 *Developmental Services of the Department of Health and Human*  
22 *Services.*

23 **Sec. 40.** *“Forensic assertive community treatment team”*  
24 *means a treatment team that includes a psychiatrist that provides*  
25 *treatment, rehabilitation and supervision services to the defendant,*  
26 *including, without limitation, the management of the defendant’s*  
27 *medication, psychiatric rehabilitation services, random drug*  
28 *testing, drug and alcohol treatment programs and vocational*  
29 *rehabilitation.*

30 **Sec. 41.** *“Mental disorder” has the meaning ascribed to it in*  
31 *section 33 of this act.*

32 **Sec. 42.** *1. If the proceedings against a defendant who is*  
33 *charged with a felony are required to be dismissed pursuant to*  
34 *subsection 5 of NRS 178.425, the prosecuting attorney may, within*  
35 *30 days after the dismissal, file a motion with the court for a*  
36 *hearing to determine if the court should retain jurisdiction over*  
37 *the defendant. The court shall hold the hearing within 30 days*  
38 *after the motion is filed with the court.*

39 *2. At a hearing held pursuant to subsection 1, if the court*  
40 *finds by clear and convincing evidence that the defendant*  
41 *committed the crime with which the defendant is charged and that*  
42 *the defendant suffers from a mental disorder, the court must*  
43 *order:*





1 (a) A peace officer to take the defendant into protective  
2 custody and transport him to a secure facility operated by the  
3 Division; and

4 (b) That the defendant be committed to the custody of the  
5 Administrator of the Division until the person is eligible for  
6 conditional release pursuant to section 43 of this act.

7 3. The length of commitment of a defendant pursuant to  
8 subsection 2 must not exceed  
9 the longest period of incarceration provided for the crime or  
10 crimes with which the defendant is charged.

11 **Sec. 43.** 1. A defendant who is committed to the custody of  
12 the Administrator of the Division pursuant to section 42 of this act  
13 is eligible for conditional release only after:

14 (a) A risk assessment has been completed by the Division;

15 (b) A decision to release the defendant from commitment with  
16 conditions imposed by the court in consultation with the Division  
17 has been made based on input from the defendant's treatment  
18 team, the prosecuting attorney, the counsel for the defendant and  
19 team that will supervise the defendant in the community; and

20 (c) The court which committed the defendant has approved the  
21 conditional release.

22 2. If the court which ordered the commitment of the  
23 defendant pursuant to section 42 of this act is located in a judicial  
24 district that has established a program pursuant to NRS 176A.250,  
25 the court shall assign the defendant to the program.

26 3. Unless the defendant is assigned to a program established  
27 pursuant to NRS 176A.250, the court which ordered the  
28 commitment of the defendant pursuant to section 42 of this act  
29 shall supervise the conditional release of the defendant.

30 4. If the defendant has been assigned to a program  
31 established pursuant to NRS 176A.250, the court which assigned  
32 the defendant to the program shall supervise the conditional  
33 release of the defendant, subject to the completion of the terms  
34 and conditions established by the program.

35 5. The conditions imposed by the court for the release of the  
36 defendant from commitment must include intensive supervision by  
37 a forensic assertive community treatment team. The forensic  
38 assertive community treatment team shall at least once every 6  
39 months provide a report concerning the progress of the defendant  
40 to the court which ordered the commitment of the defendant or the  
41 court which supervises the conditional release of the defendant  
42 pursuant to subsection 4, as applicable.

43 **Sec. 44.** 1. The forensic assertive community treatment  
44 team required to supervise a defendant who is conditionally  
45 released from commitment pursuant to section 43 of this act shall



1 *notify the court which ordered the commitment of the defendant or*  
2 *the court which supervises the conditional release of the defendant*  
3 *pursuant to subsection 4 of section 43 of this act, as applicable, if*  
4 *the defendant violates a condition of his release from commitment.*

5 *2. If the court is notified pursuant to subsection 1 of a*  
6 *violation, the court shall consult with the forensic assertive*  
7 *community treatment team, the counsel for the defendant and the*  
8 *prosecuting attorney concerning the potential risk to the*  
9 *community that is posed by the noncompliance of the defendant*  
10 *with the conditions of release from commitment.*

11 *3. After consulting with the persons required by subsection 2,*  
12 *and considering the risks to the community, the court may issue a*  
13 *temporary order of detention to commit the defendant to the*  
14 *custody of the Administrator of the Division for evaluation. If the*  
15 *court issues such an order, the court must:*

16 *(a) Order a peace officer to take the defendant into protective*  
17 *custody and transport him to a forensic facility operated by the*  
18 *Division;*

19 *(b) Order that the defendant be committed to the custody of the*  
20 *Administrator for evaluation; and*

21 *(c) Provide a copy of the order to the counsel for the defendant*  
22 *and the prosecuting attorney.*

23 *4. Within 10 days after a defendant has been committed to the*  
24 *custody of the Administrator for evaluation pursuant to subsection*  
25 *3, the court shall hold a hearing to consider any relevant*  
26 *information that will enable the court to determine whether the*  
27 *conditional release of the defendant should be continued, modified*  
28 *or terminated.*

29 *5. As used in this section, "forensic facility" has the meaning*  
30 *ascribed to it in NRS 175.539.*

31 **Sec. 45.** *1. If the proceedings against a defendant who is*  
32 *charged with a misdemeanor are required to be dismissed*  
33 *pursuant to subsection 5 of NRS 178.425, the prosecuting attorney*  
34 *may, within 30 days after the dismissal, file a petition with the*  
35 *court to commence proceedings for admission of the defendant to*  
36 *a mental health facility in the manner provided for involuntary*  
37 *court-ordered admissions to a mental health facility pursuant to*  
38 *NRS 433A.200 to 433A.330, inclusive.*

39 *2. The mental health facility shall develop a treatment plan*  
40 *for each defendant admitted to the mental health facility pursuant*  
41 *to subsection 1. The treatment plan must include, without*  
42 *limitation, intensive supervision of the defendant by a forensic*  
43 *assertive community treatment team.*

44 *3. If the defendant is conditionally released from a mental*  
45 *health facility pursuant to chapter 433A of NRS and violates a*



1 *provision of his treatment plan, the court may order the defendant*  
2 *to return to the facility.*

3 **Sec. 46.** NRS 178.388 is hereby amended to read as follows:

4 178.388 1. Except as otherwise provided in this title, the  
5 defendant must be present at the arraignment, at every stage of  
6 the trial including the impaneling of the jury and the return of the  
7 verdict, and at the imposition of sentence. A corporation may appear  
8 by counsel for all purposes.

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

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

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

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

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

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

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

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

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

40 **Sec. 47.** NRS 178.399 is hereby amended to read as follows:

41 178.399 ~~[As used in NRS 178.400 to 178.460, inclusive, unless~~  
42 ~~the context otherwise requires, "treatment"]~~ *"Treatment* to  
43 competency" means treatment provided to a defendant to attempt to  
44 cause him to attain competency to stand trial or receive  
45 pronouncement of judgment.



**Sec. 48.** NRS 178.415 is hereby amended to read as follows:

178.415 1. Except as otherwise provided in this subsection, the court shall appoint two psychiatrists, two psychologists, or one psychiatrist and one psychologist, to examine the defendant. If the defendant is accused of a misdemeanor, the court of jurisdiction shall appoint a psychiatric social worker, or other person who is especially qualified by the Division, ~~{of Mental Health and Developmental Services of the Department of Health and Human Services,}~~ to examine the defendant.

2. Except as otherwise provided in this subsection, at a hearing in open court, the court that orders the examination must receive the report of the examination. If a Justice Court orders the examination of a defendant who is charged with a gross misdemeanor or felony, the district court must receive the report of the examination.

3. The court that receives the report of the examination shall permit counsel for both sides to examine the person or persons appointed to examine the defendant. The prosecuting attorney and the defendant may:

(a) Introduce other evidence including, without limitation, evidence related to treatment to competency and the possibility of ordering the involuntary administration of medication; and

(b) Cross-examine one another's witnesses.

4. The court that receives the report of the examination shall then make and enter its finding of competence or incompetence.

5. The court shall not appoint a person to provide a report or an evaluation pursuant to this section, unless the person is certified by the Division ~~{of Mental Health and Developmental Services}~~ pursuant to NRS 178.417.

**Sec. 49.** NRS 178.417 is hereby amended to read as follows:

178.417 1. A person may not provide a report or an evaluation concerning the competency of a defendant to stand trial or receive pronouncement of judgment pursuant to this section and NRS 178.400 to 178.460, inclusive, unless the person is certified by the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~ for that purpose.

2. The Division ~~{of Mental Health and Developmental Services}~~ shall adopt regulations to establish:

(a) Requirements for certification of a person who provides reports and evaluations concerning the competency of a defendant pursuant to this section and NRS 178.400 to 178.460, inclusive;

(b) Reasonable fees for issuing and renewing such certificates; and

(c) Requirements for continuing education for the renewal of a certificate.

3. The fees so collected must be used only to:



(a) Defray the cost of issuing and renewing certificates; and  
(b) Pay any other expenses incurred by the Division ~~[of Mental Health and Developmental Services]~~ in carrying out its duties pursuant to this section.

4. The Division ~~[of Mental Health and Developmental Services]~~ shall establish and administer examinations to determine the eligibility of any person who applies for certification. An applicant is entitled to certification upon satisfaction of the requirements of the Division. ~~[of Mental Health and Developmental Services.]~~ The Division ~~[of Mental Health and Developmental Services]~~ may enter into a contract with another person, organization or agency to carry out or assist in carrying out the provisions of this subsection.

**Sec. 50.** NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee for detention and treatment at a secure facility operated by that Division. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.



5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

**Sec. 51.** NRS 178.435 is hereby amended to read as follows:

178.435 The expenses of the examination and of the transportation of the defendant to and from the custody of the Administrator of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee are in the first instance chargeable to the county or city from which he has been sent. But the county or city may recover the money from the estate of the defendant, from a relative legally bound to care for him or from the county or city of which he is a resident.

**Sec. 52.** NRS 178.450 is hereby amended to read as follows:

178.450 1. The Administrator of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee shall keep each defendant committed to his custody under NRS 178.425 or 178.460 *or section 42 of this act* under observation and shall have each defendant who has been ordered to report to him as an outpatient under those sections evaluated periodically.

