

## Amendment No. 292

Senate Amendment to Senate Bill No. 380

(BDR 14-279)

**Proposed by:** Senate Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

BFG/KEL



Date: 4/19/2007

S.B. No. 380—Makes various changes concerning defendants in criminal actions.  
(BDR 14-279)



## 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~~ or conditional release from the custody of the Administrator of the Division of Mental Health and Developmental 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:**

In 1995, the Legislature enacted Senate Bill No. 314 which abolished the insanity defense in criminal cases and instead authorized the plea of guilty but mentally ill. In 2001, the Nevada Supreme Court interpreted the provisions of Senate Bill No. 314 and ruled that the federal and state constitutions require the State to provide to criminal defendants the option of raising the insanity defense for crimes that require an element of intent. Based on this reasoning and because the Court did not believe the Legislature would wish to preserve the plea of guilty but mentally ill under these circumstances, the Court struck Senate Bill No. 314 in its 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 31-37.5** 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 27 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; and (2) that he did not understand the nature or ~~quality~~ **capacity** of his act or ~~understand~~ **appreciate** that his act was wrong, meaning that the act is not authorized by law. ~~and (2) 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.

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

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

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

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

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

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

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

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

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

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

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

~~5. that:~~

(a) ~~[The defendant was in a delusional state due]~~ *Due to a disease or defect of the mind* ~~and~~ *he was in a delusional state at the time of the alleged offense;* ~~and~~

(b) *Due to the delusional state,* ~~[the defendant could not know]~~ *he either did not:*

*(1) Know or understand the nature and capacity of his* ~~[conduct or the defendant could not appreciate]~~ *act; or*

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

~~(c) 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.~~

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

~~6.7.~~ 7. A defendant may not enter a plea of guilty *or guilty but mentally ill* pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

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

1       **Sec. 5.** NRS 174.055 is hereby amended to read as follows:  
2       174.055 In ~~the~~ a justice court, if the defendant pleads guilty ~~to~~ *or guilty but*  
3 *mentally ill*, the court may, before entering such a plea or pronouncing judgment,  
4 examine witnesses to ascertain the gravity of the offense committed. If it appears to  
5 the court that a higher offense has been committed than the offense charged in the  
6 complaint, the court may order the defendant to be committed or admitted to bail or  
7 to answer any indictment that may be found against him or any information which  
8 may be filed by the district attorney.

9       **Sec. 6.** NRS 174.061 is hereby amended to read as follows:  
10       174.061 1. If a prosecuting attorney enters into an agreement with a  
11 defendant in which the defendant agrees to testify against another defendant in  
12 exchange for a plea of guilty, *guilty but mentally ill* or nolo contendere to a lesser  
13 charge or for a recommendation of a reduced sentence, the agreement:

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

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

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

22       **Sec. 7.** NRS 174.063 is hereby amended to read as follows:  
23       174.063 1. If a plea of guilty *or guilty but mentally ill* is made in a written  
24 plea agreement, the agreement must be substantially in the following form:

25  
26 Case No. ....  
27 Dept. No. ....

28  
29 IN THE ..... JUDICIAL DISTRICT COURT OF THE  
30 STATE OF NEVADA IN AND FOR THE COUNTY OF.....,

31  
32 The State of Nevada,  
33 PLAINTIFF,

34  
35 v.

36  
37 (Name of defendant),  
38 DEFENDANT.

39  
40 GUILTY *OR GUILTY BUT MENTALLY ILL*  
41 PLEA AGREEMENT

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

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

47 (State the terms of the agreement.)  
48

49 CONSEQUENCES OF THE PLEA

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

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

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

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

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

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

23 I have not been promised or guaranteed any particular sentence by anyone. I  
24 know that my sentence is to be determined by the court within the limits prescribed  
25 by statute. I understand that if my attorney or the State of Nevada or both  
26 recommend any specific punishment to the court, the court is not obligated to  
27 accept the recommendation.

28 I understand that the Division of Parole and Probation of the Department of  
29 Public Safety may or will prepare a report for the sentencing judge before  
30 sentencing. This report will include matters relevant to the issue of sentencing,  
31 including my criminal history. I understand that this report may contain hearsay  
32 information regarding my background and criminal history. My attorney (if  
33 represented by counsel) and I will each have the opportunity to comment on the  
34 information contained in the report at the time of sentencing.

#### 35 WAIVER OF RIGHTS

37 By entering my plea of guilty ~~or~~ *or guilty but mentally ill*, I understand that I  
38 have waived the following rights and privileges:

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

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

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

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

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

51 6. The right to appeal the conviction, with the assistance of an attorney, either  
52 appointed or retained, unless the appeal is based upon reasonable constitutional,

jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

#### VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

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

Dated: This ..... day of the month of ..... of the year .....

.....  
Defendant.

Agreed to on this ..... day of the month of ..... of the year .....

.....  
Deputy District Attorney.

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

#### CERTIFICATE OF COUNSEL

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

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

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

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

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

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

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



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

Dated: This ..... day of the month of ..... of the year .....

.....  
Attorney for defendant.

**Sec. 8.** NRS 174.065 is hereby amended to read as follows:

174.065 Except as otherwise provided in NRS 174.061:

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

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

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

*(c) The defendant has not established by a preponderance of the evidence that ~~he~~*

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

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

~~*(3) 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.*~~  
*he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.*

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

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

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

2       175.101 If by reason of absence from the judicial district, death, sickness or  
3 other disability the judge before whom the defendant has been tried is unable to  
4 perform the duties to be performed by the court after a verdict or finding of ~~[guilt,]~~  
5 *guilty or guilty but mentally ill*, any other judge regularly sitting in or assigned to  
6 the court may perform those duties, ~~[,]~~ but if such other judge is satisfied that he  
7 cannot perform those duties because he did not preside at the trial or for any other  
8 reason, he may in his discretion grant a new trial.

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

10       175.282 If a prosecuting attorney enters into an agreement with a defendant in  
11 which the defendant agrees to testify against another defendant in exchange for a  
12 plea of guilty, *guilty but mentally ill* or nolo contendere to a lesser charge or for a  
13 recommendation of a reduced sentence, the court shall:

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

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

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

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

23       175.381 1. If, at any time after the evidence on either side is closed, the  
24 court deems the evidence insufficient to warrant a conviction, it may advise the jury  
25 to acquit the defendant, but the jury is not bound by such advice.

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

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

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

44       175.501 The defendant may be found guilty *or guilty but mentally ill* of an  
45 offense necessarily included in the offense charged or of an attempt to commit  
46 either the offense charged or an offense necessarily included therein if the attempt  
47 is an offense.

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

49       175.539 1. Where on a trial a defense of insanity is interposed by the  
50 defendant and he is acquitted by reason of that defense, ~~[the finding of the jury~~  
51 ~~pending the judicial determination pursuant to subsection 2 has the same effect as if~~  
52 ~~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 ~~37.7~~ 37.5, 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 the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be 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. The court shall enter its finding in the record.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Include in that sentence an order that the defendant, during the period of his confinement or probation, be given or obtain such treatment as is ~~available~~ medically indicated for his mental illness. ~~If the court determines that the relative risks and benefits of the available treatment are such that a reasonable person would consent to such treatment.~~*

2. ~~The~~ *If the sentence of a defendant includes a period of confinement, the Department of Corrections shall provide any treatment ordered by a court pursuant to subsection 1 ~~at a facility designated by the Department to provide such treatment. The Department shall separate such a person from the general population of the prison and shall not return the person to that population until a licensed psychiatrist or psychologist finds that the person is no longer mentally ill.~~*

**Sec. 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

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

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

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

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

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

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

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

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

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

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

50 7. The money apportioned to a juvenile court, a justice court or a municipal  
51 court pursuant to this section must be used, in addition to providing services to  
52 juvenile offenders in the juvenile court, to improve the operations of the court, or to

1 acquire appropriate advanced technology or the use of such technology, or both.  
2 Money used to improve the operations of the court may include expenditures for:

- 3 (a) Training and education of personnel;
- 4 (b) Acquisition of capital goods;
- 5 (c) Management and operational studies; or
- 6 (d) Audits.

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

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

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

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

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

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

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

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

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

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

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

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

30 (5) The Advisory Council for Prosecuting Attorneys.

31 9. As used in this section:

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

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

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

36 176.0611 1. A county or a city, upon recommendation of the appropriate  
37 court, may, by ordinance, authorize the justices or judges of the justice or municipal  
38 courts within its jurisdiction to impose for not longer than 50 years, in addition to  
39 the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an  
40 administrative assessment for the provision of court facilities.

41 2. Except as otherwise provided in subsection 3, in any jurisdiction in which  
42 an administrative assessment for the provision of court facilities has been  
43 authorized, when a defendant pleads guilty *or guilty but mentally ill* or is found  
44 guilty *or guilty but mentally ill* of a misdemeanor, including the violation of any  
45 municipal ordinance, the justice or judge shall include in the sentence the sum of  
46 \$10 as an administrative assessment for the provision of court facilities and render a  
47 judgment against the defendant for the assessment. If the justice or judge sentences  
48 the defendant to perform community service in lieu of a fine, the justice or judge  
49 shall include in the sentence the administrative assessment required pursuant to this  
50 subsection.

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

- 52 (a) An ordinance regulating metered parking; or

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

3 4. The money collected for an administrative assessment for the provision of  
4 court facilities must not be deducted from the fine imposed by the justice or judge  
5 but must be taxed against the defendant in addition to the fine. The money collected  
6 for such an administrative assessment must be stated separately on the court's  
7 docket and must be included in the amount posted for bail. If bail is forfeited, the  
8 administrative assessment included in the amount posted for bail pursuant to this  
9 subsection must be disbursed in the manner set forth in subsection 6 or 7. If the  
10 defendant is found not guilty or the charges are dismissed, the money deposited  
11 with the court must be returned to the defendant. If the justice or judge cancels a  
12 fine because the fine has been determined to be uncollectible, any balance of the  
13 fine and the administrative assessment remaining unpaid shall be deemed to be  
14 uncollectible and the defendant is not required to pay it. If a fine is determined to be  
15 uncollectible, the defendant is not entitled to a refund of the fine or administrative  
16 assessment he has paid and the justice or judge shall not recalculate the  
17 administrative assessment.

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

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

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

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

27 (d) To pay the fine.

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

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

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

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

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

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

45 (f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS  
46 350.020 for the acquisition of land or facilities or the construction or renovation of  
47 facilities for the municipal courts or a regional justice center that includes the  
48 municipal courts.

49 ➤ Any money remaining in the special revenue fund after 5 fiscal years must be  
50 deposited in the municipal general fund for the continued maintenance of court  
51 facilities if it has not been committed for expenditure pursuant to a plan for the  
52 construction or acquisition of court facilities or improvements to court facilities.



1 The city treasurer shall provide, upon request by a municipal court, monthly reports  
2 of the revenue credited to and expenditures made from the special revenue fund.

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

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

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

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

13 (d) Acquire furniture, fixtures and equipment necessitated by the construction  
14 or acquisition of additional facilities or the renovation of an existing facility for the  
15 justice courts or a regional justice center that includes the justice courts. This  
16 paragraph does not authorize the expenditure of money from the fund for furniture,  
17 fixtures or equipment for judicial chambers.

18 (e) Acquire advanced technology for use in the additional or renovated  
19 facilities.

20 (f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS  
21 350.020 for the acquisition of land or facilities or the construction or renovation of  
22 facilities for the justice courts or a regional justice center that includes the justice  
23 courts.

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

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

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

37 176.0613 1. The justices or judges of the justice or municipal courts shall  
38 impose, in addition to an administrative assessment imposed pursuant to NRS  
39 176.059 and 176.0611, an administrative assessment for the provision of specialty  
40 court programs.

41 2. Except as otherwise provided in subsection 3, when a defendant pleads  
42 guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a  
43 misdemeanor, including the violation of any municipal ordinance, the justice or  
44 judge shall include in the sentence the sum of \$7 as an administrative assessment  
45 for the provision of specialty court programs and render a judgment against the  
46 defendant for the assessment. If a defendant is sentenced to perform community  
47 service in lieu of a fine, the sentence must include the administrative assessment  
48 required pursuant to this subsection.