2. The Administrator or his designee shall report in writing to a judge of the court which committed the person and the prosecuting attorney of the county or city to which the person may be returned for further court action whether, in his opinion, upon medical consultation, the defendant is of sufficient mentality to be able to understand the nature of the criminal charge against him and, by reason thereof, is able to aid and assist his counsel in the defense interposed upon the trial or against the pronouncement of the judgment thereafter. The Administrator or his designee shall submit such a report, in the case of a person charged or convicted of a misdemeanor, within 3 months after the order for commitment or treatment and evaluation as an outpatient or for recommitment pursuant to paragraph (b) of subsection 4 of NRS 178.460, and at monthly intervals thereafter. In all other cases, the initial report must be submitted within 6 months after the order and at 6-month intervals thereafter. If the opinion of the Administrator or his designee about the defendant is that he is not of sufficient mentality



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1 to understand the nature of the charge against him and assist in his  
2 own defense, the Administrator or his designee shall also include in  
3 the report his opinion whether:

4 (a) There is a substantial probability that the defendant can  
5 receive treatment to competency and will attain competency to stand  
6 trial or receive pronouncement of judgment in the foreseeable  
7 future; and

8 (b) The defendant is at that time a danger to himself or to  
9 society.

10 3. The report must contain:

11 (a) The name of the defendant and the county or city to which he  
12 may be returned for further court action.

13 (b) The circumstances under which he was committed to the  
14 custody of the Administrator or his designee and the duration of his  
15 hospitalization, or the circumstances under which he was ordered to  
16 report to the Administrator or his designee as an outpatient.

17 **Sec. 53.** NRS 178.453 is hereby amended to read as follows:

18 178.453 1. The Administrator of the Division ~~[of Mental~~  
19 ~~Health and Developmental Services of the Department of Health~~  
20 ~~and Human Services]~~ or his designee may request from the  
21 Department of Corrections access to any records in its possession  
22 which contain information that may assist in evaluating and treating  
23 a defendant who previously has served a term of imprisonment  
24 under the supervision of the Department of Corrections and who is  
25 committed to the custody of or ordered to report to the  
26 Administrator or his designee pursuant to NRS 178.425 or 178.460  
27 ~~[ ]~~ *or section 42 of this act.*

28 2. Unless otherwise ordered by a court, upon request of the  
29 Administrator or his designee for access to records of a defendant  
30 pursuant to subsection 1, the Department of Corrections, through the  
31 designated medical director, shall provide access to any such  
32 records, including, without limitation, relevant medical and mental  
33 health records, for the limited purpose of allowing the Administrator  
34 or his designee to evaluate and treat the defendant.

35 3. No oral or written consent of the defendant is required for  
36 the Administrator or his designee to obtain access to records from  
37 the Department of Corrections pursuant to this section.

38 4. As used in this section, "designated medical director" means  
39 the designated administrative officer of the Department of  
40 Corrections who is responsible for the medical treatment of  
41 offenders.

42 **Sec. 54.** NRS 178.455 is hereby amended to read as follows:

43 178.455 1. Except as otherwise provided for persons charged  
44 with or convicted of a misdemeanor, the Administrator of the  
45 Division ~~[of Mental Health and Developmental Services of the~~





~~Department of Health and Human Services~~ or his designee shall appoint a licensed psychiatrist and a licensed psychologist from the treatment team who is certified pursuant to NRS 178.417 to evaluate the defendant. The Administrator or his designee shall also appoint a third evaluator who must be a licensed psychiatrist or psychologist, must be certified pursuant to NRS 178.417 and must not be a member of the treatment team. Upon the completion of the evaluation and treatment of the defendant, the Administrator or his designee shall report to the court in writing his specific findings and opinion upon:

(a) Whether the person is of sufficient mentality to understand the nature of the offense charged;

(b) Whether the person is of sufficient mentality to aid and assist counsel in the defense of the offense charged, or to show cause why judgment should not be pronounced; and

(c) If the person is not of sufficient mentality pursuant to paragraphs (a) and (b) to be placed upon trial or receive pronouncement of judgment, whether there is a substantial probability that he can receive treatment to competency and will attain competency in the foreseeable future.

2. A copy of the report must be:

(a) Maintained by the Administrator ~~{of the Division of Mental Health and Developmental Services}~~ or his designee and incorporated in the medical record of the person; and

(b) Sent to the office of the district attorney and to the counsel for the outpatient or person committed.

3. In the case of a person charged with or convicted of a misdemeanor, the judge shall, upon receipt of the report set forth in NRS 178.450 from the Administrator ~~{of the Division of Mental Health and Developmental Services}~~ or his designee:

(a) Send a copy of the report by the Administrator or his designee to the prosecuting attorney and to the defendant's counsel;

(b) Hold a hearing, if one is requested within 10 days after the report is sent pursuant to paragraph (a), at which the attorneys may examine the Administrator or his designee or the members of the defendant's treatment team on the determination of the report; and

(c) Within 10 days after the hearing, if any, or 20 days after the report is sent if no hearing is requested, enter his finding of competence or incompetence in the manner set forth in subsection 4 of NRS 178.460.

**Sec. 55.** NRS 178.460 is hereby amended to read as follows:

178.460 1. If requested by the district attorney or counsel for the defendant within 10 days after the report by the Administrator of the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~ or his designee is sent





1 to them, the judge shall hold a hearing within 10 days after the  
2 request at which the district attorney and the defense counsel may  
3 examine the members of the treatment team on their report.

4 2. If the judge orders the appointment of a licensed psychiatrist  
5 or psychologist who is not employed by the Division ~~[of Mental~~  
6 ~~Health and Developmental Services of the Department of Health~~  
7 ~~and Human Services]~~ to perform an additional evaluation and report  
8 concerning the defendant, the cost of the additional evaluation and  
9 report is a charge against the county.

10 3. Within 10 days after the hearing or 20 days after the report is  
11 sent, if no hearing is requested, the judge shall make and enter his  
12 finding of competence or incompetence, and if he finds the  
13 defendant to be incompetent:

14 (a) Whether there is substantial probability that the defendant  
15 can receive treatment to competency and will attain competency to  
16 stand trial or receive pronouncement of judgment in the foreseeable  
17 future; and

18 (b) Whether the defendant is at that time a danger to himself or  
19 to society.

20 4. If the judge finds the defendant:

21 (a) Competent, the judge shall, within 10 days, forward his  
22 finding to the prosecuting attorney and counsel for the defendant.  
23 Upon receipt thereof, the prosecuting attorney shall notify the  
24 sheriff of the county or chief of police of the city that the defendant  
25 has been found competent and prearrange with the facility for the  
26 return of the defendant to that county or city for trial upon the  
27 offense there charged or the pronouncement of judgment, as the case  
28 may be.

29 (b) Incompetent, but there is a substantial probability that he can  
30 receive treatment to competency and will attain competency to stand  
31 trial or receive pronouncement of judgment in the foreseeable future  
32 and finds that he is dangerous to himself or to society, the judge  
33 shall recommit the defendant and may order the involuntary  
34 administration of medication for the purpose of treatment to  
35 competency.

36 (c) Incompetent, but there is a substantial probability that he can  
37 receive treatment to competency and will attain competency to stand  
38 trial or receive pronouncement of judgment in the foreseeable future  
39 and finds that he is not dangerous to himself or to society, the judge  
40 shall order that the defendant remain an outpatient or be transferred  
41 to the status of an outpatient under the provisions of NRS 178.425.

42 (d) Incompetent, with no substantial probability of attaining  
43 competency in the foreseeable future, the judge shall order the  
44 defendant released from custody or if the defendant is an outpatient,  
45 released from his obligations as an outpatient if, within 10 days, a



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petition is not filed to commit the person pursuant to NRS 433A.200. After the initial 10 days, the defendant may remain an outpatient or in custody under the provisions of this chapter only as long as the petition is pending unless the defendant is *committed to the custody of the Administrator pursuant to section 42 or 45 of this act* or involuntarily committed pursuant to chapter 433A of NRS.

5. ~~[No]~~ *Except as otherwise provided in subsection 3 of section 42 of this act, no* person who is committed under the provisions of this chapter may be held in the custody of the Administrator ~~[of the Division of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee longer than the longest period of incarceration provided for the crime or crimes with which he is charged or 10 years, whichever period is shorter. Upon expiration of the applicable period ~~[ ]~~ *provided in this section or subsection 3 of section 42 of this act*, the defendant must be returned to the committing court for a determination as to whether or not involuntary commitment pursuant to chapter 433A of NRS is required.

**Sec. 56.** 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;

(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



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1 was returned on a lesser criminal charge, the court shall conduct an  
2 investigation of the financial status of the person to determine his  
3 ability to make restitution. In conducting the investigation, the court  
4 shall determine if the person is able to pay any existing obligations  
5 for:

- 6 (a) Child support;
- 7 (b) Restitution to victims of crimes; and
- 8 (c) Any administrative assessment required to be paid pursuant  
9 to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

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

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

22 **Sec. 57.** NRS 1.4675 is hereby amended to read as follows:

23 1.4675 1. The Commission shall suspend a justice or judge  
24 from the exercise of office with salary:

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

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

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

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

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

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

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



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

3        **Sec. 58.** NRS 33.400 is hereby amended to read as follows:

4        33.400 1. In addition to any other remedy provided by law,  
5 the parent or guardian of a child may petition any court of  
6 competent jurisdiction on behalf of the child for a temporary or  
7 extended order against a person who is 18 years of age or older and  
8 who the parent or guardian reasonably believes has committed or is  
9 committing a crime involving:

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

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

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

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

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

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

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

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

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

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

44        4. A temporary order may be granted with or without notice to  
45 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. 59.** 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 against whom the crime was committed or witnesses, the clerk of the court shall:

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

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

**Sec. 60.** NRS 34.735 is hereby amended to read as follows:

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

Case No. ....

Dept. No. ....



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

.....  
Petitioner,

v.

PETITION FOR WRIT  
OF HABEAS CORPUS  
(POSTCONVICTION)

.....  
Respondent.

INSTRUCTIONS:

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

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

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

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



1 the respondent, one copy to the Attorney General's Office, and one  
2 copy to the district attorney of the county in which you were  
3 convicted or to the original prosecutor if you are challenging your  
4 original conviction or sentence. Copies must conform in all  
5 particulars to the original submitted for filing.

7 PETITION

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

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

16 3. Date of judgment of conviction: .....

17 4. Case number: .....

18 5. (a) Length of sentence: .....

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

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

28 7. Nature of offense involved in conviction being  
29 challenged: .....

31 8. What was your plea? (check one)

32 (a) Not guilty .....

33 (b) Guilty .....

34 (c) *Guilty but mentally ill* .....

35 (d) Nolo contendere .....

36 9. If you entered a plea of guilty *or guilty but mentally ill* to  
37 one count of an indictment or information, and a plea of not guilty  
38 to another count of an indictment or information, or if a plea of  
39 guilty *or guilty but mentally ill* was negotiated, give details: .....

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

44 (a) Jury .....

45 (b) Judge without a jury .....