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

50 (a) An ordinance regulating metered parking; or

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

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. 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 determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

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

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

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

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

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

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

2. The money collected for an administrative assessment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6        176.151 1. If a defendant pleads guilty , *guilty but mentally ill* or nolo  
7 contendere to , or is found guilty *or guilty but mentally ill* of , one or more category  
8 E felonies, but no other felonies, the Division shall not make a presentence  
9 investigation and report on the defendant pursuant to NRS 176.135, unless the  
10 Division has not made a presentence investigation and report on the defendant  
11 pursuant to NRS 176.135 within the 5 years immediately preceding the date  
12 initially set for sentencing on the category E felony or felonies and:

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

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

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

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

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

26        (c) Information concerning the effect that the offense committed by the  
27 defendant has had upon the victim, including, without limitation, any physical or  
28 psychological harm or financial loss suffered by the victim, to the extent that such  
29 information is available from the victim or other sources, but the provisions of this  
30 paragraph do not require any particular examination or testing of the victim, and the  
31 extent of any investigation or examination and the extent of the information  
32 included in the report is solely at the discretion of the Division;

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

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

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

39        176.165 Except as otherwise provided in this section, a motion to withdraw a  
40 plea of guilty , *guilty but mentally ill* or nolo contendere may be made only before  
41 sentence is imposed or imposition of sentence is suspended. To correct manifest  
42 injustice, the court after sentence may set aside the judgment of conviction and  
43 permit the defendant to withdraw his plea.

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

45        176A.255 1. A justice court or a municipal court may, upon approval of the  
46 district court, transfer original jurisdiction to the district court of a case involving an  
47 eligible defendant.

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

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

52        (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:

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

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

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

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

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

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

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

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

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

2. The State may, upon good cause shown, appeal to the Supreme Court from a pretrial order of the district court granting or denying a motion to suppress evidence made pursuant to NRS 174.125. Notice of the appeal must be filed with the clerk of the district court within 2 judicial days and with the Clerk of the Supreme Court within 5 judicial days after the ruling by the district court. The clerk of the district court shall notify counsel for the defendant or, in the case of a

defendant without counsel, the defendant within 2 judicial days after the filing of the notice of appeal. The Supreme Court may establish such procedures as it determines proper in requiring the appellant to make a preliminary showing of the propriety of the appeal and whether there may be a miscarriage of justice if the appeal is not entertained. If the Supreme Court entertains the appeal, or if it otherwise appears necessary, it may enter an order staying the trial for such time as may be required.

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

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

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

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

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

3. A notice of appeal must be signed:

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

(b) By the clerk if prepared by him.

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

**Sec. 31.** *As used in sections 31 to ~~37.5~~ 37.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~32 and 33~~ 31.5 to 33.5, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 31.5.** *"Administrator" means the Administrator of the Division.*

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

**Sec. 32.5.** *"Division facility" has the meaning ascribed to it in NRS 433.094.*

**Sec. 33.** *"Mental disorder" means a mental illness that results from a psychiatric or neurological disorder that so substantially impairs the mental or emotional functioning of a person as to make care or treatment necessary or advisable for the welfare of the person or for the safety of the person or property of another and includes, without limitation, mental retardation and related conditions.*

**Sec. 33.5.** *"Mentally ill person" means a person who has a mental disorder.*

**Sec. 34.** *1. The Administrator or his designee shall keep each mentally ill person committed to his custody pursuant to NRS 175.539 under observation.*

*2. A person committed to the custody of the Administrator ~~[of the Division]~~ pursuant to NRS 175.539 is eligible for:*

*~~175.539~~ (a) Discharge from commitment if the person establishes by a preponderance of the evidence that he would not be a danger, as a result of any*

1 mental disorder, to himself or to the person or property of another if discharged;  
2 or

3 ~~2-1~~ (b) Conditional release from commitment if the person establishes by a  
4 preponderance of the evidence that he would not be a danger, as a result of any  
5 mental disorder, to himself or to the person or property of another if released  
6 from commitment with conditions imposed by the court in consultation with the  
7 Division.

8 3. If ~~the~~ a person who is conditionally released from the custody of the  
9 Administrator fails to comply with any condition imposed by the court, the court  
10 shall issue an order to have the person recommitted to the custody of the  
11 Administrator.

12 Sec. 35. 1. Except as otherwise provided in ~~subsection 2 or 3, within 50~~  
13 this section, a court must hold a hearing not later than 60 days after ~~it~~ :

14 (a) A person is committed to the custody of the Administrator ~~of the~~  
15 Division pursuant to NRS 175.539 ~~the~~ ; or

16 (b) The Division or the person committed to the custody of the Administrator  
17 files a petition for discharge or conditional release pursuant to section 37 of this  
18 act.

19 2. During the hearing held pursuant to subsection 1, the court shall ~~hold a~~  
20 hearing to consider any relevant information that will enable the court to  
21 determine whether the person is eligible for discharge or conditional release  
22 pursuant to section 34 of this act. ~~f~~

23 ~~2-1~~ The court may postpone the hearing described in this subsection ~~H~~ for  
24 good cause or upon agreement by the person committed to the custody of the  
25 Administrator, the court and the Division.

26 3. ~~The person committed to the custody of the Administrator may waive the~~  
27 ~~hearing described in subsection 1.~~

28 ~~4. If the person committed to the custody of the Administrator waives the~~  
29 ~~hearing described in subsection 1, the Division shall, within 50 days after the date~~  
30 ~~that the person was committed to the custody of the Administrator:~~

31 ~~(a) Complete an examination and evaluation of the person and complete a~~  
32 ~~report of such examination and evaluation, unless the has previously completed~~  
33 ~~such an examination, evaluation and report of the person within 90 days before~~  
34 ~~the date that the person was committed to the custody of the Administrator; and~~

35 ~~(b) Provide a copy of the report described in paragraph (a) to:~~

36 ~~(1) The person committed to the custody of the Administrator and his~~  
37 ~~attorney;~~

38 ~~(2) The prosecuting attorney; and~~

39 ~~(3) The court.~~

40 ~~5. If the person committed to the custody of the Administrator has not~~  
41 ~~waived the hearing described in subsection 1, the Division shall, not~~ Not later  
42 than 21 days before the date of ~~that~~ the hearing ~~H~~ held pursuant to subsection  
43 1 and annually thereafter, the Administrator or his designee shall prepare a  
44 written report stating whether, in his opinion, upon medical consultation, the  
45 person who was committed to the custody of the Administrator has recovered  
46 from his mental disorder or has improved to such an extent that he is no longer a  
47 mentally ill person. If the Administrator or his designee determines that the  
48 person has not recovered from his mental disorder or has not improved to such  
49 an extent that he is no longer a mentally ill person, the Administrator or his  
50 designee shall include in the report his opinion concerning whether:

51 (a) ~~Complete an examination and evaluation of the person and complete a~~  
52 report of such examination and evaluation, unless the Division has previously  
53 completed such an examination, evaluation and report of the person within 90



~~days before the date of the hearing; and~~ There is a substantial probability that the person may receive treatment and recover from his mental disorder or improve to such an extent that he is no longer a mentally ill person in the foreseeable future; and

~~(b) The person is at that time a danger to himself or to society.~~

~~[(b) Provide]~~

4. Within the period prescribed in subsection 3, the Administrator or his designee shall provide a copy of the report [described in paragraph (a)] to:

~~[(1)]~~ (a) The person committed to the custody of the Administrator and his attorney;

~~[(2)]~~ (b) The prosecuting attorney; and

~~[(3)]~~ (c) The court. [and

~~(e) Provide notice of the hearing to:~~

~~(1) The person committed to the custody of the Administrator and his attorney; and~~

~~(2) The prosecuting attorney.~~

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

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

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

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

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

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

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

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

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

**Sec. 37. 1. A person committed to the custody of the Administrator [of the Division] pursuant to NRS 175.539 may petition the court for discharge or conditional release not ~~earlier~~ sooner than 1 year after the ~~final hearing conducted pursuant to section 35 of this act~~ person is committed to the custody of the Administrator and not more [frequently] than once [a] each year thereafter.**

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

**3. A person who is committed to the custody of the Administrator pursuant to NRS 175.539 ~~and who wishes to~~ may apply for discharge or conditional release pursuant to subsection 1 [must] by:**



(a) ~~File~~ Filing a petition for discharge or conditional release with the court that ordered the person committed pursuant to NRS 175.539; and

(b) ~~Provide~~ Providing a copy of the petition to the Division and the prosecuting attorney.

4. ~~If the~~ The Division ~~files~~ may file a petition for discharge or conditional release pursuant to subsection 2 ~~the Division must~~ by:

(a) ~~File~~ Filing the petition with the court that ordered the person committed to the custody of the Administrator pursuant to NRS 175.539;

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

(c) ~~Provide~~ Providing a copy of the petition to the person committed to the custody of the Administrator, his attorney and the prosecuting attorney.

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

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

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

~~(a) Complete an examination and evaluation of the person committed to the custody of the Administrator and complete a report of such examination and evaluation, unless the Division has previously completed such an examination, evaluation and report of the person within 90 days before the date that the petition was filed; and~~

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

~~(1) The person committed to the custody of the Administrator and his attorney;~~

~~(2) The prosecuting attorney; and~~

~~(3) The court.~~

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

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

Sec. 37.5. 1. When a person is conditionally released pursuant to sections 31 to 37.5, inclusive, of this act:

(a) The State and any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person; and

(b) The court shall order the restoration of full civil and legal rights as deemed necessary to facilitate the person's rehabilitation.

2. When a person is conditionally released pursuant to sections 31 to 37.5, inclusive, of this act, the court shall order the Division to conduct an evaluation of the person as often as is deemed necessary to determine whether the person:

(a) Has complied with the conditions of his release; or

(b) Presents a clear and present danger of harm to himself or others.

3. The court may order a person who is conditionally released pursuant to sections 31 to 37.5, inclusive, of this act returned to the custody of the

Administrator if the court determines that the conditional release is no longer appropriate because that person:

(a) Has violated a condition of his release; or

(b) Presents a clear and present danger of harm to himself or others.

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

Sec. 39. "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

Sec. 40. "Forensic assertive community treatment team" means a treatment team that includes a psychiatrist that provides treatment, rehabilitation and supervision services to the defendant, including, without limitation, the management of the defendant's medication, psychiatric rehabilitation services, random drug testing, drug and alcohol treatment programs and vocational rehabilitation.

Sec. 41. "Mental disorder" has the meaning ascribed to it in section 33 of this act.

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

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

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

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

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

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

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

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

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

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

3. Unless the defendant is assigned to a program established pursuant to NRS 176A.250, the court which ordered the commitment of the defendant

1 pursuant to section 42 of this act shall supervise the conditional release of the  
2 defendant.

3 4. If the defendant has been assigned to a program established pursuant to  
4 NRS 176A.250, the court which assigned the defendant to the program shall  
5 supervise the conditional release of the defendant, subject to the completion of  
6 the terms and conditions established by the program.

7 5. The conditions imposed by the court for the release of the defendant from  
8 commitment must include intensive supervision by a forensic assertive  
9 community treatment team. The forensic assertive community treatment team  
10 shall at least once every 6 months provide a report concerning the progress of the  
11 defendant to the court which ordered the commitment of the defendant or the  
12 court which supervises the conditional release of the defendant pursuant to  
13 subsection 4, as applicable.

14 Sec. 44. 1. The forensic assertive community treatment team required to  
15 supervise a defendant who is conditionally released from commitment pursuant  
16 to section 43 of this act shall notify the court which ordered the commitment of  
17 the defendant or the court which supervises the conditional release of the  
18 defendant pursuant to subsection 4 of section 43 of this act, as applicable, if the  
19 defendant violates a condition of his release from commitment.

20 2. If the court is notified pursuant to subsection 1 of a violation, the court  
21 shall consult with the forensic assertive community treatment team, the counsel  
22 for the defendant and the prosecuting attorney concerning the potential risk to  
23 the community that is posed by the noncompliance of the defendant with the  
24 conditions of release from commitment.

25 3. After consulting with the persons required by subsection 2, and  
26 considering the risks to the community, the court may issue a temporary order of  
27 detention to commit the defendant to the custody of the Administrator of the  
28 Division for evaluation. If the court issues such an order, the court must:

29 (a) Order a peace officer to take the defendant into protective custody and  
30 transport him to a forensic facility operated by the Division;

31 (b) Order that the defendant be committed to the custody of the  
32 Administrator for evaluation; and

33 (c) Provide a copy of the order to the counsel for the defendant and the  
34 prosecuting attorney.