- 1 11. Did you testify at the trial? Yes ..... No .....
- 2 12. Did you appeal from the judgment of conviction? Yes .....
- 3 No .....
- 4 13. If you did appeal, answer the following:
- 5 (a) Name of court: .....
- 6 (b) Case number or citation: .....
- 7 (c) Result: .....
- 8 (d) Date of result: .....
- 9 (Attach copy of order or decision, if available.)
- 10 14. If you did not appeal, explain briefly why you did not: .....
- 11 .....
- 12 .....
- 13 15. Other than a direct appeal from the judgment of conviction
- 14 and sentence, have you previously filed any petitions, applications
- 15 or motions with respect to this judgment in any court, state or
- 16 federal? Yes ..... No .....
- 17 16. If your answer to No. 15 was "yes," give the following
- 18 information:
- 19 (a) (1) Name of court: .....
- 20 (2) Nature of proceeding: .....
- 21 .....
- 22 (3) Grounds raised: .....
- 23 .....
- 24 .....
- 25 (4) Did you receive an evidentiary hearing on your petition,
- 26 application or motion? Yes ..... No .....
- 27 (5) Result: .....
- 28 (6) Date of result: .....
- 29 (7) If known, citations of any written opinion or date of
- 30 orders entered pursuant to such result: .....
- 31 .....
- 32 (b) As to any second petition, application or motion, give the
- 33 same information:
- 34 (1) Name of court: .....
- 35 (2) Nature of proceeding: .....
- 36 (3) Grounds raised: .....
- 37 (4) Did you receive an evidentiary hearing on your petition,
- 38 application or motion? Yes ..... No .....
- 39 (5) Result: .....
- 40 (6) Date of result: .....
- 41 (7) If known, citations of any written opinion or date of
- 42 orders entered pursuant to such result: .....
- 43 .....





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

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (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.)



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

8 .....  
9 20. Do you have any petition or appeal now pending in any  
10 court, either state or federal, as to the judgment under attack?  
11 Yes ..... No .....  
12 If yes, state what court and the case number: .....

13 .....  
14 21. Give the name of each attorney who represented you in the  
15 proceeding resulting in your conviction and on direct appeal: .....

16 .....  
17 22. Do you have any future sentences to serve after you  
18 complete the sentence imposed by the judgment under attack?  
19 Yes ..... No .....  
20 If yes, specify where and when it is to be served, if you know: .....

21 .....  
22 23. State concisely every ground on which you claim that you  
23 are being held unlawfully. Summarize briefly the facts supporting  
24 each ground. If necessary you may attach pages stating additional  
25 grounds and facts supporting same.

26 (a) Ground one: .....  
27 .....  
28 Supporting FACTS (Tell your story briefly without citing cases or  
29 law.): .....

30 .....  
31 .....  
32 (b) Ground two: .....  
33 .....  
34 Supporting FACTS (Tell your story briefly without citing cases or  
35 law.): .....

36 .....  
37 .....  
38 (c) Ground three: .....  
39 .....  
40 Supporting FACTS (Tell your story briefly without citing cases or  
41 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. 61.** 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 finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.

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

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

(b) Actual prejudice to the petitioner.



1    ➤ The petitioner shall include in the petition all prior proceedings in  
2    which he challenged the same conviction or sentence.

3    4. The court may dismiss a petition that fails to include any  
4    prior proceedings of which the court has knowledge through the  
5    record of the court or through the pleadings submitted by the  
6    respondent.

7    **Sec. 62.** NRS 41B.070 is hereby amended to read as follows:

8    41B.070 “Convicted” and “conviction” mean a judgment based  
9    upon:

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

11    2. A finding of ~~[guilt]~~ *guilty or guilty but mentally ill* by a jury  
12    or a court sitting without a jury;

13    3. An adjudication of delinquency or finding of ~~[guilt]~~ *guilty or*  
14    *guilty but mentally ill* by a court having jurisdiction over juveniles;  
15    or

16    4. Any other admission or finding of ~~[guilt]~~ *guilty or guilty but*  
17    *mentally ill* in a criminal action or a proceeding in a court having  
18    jurisdiction over juveniles.

19    **Sec. 63.** NRS 48.125 is hereby amended to read as follows:

20    48.125 1. Evidence of a plea of guilty ~~[ ]~~ *or guilty but*  
21    *mentally ill*, later withdrawn, or of an offer to plead guilty *or guilty*  
22    *but mentally ill* to the crime charged or any other crime is not  
23    admissible in a criminal proceeding involving the person who made  
24    the plea or offer.

25    2. Evidence of a plea of nolo contendere or of an offer to plead  
26    nolo contendere to the crime charged or any other crime is not  
27    admissible in a civil or criminal proceeding involving the person  
28    who made the plea or offer.

29    **Sec. 64.** NRS 50.068 is hereby amended to read as follows:

30    50.068 1. A defendant is not incompetent to be a witness  
31    solely by reason of the fact that he enters into an agreement with the  
32    prosecuting attorney in which he agrees to testify against another  
33    defendant in exchange for a plea of guilty , *guilty but mentally ill* or  
34    nolo contendere to a lesser charge or for a recommendation of a  
35    reduced sentence.

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

39    **Sec. 65.** NRS 51.295 is hereby amended to read as follows:

40    51.295 1. Evidence of a final judgment, entered after trial or  
41    upon a plea of guilty ~~[ ]~~ *or guilty but mentally ill*, but not upon a  
42    plea of nolo contendere, adjudging a person guilty of a crime  
43    punishable by death or imprisonment in excess of 1 year ~~[ ]~~ is not  
44    inadmissible under the hearsay rule to prove any fact essential to  
45    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. 66.** 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 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) Except as otherwise provided in this subsection, 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



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1 months, at his expense, in a program for the treatment of persons  
2 who commit domestic violence that has been certified pursuant to  
3 NRS 228.470.

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

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

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

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

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



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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. 67.** NRS 200.485 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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





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

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

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

➤ 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.

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



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1 violence pursuant to NRS 33.018 to reimburse the agency for the  
2 costs of any services provided, to the extent of his ability to pay.

3 7. If a person is charged with committing a battery which  
4 constitutes domestic violence pursuant to NRS 33.018, a  
5 prosecuting attorney shall not dismiss such a charge in exchange for  
6 a plea of guilty, *guilty but mentally ill* or nolo contendere to a  
7 lesser charge or for any other reason unless he knows, or it is  
8 obvious, that the charge is not supported by probable cause or  
9 cannot be proved at the time of trial. A court shall not grant  
10 probation to and, except as otherwise provided in NRS 4.373 and  
11 5.055, a court shall not suspend the sentence of such a person.

12 8. As used in this section:

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

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

17 (c) "Offense" includes a battery which constitutes domestic  
18 violence pursuant to NRS 33.018 or a violation of the law of any  
19 other jurisdiction that prohibits the same or similar conduct.

20 **Sec. 68.** NRS 202.270 is hereby amended to read as follows:

21 202.270 1. A person who destroys, or attempts to destroy,  
22 with dynamite, nitroglycerine, gunpowder or other high explosive,  
23 any dwelling house or other building, knowing or having reason to  
24 believe that a human being is therein at the time, is guilty of a  
25 category A felony and shall be punished by imprisonment in the  
26 state prison:

27 (a) For life without the possibility of parole;

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

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

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

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

36 **Sec. 69.** NRS 202.885 is hereby amended to read as follows:

37 202.885 1. A person may not be prosecuted or convicted  
38 pursuant to NRS 202.882 unless a court in this State or any other  
39 jurisdiction has entered a judgment of conviction against a culpable  
40 actor for:

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

42 (b) Any other offense arising out of the same facts as the violent  
43 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 ~~[guilt]~~ *guilty or guilty but mentally ill* by a jury or a court sitting without a jury;

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

(4) Any other admission or finding of ~~[guilt]~~ *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.

**Sec. 70.** 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,



1 nor may any allegation of the conviction be read in the presence of a  
2 jury trying the offense or a grand jury considering an indictment for  
3 the offense. A count pursuant to NRS 207.010, 207.012 or 207.014  
4 may be separately filed after conviction of the primary offense, but  
5 if it is so filed, sentence must not be imposed, or the hearing  
6 required by subsection 3 held, until 15 days after the separate filing.

7 3. If a defendant charged pursuant to NRS 207.010, 207.012 or  
8 207.014 pleads guilty *or guilty but mentally ill* to , or is found  
9 guilty *or guilty but mentally ill* of , the primary offense but denies  
10 any previous conviction charged, the court shall determine the issue  
11 of the previous conviction after hearing all relevant evidence  
12 presented on the issue by the prosecution and the defendant. At such  
13 a hearing, the defendant may not challenge the validity of a previous  
14 conviction. The court shall impose sentence:

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

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

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

24 4. Nothing in the provisions of this section, NRS 207.010,  
25 207.012 or 207.014 limits the prosecution in introducing evidence  
26 of prior convictions for purposes of impeachment.

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

30 6. Nothing in the provisions of this section, NRS 207.010,  
31 207.012 or 207.014 prohibits a court from imposing an adjudication  
32 of habitual criminality, adjudication of habitual felon or adjudication  
33 of habitually fraudulent felon based upon a stipulation of the parties.

34 **Sec. 71.** NRS 207.193 is hereby amended to read as follows:

35 207.193 1. Except as otherwise provided in subsection 4, if a  
36 person is convicted of coercion or attempted coercion in violation of  
37 paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the  
38 request of the prosecuting attorney, conduct a separate hearing to  
39 determine whether the offense was sexually motivated. A request  
40 for such a hearing may not be submitted to the court unless the  
41 prosecuting attorney, not less than 72 hours before the  
42 commencement of the trial, files and serves upon the defendant a  
43 written notice of his intention to request such a hearing.

44 2. A hearing requested pursuant to subsection 1 must be  
45 conducted before:



(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

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

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

5. The court shall enter in the record:

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

(b) A stipulation made pursuant to subsection 4.

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

**Sec. 72.** NRS 212.189 is hereby amended to read as follows:

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

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

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

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

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

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

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

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



1 contained a communicable disease that causes or is reasonably  
2 likely to cause substantial bodily harm, whether or not the  
3 communicable disease was transmitted to a victim as a result of the  
4 offense, the prisoner is guilty of a category A felony and shall be  
5 punished by imprisonment in the state prison:

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

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

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

11 4. A sentence imposed upon a prisoner pursuant to subsection  
12 2 or 3:

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

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

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

22 (a) Conducted pursuant to paragraphs (a) and (b) of subsection  
23 7; or

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

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

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

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

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

41 (c) If the excrement or bodily fluid involved in the act came into  
42 physical contact with any portion of the body of an officer or  
43 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.