35 4. Within 10 days after a defendant has been committed to the custody of  
36 the Administrator for evaluation pursuant to subsection 3, the court shall hold a  
37 hearing to consider any relevant information that will enable the court to  
38 determine whether the conditional release of the defendant should be continued,  
39 modified or terminated.

40 5. As used in this section, "forensic facility" has the meaning ascribed to it  
41 in NRS 175.539.

42 Sec. 45. 1. If the proceedings against a defendant who is charged with a  
43 misdemeanor are required to be dismissed pursuant to subsection 5 of NRS  
44 178.425, the prosecuting attorney may, within 30 days after the dismissal, file a  
45 petition with the court to commence proceedings for admission of the defendant  
46 to a mental health facility in the manner provided for involuntary court-ordered  
47 admissions to a mental health facility pursuant to NRS 433A.200 to 433A.330,  
48 inclusive.

49 2. The mental health facility shall develop a treatment plan for each  
50 defendant admitted to the mental health facility pursuant to subsection 1. The  
51 treatment plan must include, without limitation, intensive supervision of the  
52 defendant by a forensic assertive community treatment team.

1        **3. If the defendant is conditionally released from a mental health facility**  
2        **pursuant to chapter 433A of NRS and violates a provision of his treatment plan,**  
3        **the court may order the defendant to return to the facility.**

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

5        178.388 1. Except as otherwise provided in this title, the defendant must be  
6        present at the arraignment, at every stage of the trial including the impaneling of the  
7        jury and the return of the verdict, and at the imposition of sentence. A corporation  
8        may appear 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 commenced in  
11        his presence must not prevent continuing the trial to and including the return of the  
12        verdict.

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

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

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

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

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

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

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

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

37        178.399 ~~{As used in NRS 178.400 to 178.460, inclusive, unless the context~~  
38        ~~otherwise requires, "treatment" "Treatment~~ to competency" means treatment  
39        provided to a defendant to attempt to cause him to attain competency to stand trial  
40        or receive pronouncement of judgment.

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

42        178.415 1. Except as otherwise provided in this subsection, the court shall  
43        appoint two psychiatrists, two psychologists, or one psychiatrist and one  
44        psychologist, to examine the defendant. If the defendant is accused of a  
45        misdemeanor, the court of jurisdiction shall appoint a psychiatric social worker, or  
46        other person who is especially qualified by the Division , ~~{of Mental Health and~~  
47        ~~Developmental Services of the Department of Health and Human Services,}~~ to  
48        examine the defendant.

49        2. Except as otherwise provided in this subsection, at a hearing in open court,  
50        the court that orders the examination must receive the report of the examination. If  
51        a Justice Court orders the examination of a defendant who is charged with a gross  
52        misdemeanor or felony, the district court must receive the report of the  
53        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,

1 the judge shall order the defendant to report to the Administrator or his designee as  
2 an outpatient for treatment, if it might be beneficial, and for a determination of his  
3 ability to receive treatment to competency and to attain competence. The court may  
4 require the defendant to give bail for his periodic appearances before the  
5 Administrator or his designee.

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

10 5. Whenever the defendant has been found incompetent, with no substantial  
11 probability of attaining competency in the foreseeable future, and released from  
12 custody or from obligations as an outpatient pursuant to paragraph (d) of subsection  
13 4 of NRS 178.460, the proceedings against the defendant which were suspended  
14 must be dismissed. No new charge arising out of the same circumstances may be  
15 brought after a period, equal to the maximum time allowed by law for commencing  
16 a criminal action for the crime with which the defendant was charged, has lapsed  
17 since the date of the alleged offense.

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

19 178.435 The expenses of the examination and of the transportation of the  
20 defendant to and from the custody of the Administrator of the Division ~~of Mental~~  
21 ~~Health and Developmental Services of the Department of Health and Human~~  
22 ~~Services~~ or his designee are in the first instance chargeable to the county or city  
23 from which he has been sent. But the county or city may recover the money from  
24 the estate of the defendant, from a relative legally bound to care for him or from the  
25 county or city of which he is a resident.

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

27 178.450 1. The Administrator of the Division ~~of Mental Health and~~  
28 ~~Developmental Services of the Department of Health and Human Services~~ or his  
29 designee shall keep each defendant committed to his custody under NRS 178.425  
30 or 178.460 *or section 42 of this act* under observation and shall have each  
31 defendant who has been ordered to report to him as an outpatient under those  
32 sections evaluated periodically.

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

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

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

53 3. The report must contain:

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

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

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

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

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

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

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

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

178.455 1. Except as otherwise provided for persons charged with or convicted of a misdemeanor, the Administrator of the 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 ~~for 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 ~~for Mental Health and Developmental Services of the Department of Health and Human Services~~ or his designee is sent to them, the judge shall hold a hearing within 10 days after the request at which the district attorney and the defense counsel may examine the members of the treatment team on their report.

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

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

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

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

4. If the judge finds the defendant:

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

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

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



(d) Incompetent, with no substantial probability of attaining competency in the foreseeable future, the judge shall order the defendant released from custody or if the defendant is an outpatient, released from his obligations as an outpatient if, within 10 days, a 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 was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

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

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will

1 prevent him from paying any existing obligations described in subsection 2. Any  
2 amount of restitution remaining unpaid constitutes a civil liability arising upon the  
3 date of the completion of his sentence.

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

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

7 1.4675 1. The Commission shall suspend a justice or judge from the  
8 exercise of office with salary:

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

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

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

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

17 (b) Is found guilty *or guilty but mentally ill* of,

18 ➤ a crime punishable as a felony pursuant to the laws of the State of Nevada or the  
19 United States. If the conviction is later reversed, the justice or judge must be paid  
20 his salary for the period of suspension.

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

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

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

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

30 33.400 1. In addition to any other remedy provided by law, the parent or  
31 guardian of a child may petition any court of competent jurisdiction on behalf of the  
32 child for a temporary or extended order against a person who is 18 years of age or  
33 older and who the parent or guardian reasonably believes has committed or is  
34 committing a crime involving:

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

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

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

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

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

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

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

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

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

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

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

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

(b) A hearing is held on the petition.

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

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

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

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

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

(a) Be in writing;

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

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

(1) Subjects the person to immediate arrest.

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

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

**Sec. 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.  
  
.....  
Respondent.

PETITION FOR WRIT  
OF HABEAS CORPUS  
(POSTCONVICTION)

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

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: .....
2. Name and location of court which entered the judgment of conviction under attack: .....
3. Date of judgment of conviction: .....

- 1 4. Case number: .....  
2 5. (a) Length of sentence: .....  
3 .....  
4 (b) If sentence is death, state any date upon which execution is scheduled: .....  
5 6. Are you presently serving a sentence for a conviction other than the  
6 conviction under attack in this motion? Yes ..... No .....  
7 If "yes," list crime, case number and sentence being served at this time: .....  
8 .....  
9 .....  
10 7. Nature of offense involved in conviction being challenged: .....  
11 .....  
12 8. What was your plea? (check one)  
13 (a) Not guilty .....  
14 (b) Guilty .....  
15 (c) *Guilty but mentally ill* .....  
16 (d) Nolo contendere .....  
17 9. If you entered a plea of guilty *or guilty but mentally ill* to one count of an  
18 indictment or information, and a plea of not guilty to another count of an indictment  
19 or information, or if a plea of guilty *or guilty but mentally ill* was negotiated, give  
20 details:  
21 .....  
22 .....  
23 10. If you were found guilty *or guilty but mentally ill* after a plea of not  
24 guilty, was the finding made by: (check one)  
25 (a) Jury .....  
26 (b) Judge without a jury .....  
27 11. Did you testify at the trial? Yes ..... No .....  
28 12. Did you appeal from the judgment of conviction? Yes ..... No .....  
29 13. If you did appeal, answer the following:  
30 (a) Name of court: .....  
31 (b) Case number or citation: .....  
32 (c) Result: .....  
33 (d) Date of result: .....  
34 (Attach copy of order or decision, if available.)  
35 14. If you did not appeal, explain briefly why you did not: .....  
36 .....  
37 .....  
38 15. Other than a direct appeal from the judgment of conviction and sentence,  
39 have you previously filed any petitions, applications or motions with respect to this  
40 judgment in any court, state or federal? Yes ..... No .....  
41 16. If your answer to No. 15 was "yes," give the following information:  
42 (a) (1) Name of court: .....  
43 (2) Nature of proceeding: .....  
44 .....  
45 (3) Grounds raised: .....  
46 .....  
47 .....  
48 (4) Did you receive an evidentiary hearing on your petition, application or  
49 motion? Yes ..... No .....  
50 (5) Result: .....  
51 (6) Date of result: .....  
52 (7) If known, citations of any written opinion or date of orders entered  
53 pursuant to such result: .....

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

- (1) Name of court: .....  
(2) Nature of proceeding: .....  
(3) Grounds raised: .....  
(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ..... No .....  
(5) Result: .....  
(6) Date of result: .....  
(7) If known, citations of any written opinion or date of orders entered pursuant to such result: .....

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

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

- (1) First petition, application or motion? Yes ..... No .....  
Citation or date of decision: .....  
(2) Second petition, application or motion? Yes ..... No .....  
Citation or date of decision: .....  
(3) Third or subsequent petitions, applications or motions? Yes ..... No .....  
.....  
Citation or date of decision: .....

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

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

- (a) Which of the grounds is the same: .....  
.....  
(b) The proceedings in which these grounds were raised: .....

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

.....  
19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state

briefly the reasons for the delay. (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.)

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

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

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

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

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

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

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

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

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

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

Signature of petitioner

Address

Signature of attorney (if any)

Attorney for petitioner

.....  
Address

#### VERIFICATION

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

.....  
Petitioner

.....  
Attorney for petitioner

#### CERTIFICATE OF SERVICE BY MAIL

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

.....  
Respondent prison or jail official

.....  
Address

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

.....  
District Attorney of County of Conviction

.....  
Address

.....  
Signature of Petitioner

**Sec. 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.

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

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

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

41B.070 "Convicted" and "conviction" mean a judgment based upon:

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

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

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

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

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

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

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

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

50.068 1. A defendant is not incompetent to be a witness solely by reason of the fact that he enters into an agreement with the prosecuting attorney in which he 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.

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

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

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

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

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

1       **Sec. 66.** NRS 200.485 is hereby amended to read as follows:

2       200.485 1. Unless a greater penalty is provided pursuant to NRS 200.481, a  
3 person convicted of a battery which constitutes domestic violence pursuant to NRS  
4 33.018:

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

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

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

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

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

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

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

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

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

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

29       (a) Except as otherwise provided in this subsection, for the first offense within  
30 7 years, require him to participate in weekly counseling sessions of not less than 1  
31 1/2 hours per week for not less than 6 months, but not more than 12 months, at his  
32 expense, in a program for the treatment of persons who commit domestic violence  
33 that has been certified pursuant to NRS 228.470.

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

39       ➤ If the person resides more than 70 miles from the nearest location at which  
40 counseling services are available, the court may allow the person to participate in  
41 counseling sessions in a program for the treatment of persons who commit domestic  
42 violence that has been certified pursuant to NRS 228.470 every other week for the  
43 number of months required pursuant to paragraph (a) or (b) so long as the number  
44 of hours of counseling is not less than 6 hours per month. If the person resides in  
45 this State but the nearest location at which counseling services are available is in  
46 another state, the court may allow the person to participate in counseling in the  
47 other state in a program for the treatment of persons who commit domestic violence  
48 that has been certified pursuant to NRS 228.470.

49       3. An offense that occurred within 7 years immediately preceding the date of  
50 the principal offense or after the principal offense constitutes a prior offense for the  
51 purposes of this section when evidenced by a conviction, without regard to the  
52 sequence of the offenses and convictions. The facts concerning a prior offense must  
53 be alleged in the complaint, indictment or information, must not be read to the jury

1 or proved at trial but must be proved at the time of sentencing and, if the principal  
2 offense is alleged to be a felony, must also be shown at the preliminary examination  
3 or presented to the grand jury.