**Sec. 73.** 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:



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

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

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

13 4. The board of county commissioners may:

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

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

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

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

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

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

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

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

30 **Sec. 74.** NRS 244.3695 is hereby amended to read as follows:

31 244.3695 1. The board of county commissioners shall create  
32 a graffiti reward and abatement fund. The money in the fund must  
33 be used to pay a reward to a person who, in response to the offer of  
34 a reward, provides information which results in the identification,  
35 apprehension and conviction of a person who violates a county  
36 ordinance that prohibits graffiti or other defacement of property.

37 2. When a defendant pleads or is found guilty *or guilty but*  
38 *mentally ill* of violating a county ordinance that prohibits graffiti or  
39 other defacement of property, the court shall include an  
40 administrative assessment of \$250 for each violation in addition to  
41 any other fine or penalty. The money collected must be paid by the  
42 clerk of the court to the county treasurer on or before the fifth day of  
43 each month for credit to the graffiti reward and abatement fund.

44 3. If sufficient money is available in the graffiti reward and  
45 abatement fund, a county law enforcement agency may offer a





1 reward, not to exceed \$1,000, for information leading to the  
2 identification, apprehension and conviction of a person who violates  
3 a county ordinance that prohibits graffiti or other defacement of  
4 property. The reward must be paid out of the graffiti reward and  
5 abatement fund upon approval of the board of county  
6 commissioners.

7 **Sec. 75.** NRS 268.0974 is hereby amended to read as follows:

8 268.0974 1. The governing body of an incorporated city in  
9 this State, whether organized pursuant to general law or special  
10 charter shall, by ordinance, require each person who wishes to  
11 engage in the business of a secondhand dealer in the incorporated  
12 city to obtain a license issued by the governing body before he  
13 engages in the business of a secondhand dealer.

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

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

17 (b) With his application a complete set of his fingerprints and  
18 written permission authorizing the governing body of the  
19 incorporated city to forward those fingerprints to the Central  
20 Repository for Nevada Records of Criminal History for submission  
21 to the Federal Bureau of Investigation for its report.

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

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

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

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

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

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

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

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

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

42 (3) For the third offense, by a fine of not more than \$2,000

43 and by revocation of the license of the secondhand dealer.



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1     **Sec. 76.** NRS 268.4085 is hereby amended to read as follows:

2     268.4085 1. The governing body of each city shall create a  
3 graffiti reward and abatement fund. The money in the fund must be  
4 used to pay a reward to a person who, in response to the offer of a  
5 reward, provides information which results in the identification,  
6 apprehension and conviction of a person who violated a city  
7 ordinance that prohibits graffiti or other defacement of property.

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

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

22     **Sec. 77.** NRS 357.170 is hereby amended to read as follows:

23     357.170 1. An action pursuant to this chapter may not be  
24 commenced more than 3 years after the date of discovery of the  
25 fraudulent activity by the Attorney General or more than 5 years  
26 after the fraudulent activity occurred, whichever is earlier. Within  
27 those limits, an action may be based upon fraudulent activity that  
28 occurred before October 1, 1999.

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

37     **Sec. 78.** NRS 453.3363 is hereby amended to read as follows:

38     453.3363 1. If a person who has not previously been  
39 convicted of any offense pursuant to NRS 453.011 to 453.552,  
40 inclusive, or pursuant to any statute of the United States or of any  
41 state relating to narcotic drugs, marijuana, or stimulant, depressant  
42 or hallucinogenic substances tenders a plea of guilty, *guilty but*  
43 *mentally ill*, nolo contendere or similar plea to a charge pursuant to  
44 subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325,  
45 subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is



1 found guilty *or guilty but mentally ill* of one of those charges, the  
2 court, without entering a judgment of conviction and with the  
3 consent of the accused, may suspend further proceedings and place  
4 him on probation upon terms and conditions that must include  
5 attendance and successful completion of an educational program or,  
6 in the case of a person dependent upon drugs, of a program of  
7 treatment and rehabilitation pursuant to NRS 453.580.

8 2. Upon violation of a term or condition, the court may enter a  
9 judgment of conviction and proceed as provided in the section  
10 pursuant to which the accused was charged. Notwithstanding the  
11 provisions of paragraph (e) of subsection 2 of NRS 193.130, upon  
12 violation of a term or condition, the court may order the person to  
13 the custody of the Department of Corrections.

14 3. Upon fulfillment of the terms and conditions, the court shall  
15 discharge the accused and dismiss the proceedings against him. A  
16 nonpublic record of the dismissal must be transmitted to and  
17 retained by the Division of Parole and Probation of the Department  
18 of Public Safety solely for the use of the courts in determining  
19 whether, in later proceedings, the person qualifies under this section.

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

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

40 **Sec. 79.** NRS 453.348 is hereby amended to read as follows:

41 453.348 In any proceeding brought under NRS 453.316,  
42 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401,  
43 any previous convictions of the offender for a felony relating to  
44 controlled substances must be alleged in the indictment or  
45 information charging the primary offense, but the conviction may



1 not be alluded to on the trial of the primary offense nor may any  
2 evidence of the previous offense be produced in the presence of the  
3 jury except as otherwise prescribed by law. If the offender pleads  
4 guilty *or guilty but mentally ill* to , or is convicted of , the primary  
5 offense but denies any previous conviction charged, the court shall  
6 determine the issue after hearing all relevant evidence. A certified  
7 copy of a conviction of a felony is prima facie evidence of the  
8 conviction.

9 **Sec. 80.** NRS 453.575 is hereby amended to read as follows:

10 453.575 1. If a defendant pleads guilty *or guilty but mentally*  
11 *ill* to , or is found guilty *or guilty but mentally ill* of, any violation  
12 of this chapter and an analysis of a controlled substance or other  
13 substance or drug was performed in relation to his case, the court  
14 shall include in the sentence an order that the defendant pay the sum  
15 of \$60 as a fee for the analysis of the controlled substance or other  
16 substance or drug.

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

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

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

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

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

37 5. Except as otherwise provided in subsection 6, each month  
38 the treasurer shall, from the money credited to the fund pursuant to  
39 subsection 3, pay any amount owed for forensic services and deposit  
40 any remaining money in the county or city general fund, as  
41 appropriate.

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



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

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

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

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

**Sec. 81.** NRS 454.358 is hereby amended to read as follows:

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

2. The money collected for such an analysis 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 analysis must be stated separately on the court's docket and must be included in the amount posted for bail. If the defendant is found not guilty or the charges are dropped, the money deposited with the court must be returned to the defendant.

3. The money collected pursuant to subsection 1 in municipal court 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.

4. The money collected pursuant to subsection 1 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.

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

6. In counties which receive forensic services under a contract with the State, any money in the fund for forensic services must be paid monthly by the county treasurer to the State Treasurer for deposit in the State General Fund, after retaining 2 percent of the money to cover his administrative expenses.

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



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

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

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

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

**Sec. 82.** NRS 483.560 is hereby amended to read as follows:

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

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

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

(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 NRS 484.379, 484.3795 or 484.37955; 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),

➔ the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than \$500 nor more than \$1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty, *guilty but mentally ill* or ~~fel~~ 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. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

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



1 of conviction, and any segment of time the person is imprisoned  
2 must not consist of less than 24 hours.

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

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

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

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

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

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

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

23 **Sec. 83.** NRS 484.3792 is hereby amended to read as follows:

24 484.3792 1. Unless a greater penalty is provided pursuant to  
25 NRS 484.3795 or 484.37955, and except as otherwise provided in  
26 subsection 2, a person who violates the provisions of NRS 484.379:

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

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

36 (2) Unless the sentence is reduced pursuant to NRS  
37 484.37937, sentence him to imprisonment for not less than 2 days  
38 nor more than 6 months in jail, or to perform not less than 48 hours,  
39 but not more than 96 hours, of community service while dressed in  
40 distinctive garb that identifies him as having violated the provisions  
41 of NRS 484.379;

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

43 (4) If he is found to have a concentration of alcohol of 0.18  
44 or more in his blood or breath, order him to attend a program of



1 treatment for the abuse of alcohol or drugs pursuant to the  
2 provisions of NRS 484.37945.

3 (b) For a second offense within 7 years, is guilty of a  
4 misdemeanor. Unless the sentence is reduced pursuant to NRS  
5 484.3794, the court shall:

6 (1) Sentence him to:

7 (I) Imprisonment for not less than 10 days nor more than  
8 6 months in jail; or

9 (II) Residential confinement for not less than 10 days nor  
10 more than 6 months, in the manner provided in NRS 4.376 to  
11 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

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

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

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

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

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

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

33 (b) A violation of NRS 484.3795;

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

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

40 ➤ and who violates the provisions of NRS 484.379 is guilty of a  
41 category B felony and shall be punished by imprisonment in the  
42 state prison for a minimum term of not less than 2 years and a  
43 maximum term of not more than 15 years, and shall be further  
44 punished by a fine of not less than \$2,000 nor more than \$5,000. An  
45 offender so imprisoned must, insofar as practicable, be segregated





1 from offenders whose crimes were violent and, insofar as  
2 practicable, be assigned to an institution or facility of minimum  
3 security.

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

19 4. A person convicted of violating the provisions of NRS  
20 484.379 must not be released on probation, and a sentence imposed  
21 for violating those provisions must not be suspended except, as  
22 provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that  
23 portion of the sentence imposed that exceeds the mandatory  
24 minimum. A prosecuting attorney shall not dismiss a charge of  
25 violating the provisions of NRS 484.379 in exchange for a plea of  
26 guilty, *guilty but mentally ill* or nolo contendere to a lesser charge  
27 or for any other reason unless he knows or it is obvious that the  
28 charge is not supported by probable cause or cannot be proved at the  
29 time of trial.

30 5. A term of confinement imposed pursuant to the provisions  
31 of this section may be served intermittently at the discretion of the  
32 judge or justice of the peace, except that a person who is convicted  
33 of a second or subsequent offense within 7 years must be confined  
34 for at least one segment of not less than 48 consecutive hours. This  
35 discretion must be exercised after considering all the circumstances  
36 surrounding the offense, and the family and employment of the  
37 offender, but any sentence of 30 days or less must be served within  
38 6 months after the date of conviction or, if the offender was  
39 sentenced pursuant to NRS 484.37937 or 484.3794 and the  
40 suspension of his sentence was revoked, within 6 months after the  
41 date of revocation. Any time for which the offender is confined  
42 must consist of not less than 24 consecutive hours.

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



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

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

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

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

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

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

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

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

(2) 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 NRS 484.379, 484.3795 or 484.37955; or

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

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

**Sec. 84.** 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 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.