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

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

13 6. If it appears from information presented to the court that a child under the  
14 age of 18 years may need counseling as a result of the commission of a battery  
15 which constitutes domestic violence pursuant to NRS 33.018, the court may refer  
16 the child to an agency which provides child welfare services. If the court refers a  
17 child to an agency which provides child welfare services, the court shall require the  
18 person convicted of a battery which constitutes domestic violence pursuant to NRS  
19 33.018 to reimburse the agency for the costs of any services provided, to the extent  
20 of his ability to pay.

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

28 8. As used in this section:

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

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

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

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

37 200.485 1. Unless a greater penalty is provided pursuant to NRS 200.481, a  
38 person convicted of a battery which constitutes domestic violence pursuant to NRS  
39 33.018:

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

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

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

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

52 (b) For the second offense within 7 years, is guilty of a misdemeanor and shall  
53 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 violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

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

1 court shall not grant probation to and, except as otherwise provided in NRS 4.373  
2 and 5.055, a court shall not suspend the sentence of such a person.

3 8. As used in this section:

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

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

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

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

12 202.270 1. A person who destroys, or attempts to destroy, with dynamite,  
13 nitroglycerine, gunpowder or other high explosive, any dwelling house or other  
14 building, knowing or having reason to believe that a human being is therein at the  
15 time, is guilty of a category A felony and shall be punished by imprisonment in the  
16 state prison:

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

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

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

22 **↪ in the discretion of the jury, or of the court upon a plea of guilty ~~or~~ or guilty but**  
23 **mentally ill.**

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

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

27 202.885 1. A person may not be prosecuted or convicted pursuant to NRS  
28 202.882 unless a court in this State or any other jurisdiction has entered a judgment  
29 of conviction against a culpable actor for:

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

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

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

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

37 (b) The violation is discovered,

38 **↪ whichever occurs later.**

39 3. For the purposes of this section:

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

42 (b) "Convicted" and "conviction" mean a judgment based upon:

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

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

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

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

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

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

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

2 (d) "Culpable actor" means a person who:

3 (1) Causes or perpetrates an unlawful act;

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

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

8 **Sec. 70.** NRS 207.016 is hereby amended to read as follows:

9 207.016 1. A conviction pursuant to NRS 207.010, 207.012 or 207.014  
10 operates only to increase, not to reduce, the sentence otherwise provided by law for  
11 the principal crime.

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

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

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

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

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

35 4. Nothing in the provisions of this section, NRS 207.010, 207.012 or  
36 207.014 limits the prosecution in introducing evidence of prior convictions for  
37 purposes of impeachment.

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

40 6. Nothing in the provisions of this section, NRS 207.010, 207.012 or  
41 207.014 prohibits a court from imposing an adjudication of habitual criminality,  
42 adjudication of habitual felon or adjudication of habitually fraudulent felon based  
43 upon a stipulation of the parties.

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

45 207.193 1. Except as otherwise provided in subsection 4, if a person is  
46 convicted of coercion or attempted coercion in violation of paragraph (a) of  
47 subsection 2 of NRS 207.190, the court shall, at the request of the prosecuting  
48 attorney, conduct a separate hearing to determine whether the offense was sexually  
49 motivated. A request for such a hearing may not be submitted to the court unless  
50 the prosecuting attorney, not less than 72 hours before the commencement of the  
51 trial, files and serves upon the defendant a written notice of his intention to request  
52 such a hearing.

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

1 (a) The court imposes its sentence; or

2 (b) A separate penalty hearing is conducted.

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

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

9 5. The court shall enter in the record:

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

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

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

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

16 212.189 1. Except as otherwise provided in subsection 9, a prisoner who is  
17 in lawful custody or confinement, other than residential confinement, shall not  
18 knowingly:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

**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:

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

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

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

4. The board of county commissioners may:

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

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

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

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

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

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

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

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

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

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

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

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

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

268.0974 1. The governing body of an incorporated city in this State, whether organized pursuant to general law or special charter shall, by ordinance,

1 require each person who wishes to engage in the business of a secondhand dealer in  
2 the incorporated city to obtain a license issued by the governing body before he  
3 engages in the business of a secondhand dealer.

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

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

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

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

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

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

17 (b) Establish and collect a fee to cover the costs of the investigation of an  
18 applicant, including a fee to process the 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 provisions of  
21 this section; or

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

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

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

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

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

30 268.4085 1. The governing body of each city shall create a graffiti reward  
31 and abatement fund. The money in the fund must be used to pay a reward to a  
32 person who, in response to the offer of a reward, provides information which results  
33 in the identification, apprehension and conviction of a person who violated a city  
34 ordinance that prohibits graffiti or other defacement of property.

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

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

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

48 357.170 1. An action pursuant to this chapter may not be commenced more  
49 than 3 years after the date of discovery of the fraudulent activity by the Attorney  
50 General or more than 5 years after the fraudulent activity occurred, whichever is  
51 earlier. Within those limits, an action may be based upon fraudulent activity that  
52 occurred before October 1, 1999.

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

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

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, *guilty but mentally ill*, nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325, subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is found guilty *or guilty but mentally ill* of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

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

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

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

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

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

453.348 In any proceeding brought under NRS 453.316, 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401, any previous convictions of the offender for a felony relating to controlled substances must be alleged in the indictment or information charging the primary offense, but the conviction may not be alluded to on the trial of the primary offense nor may any evidence of the

1 previous offense be produced in the presence of the jury except as otherwise  
2 prescribed by law. If the offender pleads guilty *or guilty but mentally ill* to , or is  
3 convicted of , the primary offense but denies any previous conviction charged, the  
4 court shall determine the issue after hearing all relevant evidence. A certified copy  
5 of a conviction of a felony is prima facie evidence of the conviction.

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

7 453.575 1. If a defendant pleads guilty *or guilty but mentally ill* to , or is  
8 found guilty *or guilty but mentally ill* of, any violation of this chapter and an  
9 analysis of a controlled substance or other substance or drug was performed in  
10 relation to his case, the court shall include in the sentence an order that the  
11 defendant pay the sum of \$60 as a fee for the analysis of the controlled substance or  
12 other substance or drug.

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

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

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

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

22 4. The board of county commissioners of each county shall by ordinance  
23 create in the county treasury a fund to be designated as the fund for forensic  
24 services. The governing body of each city shall create in the city treasury a fund to  
25 be designated as the fund for forensic services. Upon receipt, the county or city  
26 treasurer, as appropriate, shall deposit any fee for the analyses of controlled  
27 substances or other substances or drugs in the fund. The money from such deposits  
28 must be accounted for separately within the fund.