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

**Sec. 85.** 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 0.10 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 0.10 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



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1 alcohol after driving or being in actual physical control of the  
2 vehicle, and before his blood or breath was tested, to cause him to  
3 have a concentration of alcohol of 0.10 or more in his blood or  
4 breath. A defendant who intends to offer this defense at a trial  
5 or preliminary hearing must, not less than 14 days before the trial or  
6 hearing or at such other time as the court may direct, file and serve  
7 on the prosecuting attorney a written notice of that intent.

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

12 **Sec. 86.** NRS 484.37955 is hereby amended to read as  
13 follows:

14 484.37955 1. A person commits vehicular homicide if he:

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

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

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

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

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

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

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

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

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

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

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

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

44 3. A person imprisoned pursuant to subsection 2 must, insofar  
45 as practicable, be segregated from offenders whose crimes were



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

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

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

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

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

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

27 (b) A homicide resulting from driving or being in actual  
28 physical control of a vehicle while under the influence of  
29 intoxicating liquor or a controlled substance or resulting from any  
30 other conduct prohibited by this section or NRS 484.379 or  
31 484.3795; or

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

34 **Sec. 87.** NRS 484.37955 is hereby amended to read as  
35 follows:

36 484.37955 1. A person commits vehicular homicide if he:

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

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

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

42 (3) Is found by measurement within 2 hours after driving or  
43 being in actual physical control of a vehicle to have a concentration  
44 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 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



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1 shall consider that fact as an aggravating factor in determining the  
2 sentence of the defendant.

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

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

5 (b) A homicide resulting from driving or being in actual  
6 physical control of a vehicle while under the influence of  
7 intoxicating liquor or a controlled substance or resulting from any  
8 other conduct prohibited by this section or NRS 484.379 or  
9 484.3795; or

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

12 **Sec. 88.** NRS 484.3797 is hereby amended to read as follows:

13 484.3797 1. The judge or judges in each judicial district shall  
14 cause the preparation and maintenance of a list of the panels of  
15 persons who:

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

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

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

33 2. Except as otherwise provided in this subsection, if a  
34 defendant pleads guilty *or guilty but mentally ill* to , or is found  
35 guilty *or guilty but mentally ill* of , any violation of NRS 484.379,  
36 484.3795 or 484.37955, the court shall, in addition to imposing any  
37 other penalties provided by law, order the defendant to:

38 (a) Attend, at the defendant's expense, a meeting of a panel of  
39 persons who have been injured or had members of their families or  
40 close friends injured or killed by a person who was driving or in  
41 actual physical control of a vehicle while under the influence of  
42 intoxicating liquor or a controlled substance or who was engaging in  
43 any other conduct prohibited by NRS 484.379, 484.3795 or  
44 484.37955 or a law of any other jurisdiction that prohibits the same





1 or similar conduct, in order to have the defendant understand the  
2 effect such a crime has on other persons; and

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

5 ➤ The court may, but is not required to, order the defendant to  
6 attend such a meeting if one is not available within 60 miles of the  
7 defendant's residence.

8 3. A person ordered to attend a meeting pursuant to subsection  
9 2 shall, after attending the meeting, present evidence or other  
10 documentation satisfactory to the court that he attended the meeting  
11 and remained for its entirety.

12 **Sec. 89.** NRS 484.3798 is hereby amended to read as follows:

13 484.3798 1. If a defendant pleads guilty *or guilty but*  
14 *mentally ill* to , or is found guilty *or guilty but mentally ill* of , any  
15 violation of NRS 484.379, 484.3795 or 484.37955 and a chemical  
16 analysis of his blood, urine, breath or other bodily substance was  
17 conducted, the court shall, in addition to any penalty provided by  
18 law, order the defendant to pay the sum of \$60 as a fee for the  
19 chemical analysis. Except as otherwise provided in this subsection,  
20 any money collected for the chemical analysis must not be deducted  
21 from, and is in addition to, any fine otherwise imposed by the court  
22 and must be:

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

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

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

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

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

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

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



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(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 ~~§~~ or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

**Sec. 90.** 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 ~~§~~ 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. 91.** 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 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. 92.** 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.

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



1 submit to the Department an authorization for the disclosure of  
2 financial records for the business as provided in NRS 239A.090.  
3 The Department may use any information obtained pursuant to such  
4 an authorization only to determine the suitability of the applicant or  
5 licensee for initial or continued licensure. Information obtained  
6 pursuant to such an authorization may be disclosed only to those  
7 employees of the Department who are authorized to issue a license  
8 to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to  
9 determine the suitability of an applicant or a licensee for such  
10 licensure.

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

13 **Sec. 93.** NRS 488.420 is hereby amended to read as follows:

14 488.420 1. Unless a greater penalty is provided pursuant to  
15 NRS 488.425, a person who:

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

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

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

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

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

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

34 ➔ and does any act or neglects any duty imposed by law while  
35 operating or being in actual physical control of any vessel under  
36 power or sail, if the act or neglect of duty proximately causes the  
37 death of, or substantial bodily harm to, a person other than himself,  
38 is guilty of a category B felony and shall be punished by  
39 imprisonment in the state prison for a minimum term of not less  
40 than 2 years and a maximum term of not more than 20 years and  
41 shall be further punished by a fine of not less than \$2,000 nor more  
42 than \$5,000. A person so imprisoned must, insofar as practicable, be  
43 segregated from offenders whose crimes were violent and, insofar as  
44 practicable, be assigned to an institution or facility of minimum  
45 security.



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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 must not be suspended, and probation must not 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 operating or being in actual physical control of the vessel under power or sail, and before his blood 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.

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

**Sec. 94.** 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 0.10 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 0.10 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,



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1 is guilty of a category B felony and shall be punished by  
2 imprisonment in the state prison for a minimum term of not less  
3 than 2 years and a maximum term of not more than 20 years and  
4 shall be further punished by a fine of not less than \$2,000 nor more  
5 than \$5,000. A person so imprisoned must, insofar as practicable, be  
6 segregated from offenders whose crimes were violent and, insofar as  
7 practicable, be assigned to an institution or facility of minimum  
8 security.

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

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

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

29 **Sec. 95.** NRS 488.425 is hereby amended to read as follows:

30 488.425 1. A person commits homicide by vessel if he:

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

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

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

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

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

43 (5) Inhales, ingests, applies or otherwise uses any chemical,  
44 poison or organic solvent, or any compound or combination of any  
45 of these, to a degree which renders him incapable of safely



1 operating or exercising actual physical control of a vessel under  
2 power or sail; or

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

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

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

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

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

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

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

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

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

39 6. If the defendant was transporting a person who is less than  
40 15 years of age in the vessel at the time of the violation, the court  
41 shall consider that fact as an aggravating factor in determining the  
42 sentence of the defendant.

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

44 (a) A violation of NRS 488.410 or 488.420;



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(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. 96.** 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.

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*





1 *mentally ill* or nolo contendere to a lesser charge or for any other  
2 reason unless he knows or it is obvious that the charge is not  
3 supported by probable cause or cannot be proved at the time of trial.  
4 A sentence imposed pursuant to subsection 2 may not be suspended  
5 nor may probation be granted.

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

17 6. If the defendant was transporting a person who is less than  
18 15 years of age in the vessel at the time of the violation, the court  
19 shall consider that fact as an aggravating factor in determining the  
20 sentence of the defendant.

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

22 (a) A violation of NRS 488.410 or 488.420;

23 (b) A homicide resulting from operating or being in actual  
24 physical control of a vessel while under the influence of intoxicating  
25 liquor or a controlled substance or resulting from any other conduct  
26 prohibited by this section or NRS 488.410 or 488.420; or

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

29 **Sec. 97.** NRS 488.427 is hereby amended to read as follows:

30 488.427 1. Unless a greater penalty is provided pursuant to  
31 NRS 488.425, a person who violates the provisions of NRS 488.410  
32 and who has previously been convicted of a violation of NRS  
33 488.420 or 488.425 or a violation of the law of any other  
34 jurisdiction that prohibits the same or similar conduct as set forth in  
35 NRS 488.420 or 488.425 is guilty of a category B felony and shall  
36 be punished by imprisonment in the state prison for a minimum  
37 term of not less than 2 years and a maximum term of not more than  
38 15 years, and shall be further punished by a fine of not less than  
39 \$2,000 nor more than \$5,000. An offender so imprisoned must,  
40 insofar as practicable, be segregated from offenders whose crimes  
41 were violent and, insofar as practicable, be assigned to an institution  
42 or facility of minimum security.

43 2. The facts concerning a prior violation of NRS 488.420 or  
44 488.425 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.

3. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 488.410 against a person previously convicted of violating NRS 488.420 or 488.425 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 must not be suspended, and probation must not be granted.

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

**Sec. 98.** NRS 488.440 is hereby amended to read as follows:

488.440 1. If a defendant pleads guilty *or guilty but mentally ill* to, or is found guilty *or guilty but mentally ill* of, a violation of NRS 488.410, 488.420 or 488.425 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

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

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

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

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

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

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:



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(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 or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

**Sec. 99.** NRS 489.421 is hereby amended to read as follows:

489.421 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Revocation or denial of a license issued pursuant to this chapter or an equivalent license in any other state, territory or country.

2. Failure of the licensee to maintain any other license required by any political subdivision of this State.

3. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice.

4. Failure to take the corrective action required in a notice of violation issued pursuant to NRS 489.291.

5. Failure or refusing to permit access by the Administrator to documentary materials set forth in NRS 489.231.

6. Disregarding or violating any order of the Administrator, any agreement with the Division, or any provision of this chapter or any regulation adopted under it.

7. Conviction of a misdemeanor for violation of any of the provisions of this chapter.

8. Conviction of or entering a plea of guilty , *guilty but mentally ill* or nolo contendere to:

(a) A felony relating to the position for which the applicant has applied or the licensee has been licensed pursuant to this chapter; or

(b) A crime of moral turpitude in this State or any other state, territory or country.

9. Any other conduct that constitutes deceitful, fraudulent or dishonest dealing.



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**Sec. 100.** 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. 101.** 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:



(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. 102.** 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. 103.** 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



1 or a plea of guilty , *guilty but mentally ill* or nolo contendere in a  
2 criminal proceeding; or

3 2. Any institution or facility for the mentally ill as a result of a  
4 plea of not guilty by reason of insanity in a criminal proceeding,  
5 in this State, another state or a foreign country.

6 **Sec. 104.** NRS 623.270 is hereby amended to read as follows:

7 623.270 1. The Board may place the holder of any certificate  
8 of registration issued pursuant to the provisions of this chapter on  
9 probation, publicly reprimand him, fine him not more than \$10,000,  
10 suspend or revoke his license, impose the costs of investigation and  
11 prosecution upon him or take any combination of these disciplinary  
12 actions for any of the following acts:

13 (a) The certificate was obtained by fraud or concealment of a  
14 material fact.

15 (b) The holder of the certificate has been found guilty by the  
16 Board or *found guilty or guilty but mentally ill* by a court of justice  
17 of any fraud, deceit or concealment of a material fact in his  
18 professional practice, or has been convicted by a court of justice of a  
19 crime involving moral turpitude.

20 (c) The holder of the certificate has been found guilty by the  
21 Board of incompetency, negligence or gross negligence in:

22 (1) The practice of architecture or residential design; or

23 (2) His practice as a registered interior designer.

24 (d) The holder of a certificate has affixed his signature or seal to  
25 plans, drawings, specifications or other instruments of service which  
26 have not been prepared by him or in his office, or under his  
27 responsible control, or has permitted the use of his name to assist  
28 any person who is not a registered architect, registered interior  
29 designer or residential designer to evade any provision of this  
30 chapter.

31 (e) The holder of a certificate has aided or abetted any  
32 unauthorized person to practice:

33 (1) Architecture or residential design; or

34 (2) As a registered interior designer.

35 (f) The holder of the certificate has violated any law, regulation  
36 or code of ethics pertaining to:

37 (1) The practice of architecture or residential design; or

38 (2) Practice as a registered interior designer.

39 (g) The holder of a certificate has failed to comply with an order  
40 issued by the Board or has failed to cooperate with an investigation  
41 conducted by the Board.

42 2. The conditions for probation imposed pursuant to the  
43 provisions of subsection 1 may include, but are not limited to:

44 (a) Restriction on the scope of professional practice.

45 (b) Peer review.



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- 1 (c) Required education or counseling.
- 2 (d) Payment of restitution to each person who suffered harm or
- 3 loss.
- 4 3. An order that imposes discipline and the findings of fact and
- 5 conclusions of law supporting that order are public records.
- 6 4. The Board shall not privately reprimand the holder of any
- 7 certificate of registration issued pursuant to this chapter.
- 8 5. As used in this section:
- 9 (a) "Gross negligence" means conduct which demonstrates a
- 10 reckless disregard of the consequences affecting the life or property
- 11 of another person.
- 12 (b) "Incompetency" means conduct which, in:
- 13 (1) The practice of architecture or residential design; or
- 14 (2) Practice as a registered interior designer,
- 15 ➔ demonstrates a significant lack of ability, knowledge or fitness to
- 16 discharge a professional obligation.
- 17 (c) "Negligence" means a deviation from the normal standard of
- 18 professional care exercised generally by other members in:
- 19 (1) The profession of architecture or residential design; or
- 20 (2) Practice as a registered interior designer.
- 21 **Sec. 105.** NRS 624.165 is hereby amended to read as follows:
- 22 624.165 1. The Board shall:
- 23 (a) Designate one or more of its employees for the investigation
- 24 of constructional fraud;
- 25 (b) Cooperate with other local, state or federal investigative and
- 26 law enforcement agencies, and the Attorney General;
- 27 (c) Assist the Attorney General or any official of an
- 28 investigative or a law enforcement agency of this State, any other
- 29 state or the Federal Government who requests assistance in
- 30 investigating any act of constructional fraud; and
- 31 (d) Furnish to those officials any information concerning its
- 32 investigation or report on any act of constructional fraud.
- 33 2. The Board may obtain records of a law enforcement agency
- 34 or any other agency that maintains records of criminal history,
- 35 including, without limitation, records of:
- 36 (a) Arrests;
- 37 (b) Guilty *and guilty but mentally ill* pleas;
- 38 (c) Sentencing;
- 39 (d) Probation;
- 40 (e) Parole;
- 41 (f) Bail;
- 42 (g) Complaints; and
- 43 (h) Final dispositions,
- 44 ➔ for the investigation of constructional fraud.





3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:

(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. 106.** 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



1 Repository for Nevada Records of Criminal History and the Federal  
2 Bureau of Investigation. The fingerprint cards and authorization  
3 form submitted must be those that are provided to the applicant by  
4 the Board. The applicant's fingerprints may be taken by an agent of  
5 the Board or an agency of law enforcement.

6 3. The Board shall keep the results of the investigation  
7 confidential and not subject to inspection by the general public.

8 4. The Board shall establish by regulation the fee for  
9 processing the fingerprints to be paid by the applicant. The fee must  
10 not exceed the sum of the amounts charged by the Central  
11 Repository for Nevada Records of Criminal History and the Federal  
12 Bureau of Investigation for processing the fingerprints.

13 5. The Board may obtain records of a law enforcement agency  
14 or any other agency that maintains records of criminal history,  
15 including, without limitation, records of:

- 16 (a) Arrests;
- 17 (b) Guilty *and guilty but mentally ill* pleas;
- 18 (c) Sentencing;
- 19 (d) Probation;
- 20 (e) Parole;
- 21 (f) Bail;
- 22 (g) Complaints; and
- 23 (h) Final dispositions,

24 ➔ for the investigation of a licensee or an applicant for a  
25 contractor's license.

26 **Sec. 107.** NRS 632.320 is hereby amended to read as follows:

27 632.320 The Board may deny, revoke or suspend any license  
28 or certificate applied for or issued pursuant to this chapter, or take  
29 other disciplinary action against a licensee or holder of a certificate,  
30 upon determining that he:

31 1. Is guilty of fraud or deceit in procuring or attempting to  
32 procure a license or certificate pursuant to this chapter.

33 2. Is guilty of any offense:

34 (a) Involving moral turpitude; or

35 (b) Related to the qualifications, functions or duties of a licensee  
36 or holder of a certificate,

37 ➔ in which case the record of conviction is conclusive evidence  
38 thereof.

39 3. Has been convicted of violating any of the provisions of  
40 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,  
41 inclusive.

42 4. Is unfit or incompetent by reason of gross negligence or  
43 recklessness in carrying out usual nursing functions.

44 5. Uses any controlled substance, dangerous drug as defined in  
45 chapter 454 of NRS, or intoxicating liquor to an extent or in a



1 manner which is dangerous or injurious to any other person or  
2 which impairs his ability to conduct the practice authorized by his  
3 license or certificate.

4 6. Is mentally incompetent.

5 7. Is guilty of unprofessional conduct, which includes, but is  
6 not limited to, the following:

7 (a) Conviction of practicing medicine without a license in  
8 violation of chapter 630 of NRS, in which case the record of  
9 conviction is conclusive evidence thereof.

10 (b) Impersonating any applicant or acting as proxy for an  
11 applicant in any examination required pursuant to this chapter for  
12 the issuance of a license or certificate.

13 (c) Impersonating another licensed practitioner or holder of a  
14 certificate.

15 (d) Permitting or allowing another person to use his license or  
16 certificate to practice as a licensed practical nurse, registered nurse  
17 or nursing assistant.

18 (e) Repeated malpractice, which may be evidenced by claims of  
19 malpractice settled against him.

20 (f) Physical, verbal or psychological abuse of a patient.

21 (g) Conviction for the use or unlawful possession of a controlled  
22 substance or dangerous drug as defined in chapter 454 of NRS.

23 8. Has willfully or repeatedly violated the provisions of this  
24 chapter. The voluntary surrender of a license or certificate issued  
25 pursuant to this chapter is prima facie evidence that the licensee or  
26 certificate holder has committed or expects to commit a violation of  
27 this chapter.

28 9. Is guilty of aiding or abetting any person in a violation of  
29 this chapter.

30 10. Has falsified an entry on a patient's medical chart  
31 concerning a controlled substance.

32 11. Has falsified information which was given to a physician,  
33 pharmacist, podiatric physician or dentist to obtain a controlled  
34 substance.

35 12. Has been disciplined in another state in connection with a  
36 license to practice nursing or a certificate to practice as a nursing  
37 assistant or has committed an act in another state which would  
38 constitute a violation of this chapter.

39 13. Has engaged in conduct likely to deceive, defraud or  
40 endanger a patient or the general public.

41 14. Has willfully failed to comply with a regulation, subpoena  
42 or order of the Board.

43 ➔ For the purposes of this section, a plea or verdict of guilty *or*  
44 *guilty but mentally ill* or a plea of nolo contendere constitutes a



1 conviction of an offense. The Board may take disciplinary action  
2 pending the appeal of a conviction.

3 **Sec. 108.** NRS 639.006 is hereby amended to read as follows:

4 639.006 "Conviction" means a plea or verdict of guilty *or*  
5 *guilty but mentally ill* or a conviction following a plea of nolo  
6 contendere to a charge of a felony, any offense involving moral  
7 turpitude or any violation of the provisions of this chapter or chapter  
8 453 or 454 of NRS.

9 **Sec. 109.** NRS 639.500 is hereby amended to read as follows:

10 639.500 1. In addition to the requirements for an application  
11 set forth in NRS 639.100, each applicant for a license to engage in  
12 wholesale distribution shall submit with his application a complete  
13 set of his fingerprints and written permission authorizing the Board  
14 to forward the fingerprints to the Central Repository for Nevada  
15 Records of Criminal History for submission to the Federal Bureau  
16 of Investigation for its report. If the applicant is a:

17 (a) Natural person, that person must submit his fingerprints.

18 (b) Partnership, each partner must submit his fingerprints.

19 (c) Corporation, each officer and director of the corporation  
20 must submit his fingerprints.

21 (d) Sole proprietorship, that sole proprietor must submit his  
22 fingerprints.

23 2. In addition to the requirements of subsection 1, the applicant  
24 shall submit with his application a list containing each employee,  
25 agent, independent contractor, consultant, guardian, personal  
26 representative, lender or holder of indebtedness of the applicant. The  
27 Board may require any person on the applicant's list to submit a  
28 complete set of his fingerprints to the Board if the Board determines  
29 that the person has the power to exercise significant influence over  
30 the operation of the applicant as a licensed wholesaler. The  
31 fingerprints must be submitted with written permission authorizing  
32 the Board to forward the fingerprints to the Central Repository for  
33 Nevada Records of Criminal History for submission to the Federal  
34 Bureau of Investigation for its report. The provisions of this  
35 subsection do not apply to a:

36 (a) Lender or holder of indebtedness of an applicant who is a  
37 commercial bank, bank holding company, subsidiary or affiliate of a  
38 bank holding company, personal property broker, consumer finance  
39 lender, commercial finance lender or insurer, or any other person  
40 engaged in the business of extending credit, who is regulated by an  
41 officer or agency of the State or the Federal Government.

42 (b) Common motor carrier or other delivery service that delivers  
43 a drug at the direction of a manufacturer.

44 3. The Board may issue a provisional license to an applicant  
45 pending receipt of the reports from the Federal Bureau of



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1 Investigation if the Board determines that the applicant is otherwise  
2 qualified.

3 4. An applicant who is issued a license by the Board shall not  
4 allow a person who is required to submit his fingerprints pursuant to  
5 subsection 2 to act in any capacity in which he exercises significant  
6 influence over the operation of the wholesaler if the:

7 (a) Person does not submit a complete set of his fingerprints in  
8 accordance with subsection 2; or

9 (b) Report of the criminal history of the person indicates that he  
10 has been convicted of, or entered a plea of guilty , *guilty but*  
11 *mentally ill* or nolo contendere to, a felony or offense involving  
12 moral turpitude or related to the qualifications, functions or duties of  
13 that person in connection with the operation of the wholesaler.

14 5. The Board shall not issue a license to an applicant if the  
15 requirements of this section are not satisfied.

16 **Sec. 110.** NRS 639.505 is hereby amended to read as follows:

17 639.505 1. On an annual basis, each licensed wholesaler shall  
18 submit to the Board an updated list of each employee, agent,  
19 independent contractor, consultant, guardian, personal  
20 representative, lender or holder of indebtedness of the wholesaler  
21 who is employed by or otherwise contracts with the wholesaler for  
22 the provision of services in connection with the operation of the  
23 licensee as a wholesaler. Any changes to the list must be submitted  
24 to the Board not later than 30 days after the change is made.

25 2. If a person identified on an updated list of the wholesaler is  
26 employed by or otherwise contracts with the wholesaler after the  
27 wholesaler is issued a license and that person did not submit his  
28 fingerprints pursuant to NRS 639.500, the Board may require that  
29 person to submit a complete set of his fingerprints to the Board if  
30 the Board determines that the person has the power to exercise  
31 significant influence over the operation of the licensee as a  
32 wholesaler. The fingerprints must be submitted within 30 days after  
33 being requested to do so by the Board and must include written  
34 permission authorizing the Board to forward the fingerprints to the  
35 Central Repository for Nevada Records of Criminal History for  
36 submission to the Federal Bureau of Investigation for its report. The  
37 provisions of this subsection do not apply to a:

38 (a) Lender or holder of indebtedness of a wholesaler who is a  
39 commercial bank, bank holding company, subsidiary or affiliate of a  
40 bank holding company, personal property broker, consumer finance  
41 lender, commercial finance lender or insurer, or any other person  
42 engaged in the business of extending credit, who is regulated by an  
43 officer or agency of the State or the Federal Government.

44 (b) Common motor carrier or other delivery service that delivers  
45 a drug at the direction of a manufacturer.



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3. A wholesaler 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 qualifications, functions or duties of that person in connection with the operation of the wholesaler.

**Sec. 111.** NRS 645.330 is hereby amended to read as follows:

645.330 1. Except as otherwise provided by a specific statute, the Division may approve an application for a license for a person who meets all the following requirements:

(a) Has a good reputation for honesty, trustworthiness and integrity and who offers proof of those qualifications satisfactory to the Division.

(b) Has not made a false statement of material fact on his application.

(c) Is competent to transact the business of a real estate broker, broker-salesman or salesman in a manner which will safeguard the interests of the public.

(d) Has passed the examination.

(e) Has submitted all information required to complete the application.

2. The Division:

(a) May deny a license to any person who 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, engaging in a real estate business without a license, possessing for the purpose of sale any controlled substance or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or elsewhere; and

(b) Shall not issue a license to such a person until at least 3 years after:

(1) The person pays any fine or restitution ordered by the court; or

(2) The expiration of the period of the person's parole, probation or sentence,  
↳ whichever is later.

3. Suspension or revocation of a license pursuant to this chapter or any prior revocation or current suspension in this or any other state, district or territory of the United States or any foreign



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country before the date of the application is grounds for refusal to grant a license.

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. 112.** 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.



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(e) The time and place of the applicant's previous experience in the real estate business as a broker or salesman.

(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. 113.** 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



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1 salesman who has not secured his license pursuant to this chapter.  
2 This subsection does not apply to payments to a broker who is  
3 licensed in his state of residence.

4 (d) A conviction of, or the entry of a plea of guilty , *guilty but*  
5 *mentally ill* or nolo contendere to:

6 (1) A felony relating to the practice of the licensee, property  
7 manager or owner-developer; or

8 (2) Any crime involving fraud, deceit, misrepresentation or  
9 moral turpitude.

10 (e) Guaranteeing, or having authorized or permitted any person  
11 to guarantee, future profits which may result from the resale of real  
12 property.

13 (f) Failure to include a fixed date of expiration in any written  
14 brokerage agreement or failure to leave a copy of such a brokerage  
15 agreement or any property management agreement with the client.

16 (g) Accepting, giving or charging any undisclosed commission,  
17 rebate or direct profit on expenditures made for a client.

18 (h) Gross negligence or incompetence in performing any act for  
19 which he is required to hold a license pursuant to this chapter,  
20 chapter 119, 119A or 119B of NRS.

21 (i) Any other conduct which constitutes deceitful, fraudulent or  
22 dishonest dealing.

23 (j) Any conduct which took place before he became licensed  
24 which was in fact unknown to the Division and which would have  
25 been grounds for denial of a license had the Division been aware of  
26 the conduct.

27 (k) Knowingly permitting any person whose license has been  
28 revoked or suspended to act as a real estate broker, broker-salesman  
29 or salesman, with or on behalf of the licensee.

30 (l) Recording or causing to be recorded a claim pursuant to the  
31 provisions of NRS 645.8701 to 645.8811, inclusive, that is  
32 determined by a district court to be frivolous and made without  
33 reasonable cause pursuant to NRS 645.8791.

34 2. The Commission may take action pursuant to NRS 645.630  
35 against a person who is subject to that section for the suspension or  
36 revocation of a real estate broker's, broker-salesman's or salesman's  
37 license issued to him by any other jurisdiction.

38 3. The Commission may take action pursuant to NRS 645.630  
39 against any person who:

40 (a) Holds a permit to engage in property management issued  
41 pursuant to NRS 645.6052; and

42 (b) In connection with any property for which the person has  
43 obtained a property management agreement pursuant to  
44 NRS 645.6056:



(1) Is convicted of violating any of the provisions of 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. 114.** 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



1 certificate, license or permit suspended or revoked, in any other  
2 jurisdiction.

3 7. If the applicant is a member of a partnership or association  
4 or is an officer of a corporation, the name and address of the  
5 principal office of the partnership, association or corporation.

6 8. Any other information the Division requires.

7 **Sec. 115.** NRS 645C.320 is hereby amended to read as  
8 follows:

9 645C.320 1. The Administrator shall issue a certificate or  
10 license, as appropriate, to any person:

11 (a) Of good moral character, honesty and integrity;

12 (b) Who meets the educational requirements and has the  
13 experience prescribed in NRS 645C.330 or any regulation adopted  
14 pursuant to that section;

15 (c) Who, except as otherwise provided in NRS 645C.360, has  
16 satisfactorily passed a written examination approved by the  
17 Commission; and

18 (d) Who submits all information required to complete an  
19 application for a certificate or license.

20 2. The Administrator may deny an application for a certificate  
21 or license to any person who:

22 (a) Has been convicted of, or entered a plea of guilty , *guilty but*  
23 *mentally ill* or nolo contendere to, forgery, embezzlement, obtaining  
24 money under false pretenses, larceny, extortion, conspiracy to  
25 defraud or any crime involving moral turpitude;

26 (b) Makes a false statement of a material fact on his application;  
27 or

28 (c) Has had a certificate, license or registration card suspended  
29 or revoked pursuant to this chapter, or a certificate, license or permit  
30 to act as an appraiser suspended or revoked in any other jurisdiction,  
31 within the 10 years immediately preceding the date of his  
32 application.

33 **Sec. 116.** NRS 645D.170 is hereby amended to read as  
34 follows:

35 645D.170 An application for a certificate must be in writing  
36 upon a form prepared and furnished by the Division. The application  
37 must include the following information:

38 1. The name, age and address of the applicant.

39 2. The place or places, including the street number, city and  
40 county, at which the applicant intends to maintain an office to  
41 conduct business as an inspector.

42 3. The business, occupation or other employment of the  
43 applicant during the 5 years immediately preceding the date of the  
44 application, and the location thereof.



1 4. The applicant's education and experience to qualify for a  
2 certificate.

3 5. Whether the applicant has ever been convicted of, is under  
4 indictment for, or has entered a plea of guilty , *guilty but mentally*  
5 *ill* or nolo contendere to:

6 (a) A felony ~~H~~ and , if so, the nature of the felony.

7 (b) Forgery, embezzlement, obtaining money under false  
8 pretenses, larceny, extortion, conspiracy to defraud or any crime  
9 involving moral turpitude.

10 6. If the applicant is a member of a partnership or association  
11 or is an officer of a corporation, the name and address of the  
12 principal officer of the partnership, association or corporation.

13 7. Any other information relating to the qualifications or  
14 background of the applicant that the Division requires.

15 8. All other information required to complete the application.

16 **Sec. 117.** NRS 645D.200 is hereby amended to read as  
17 follows:

18 645D.200 1. The Administrator shall issue a certificate to any  
19 person who:

20 (a) Is of good moral character, honesty and integrity;

21 (b) Has the education and experience prescribed in the  
22 regulations adopted pursuant to NRS 645D.120;

23 (c) Has submitted proof that he or his employer holds a policy of  
24 insurance that complies with the requirements of subsection 1 of  
25 NRS 645D.190; and

26 (d) Has submitted all information required to complete an  
27 application for a certificate.

28 2. The Administrator may deny an application for a certificate  
29 to any person who:

30 (a) Has been convicted of, or entered a plea of guilty , *guilty but*  
31 *mentally ill* or nolo contendere to, forgery, embezzlement, obtaining  
32 money under false pretenses, larceny, extortion, conspiracy to  
33 defraud or any crime involving moral turpitude;

34 (b) Makes a false statement of a material fact on his application;

35 (c) Has had a certificate suspended or revoked pursuant to this  
36 chapter within the 10 years immediately preceding the date of his  
37 application; or

38 (d) Has not submitted proof that he or his employer holds a  
39 policy of insurance that complies with the requirements of  
40 subsection 1 of NRS 645D.190.

41 **Sec. 118.** NRS 683A.0892 is hereby amended to read as  
42 follows:

43 683A.0892 1. The Commissioner:



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(a) Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

(1) Is in an unsound financial condition;

(2) Uses methods or practices in the conduct of his business that are hazardous or injurious to insured persons or members of the general public; or

(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



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(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. 119.** 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,



1 embezzlement, obtaining money under false pretenses, larceny,  
2 extortion, conspiracy to defraud or any crime involving moral  
3 turpitude;

4 (e) Have had at least 2 years' recent experience with respect to  
5 the handling of loss claims of sufficient character reasonably to  
6 enable him to fulfill the responsibilities of an adjuster;

7 (f) Pass all examinations required under this chapter; and

8 (g) Not be concurrently licensed as a producer of insurance for  
9 property, casualty or surety or a surplus lines broker, except as a bail  
10 agent.

11 2. The Commissioner may waive the residency requirement set  
12 forth in paragraph (b) of subsection 1 if the applicant is:

13 (a) An adjuster licensed under the laws of another state who has  
14 been brought to this State by a firm or corporation with whom he is  
15 employed that is licensed as an adjuster in this State to fill a vacancy  
16 in the firm or corporation in this State;

17 (b) An adjuster licensed in an adjoining state whose principal  
18 place of business is located within 50 miles from the boundary of  
19 this State; or

20 (c) An adjuster who is applying for a limited license pursuant to  
21 NRS 684A.155.

22 3. A conviction of, or plea of guilty , *guilty but mentally ill* or  
23 nolo contendere by, an applicant or licensee for any crime listed in  
24 paragraph (d) of subsection 1 is a sufficient ground for the  
25 Commissioner to deny a license to the applicant, or to suspend,  
26 revoke or limit the license of an adjuster pursuant to NRS 684A.210.

27 **Sec. 120.** NRS 686A.292 is hereby amended to read as  
28 follows:

29 686A.292 1. A court may, in addition to imposing the  
30 penalties set forth in NRS 193.130, order a person who is convicted  
31 of, or who pleads guilty , *guilty but mentally ill* or nolo contendere  
32 to, insurance fraud to pay:

33 (a) Court costs; and

34 (b) The cost of the investigation and prosecution of the  
35 insurance fraud for which the person was convicted or to which the  
36 person pleaded guilty , *guilty but mentally ill* or nolo contendere.

37 2. Any money received by the Attorney General pursuant to  
38 paragraph (b) of subsection 1 must be accounted for separately and  
39 used to pay the expenses of the Fraud Control Unit for Insurance  
40 established pursuant to NRS 228.412, and is hereby authorized for  
41 expenditure for that purpose. The money in the account does not  
42 revert to the State General Fund at the end of any fiscal year and  
43 must be carried forward to the next fiscal year.

44 3. An insurer or other organization, or any other person,  
45 subject to the jurisdiction of the Commissioner pursuant to this title



1 shall be deemed to be a victim for the purposes of restitution in a  
2 case that involves insurance fraud or that is related to a claim of  
3 insurance fraud.

4 **Sec. 121.** NRS 686A.295 is hereby amended to read as  
5 follows:

6 686A.295 If a person who is licensed or registered under the  
7 laws of the State of Nevada to engage in a business or profession is  
8 convicted of , or pleads guilty *or guilty but mentally ill* to ,  
9 engaging in an act of insurance fraud, the Commissioner and the  
10 Attorney General shall forward to each agency by which the  
11 convicted person is licensed or registered a copy of the conviction or  
12 plea and all supporting evidence of the act of insurance fraud. An  
13 agency that receives information from the Commissioner and  
14 Attorney General pursuant to this section shall, not later than 1 year  
15 after the date on which it receives the information, submit a report  
16 which sets forth the action taken by the agency against the convicted  
17 person, including, but not limited to, the revocation or suspension of  
18 the license or any other disciplinary action, to the Director of the  
19 Legislative Counsel Bureau for transmittal to the Legislature.

20 **Sec. 122.** NRS 688C.210 is hereby amended to read as  
21 follows:

22 688C.210 After notice, and after a hearing if requested, the  
23 Commissioner may suspend, revoke, refuse to issue or refuse to  
24 renew a license under this chapter if he finds that:

25 1. There was material misrepresentation in the application for  
26 the license;

27 2. The licensee or an officer, partner, member or significant  
28 managerial employee has been convicted of fraudulent or dishonest  
29 practices, is subject to a final administrative action for  
30 disqualification, or is otherwise shown to be untrustworthy or  
31 incompetent;

32 3. A provider of viatical settlements has engaged in a pattern of  
33 unreasonable payments to viators;

34 4. The applicant or licensee has been found guilty *or guilty but*  
35 *mentally ill* of, or pleaded guilty , *guilty but mentally ill* or nolo  
36 contendere to, a felony or a misdemeanor involving fraud, forgery,  
37 embezzlement, obtaining money under false pretenses, larceny,  
38 extortion, conspiracy to defraud or any crime involving moral  
39 turpitude, whether or not a judgment of conviction has been entered  
40 by the court;

41 5. A provider of viatical settlements has entered into a viatical  
42 settlement in a form not approved pursuant to NRS 688C.220;

43 6. A provider of viatical settlements has failed to honor  
44 obligations of a viatical settlement;





1 7. The licensee no longer meets a requirement for initial  
2 licensure;

3 8. A provider of viatical settlements has assigned, transferred  
4 or pledged a viaticated policy to a person other than another  
5 provider licensed under this chapter, a purchaser of the viatical  
6 settlement, a special organization or a trust for a related provider;

7 9. The applicant or licensee has provided materially untrue  
8 information to an insurer that issued a policy that is the subject of a  
9 viatical settlement;

10 10. The applicant or licensee has failed to pay a tax as required  
11 pursuant to the provisions of chapter 363A of NRS; or

12 11. The applicant or licensee has violated a provision of this  
13 chapter.

14 **Sec. 123.** NRS 689.235 is hereby amended to read as follows:

15 689.235 1. To qualify for an agent's license, the applicant:

16 (a) Must file a written application with the Commissioner on  
17 forms prescribed by the Commissioner;

18 (b) Must have a good business and personal reputation; and

19 (c) Must not have been convicted of, or entered a plea of guilty ,  
20 *guilty but mentally ill* or nolo contendere to, forgery,  
21 embezzlement, obtaining money under false pretenses, larceny,  
22 extortion, conspiracy to defraud or any crime involving moral  
23 turpitude.

24 2. The application must:

25 (a) Contain information concerning the applicant's identity,  
26 address, social security number and personal background and  
27 business, professional or work history.

28 (b) Contain such other pertinent information as the  
29 Commissioner may require.

30 (c) Be accompanied by a complete set of the fingerprints of the  
31 applicant and written permission authorizing the Commissioner to  
32 forward those fingerprints to the Central Repository for Nevada  
33 Records of Criminal History for submission to the Federal Bureau  
34 of Investigation for its report.

35 (d) Be accompanied by a fee representing the amount charged  
36 by the Federal Bureau of Investigation for processing the  
37 fingerprints of the applicant.

38 (e) Be accompanied by the statement required pursuant to  
39 NRS 689.258.

40 (f) Be accompanied by the applicable fee established in NRS  
41 680B.010, which is not refundable.

42 3. A conviction of, or plea of guilty , *guilty but mentally ill* or  
43 nolo contendere by, an applicant or licensee for any crime listed in  
44 paragraph (c) of subsection 1 is a sufficient ground for the



1 Commissioner to deny a license to the applicant, or to suspend or  
2 revoke the agent's license pursuant to NRS 689.265.

3 **Sec. 124.** NRS 689.235 is hereby amended to read as follows:

4 689.235 1. To qualify for an agent's license, the applicant:

5 (a) Must file a written application with the Commissioner on  
6 forms prescribed by the Commissioner;

7 (b) Must have a good business and personal reputation; and

8 (c) Must not have been convicted of, or entered a plea of guilty ,  
9 *guilty but mentally ill* or nolo contendere to, forgery,  
10 embezzlement, obtaining money under false pretenses, larceny,  
11 extortion, conspiracy to defraud or any crime involving moral  
12 turpitude.

13 2. The application must:

14 (a) Contain information concerning the applicant's identity,  
15 address, personal background and business, professional or work  
16 history.

17 (b) Contain such other pertinent information as the  
18 Commissioner may require.

19 (c) Be accompanied by a complete set of his fingerprints and  
20 written permission authorizing the Commissioner to forward those  
21 fingerprints to the Central Repository for Nevada Records of  
22 Criminal History for submission to the Federal Bureau of  
23 Investigation for its report.

24 (d) Be accompanied by a fee representing the amount charged  
25 by the Federal Bureau of Investigation for processing the  
26 fingerprints of the applicant.

27 (e) Be accompanied by the applicable fee established in NRS  
28 680B.010, which is not refundable.

29 3. A conviction of, or plea of guilty , *guilty but mentally ill* or  
30 nolo contendere by, an applicant or licensee for any crime listed in  
31 paragraph (c) of subsection 1 is a sufficient ground for the  
32 Commissioner to deny a license to the applicant, or to suspend or  
33 revoke the agent's license pursuant to NRS 689.265.

34 **Sec. 125.** NRS 689.520 is hereby amended to read as follows:

35 689.520 1. To qualify for an agent's license, the applicant:

36 (a) Must file a written application with the Commissioner on  
37 forms prescribed by the Commissioner; and

38 (b) Must not have been convicted of, or entered a plea of guilty ,  
39 *guilty but mentally ill* or nolo contendere to, forgery,  
40 embezzlement, obtaining money under false pretenses, larceny,  
41 extortion, conspiracy to defraud or any crime involving moral  
42 turpitude.

43 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.

(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. 126.** 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. 127.** 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:

(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.



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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. 128.** 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;



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(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. 129.** 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.



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(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.

2. A person is not entitled to receive, renew or hold a license as a bail agent if he 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. A conviction of, or plea of guilty , *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in this subsection is a sufficient ground for the Commissioner to deny a license to the applicant or to suspend or revoke the license of the agent.

**Sec. 130.** 1. The amendatory provisions of sections 15 and 31 to 37, inclusive, of this act concerning the discharge or conditional release of a person committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 175.539 apply to any such person who is in the custody of the Administrator on or after October 1, 2007.

2. The amendatory provisions of sections 38 to 45, inclusive, of this act concerning the commitment and conditional release of a person committed to the custody of the Administrator pursuant to NRS 178.400 to 178.460, inclusive, apply to any such person who is in the custody of the Administrator on October 1, 2007.

**Sec. 131.** 1. This section and sections 1 to 66, inclusive, 68 to 84, inclusive, 86, 88 to 93, inclusive, 95, 97 to 123, inclusive, 125 and 127 to 130, inclusive, of this act become effective on October 1, 2007.

2. Section 66 of this act expires by limitation on June 30, 2009.

3. Sections 84, 86, 93 and 95 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.



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4. Sections 123 and 125 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

5. Section 67 of this act becomes effective on July 1, 2009.

6. Sections 85, 87, 94 and 96 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

7. Sections 124 and 126 of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has the authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