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

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

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

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

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

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

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

46 454.358 1. When a defendant pleads guilty *or guilty but mentally ill* to , or  
47 is found guilty *or guilty but mentally ill* of, any violation of this chapter and an  
48 analysis of a dangerous drug was performed in relation to his case, the justice or  
49 judge shall include in the sentence the sum of \$50 as a fee for the analysis of the  
50 dangerous drug.

51 2. The money collected for such an analysis must not be deducted from the  
52 fine imposed by the justice or judge, but must be taxed against the defendant in  
53 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Sentence him to:

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

1 (II) Residential confinement for not less than 10 days nor more than 6  
2 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to  
3 5.078, inclusive;

4 (2) Fine him not less than \$750 nor more than \$1,000, or order him to  
5 perform an equivalent number of hours of community service while dressed in  
6 distinctive garb that identifies him as having violated the provisions of NRS  
7 484.379; and

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

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

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

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

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

24 (b) A violation of NRS 484.3795;

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

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

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

38 3. Except as otherwise provided in this subsection, an offense that occurred  
39 within 7 years immediately preceding the date of the principal offense or after the  
40 principal offense constitutes a prior offense for the purposes of this section when  
41 evidenced by a conviction, without regard to the sequence of the offenses and  
42 convictions. An offense which is listed in paragraphs (a) to (d), inclusive, of  
43 subsection 2 that occurred on any date preceding the date of the principal offense or  
44 after the principal offense constitutes a prior offense for the purposes of this section  
45 when evidenced by a conviction, without regard for the sequence of the offenses  
46 and convictions. The facts concerning a prior offense must be alleged in the  
47 complaint, indictment or information, must not be read to the jury or proved at trial  
48 but must be proved at the time of sentencing and, if the principal offense is alleged  
49 to be a felony, must also be shown at the preliminary examination or presented to  
50 the grand jury.

51 4. A person convicted of violating the provisions of NRS 484.379 must not be  
52 released on probation, and a sentence imposed for violating those provisions must  
53 not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and

1 484.3794, that portion of the sentence imposed that exceeds the mandatory  
2 minimum. A prosecuting attorney shall not dismiss a charge of violating the  
3 provisions of NRS 484.379 in exchange for a plea of guilty, *guilty but mentally ill*  
4 or nolo contendere to a lesser charge or for any other reason unless he knows or it is  
5 obvious that the charge is not supported by probable cause or cannot be proved at  
6 the time of trial.

7 5. A term of confinement imposed pursuant to the provisions of this section  
8 may be served intermittently at the discretion of the judge or justice of the peace,  
9 except that a person who is convicted of a second or subsequent offense within 7  
10 years must be confined for at least one segment of not less than 48 consecutive  
11 hours. This discretion must be exercised after considering all the circumstances  
12 surrounding the offense, and the family and employment of the offender, but any  
13 sentence of 30 days or less must be served within 6 months after the date of  
14 conviction or, if the offender was sentenced pursuant to NRS 484.37937 or  
15 484.3794 and the suspension of his sentence was revoked, within 6 months after the  
16 date of revocation. Any time for which the offender is confined must consist of not  
17 less than 24 consecutive hours.

18 6. Jail sentences simultaneously imposed pursuant to this section and NRS  
19 482.456, 483.560 or 485.330 must run consecutively.

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

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

28 (b) Order him to complete an educational course by correspondence on the  
29 abuse of alcohol and controlled substances approved by the Department within the  
30 time specified in the order,

31 and the court shall notify the Department if the person fails to complete the  
32 assigned course within the specified time.

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

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

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

42 (a) "Concentration of alcohol of 0.18 or more in his blood or breath" means  
43 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210  
44 liters of his breath.

45 (b) "Offense" means:

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

47 (2) A homicide resulting from driving or being in actual physical control of  
48 a vehicle while under the influence of intoxicating liquor or a controlled substance  
49 or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or  
50 484.37955; or

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

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



1       **Sec. 84.** NRS 484.3795 is hereby amended to read as follows:

2       484.3795 1. Unless a greater penalty is provided pursuant to NRS  
3       484.37955, a person who:

4       (a) Is under the influence of intoxicating liquor;  
5       (b) Has a concentration of alcohol of 0.08 or more in his blood or breath;  
6       (c) Is found by measurement within 2 hours after driving or being in actual  
7       physical control of a vehicle to have a concentration of alcohol of 0.08 or more in  
8       his blood or breath;

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

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

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

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

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

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

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

42      **Sec. 85.** NRS 484.3795 is hereby amended to read as follows:

43      484.3795 1. Unless a greater penalty is provided pursuant to NRS  
44      484.37955, a person who:

45      (a) Is under the influence of intoxicating liquor;  
46      (b) Has a concentration of alcohol of 0.10 or more in his blood or breath;  
47      (c) Is found by measurement within 2 hours after driving or being in actual  
48      physical control of a vehicle to have a concentration of alcohol of 0.10 or more in  
49      his blood or breath;

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

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

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

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

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

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

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

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

33 484.37955 1. A person commits vehicular homicide if he:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 6. If the defendant was transporting a person who is less than 15 years of age  
23 in the vehicle at the time of the violation, the court shall consider that fact as an  
24 aggravating factor in determining the 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 physical control of a  
28 vehicle while under the influence of intoxicating liquor or a controlled substance or  
29 resulting from any other conduct prohibited by this section or NRS 484.379 or  
30 484.3795; or

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

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

34 484.37955 1. A person commits vehicular homicide if he:

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

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

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

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

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

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

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

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

52 (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 shall consider that fact as an aggravating factor in determining the sentence of the defendant.

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

(a) A violation of NRS 484.379 or 484.3795;

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

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

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

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

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in 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; and

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

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

2. Except as otherwise provided in this subsection, if a defendant pleads guilty *or guilty but mentally ill* to , or is found guilty *or guilty but mentally ill* of ,

any violation of NRS 484.379, 484.3795 or 484.37955, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend, at the defendant's expense, a meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in 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, in order to have the defendant understand the effect such a crime has on other persons; and

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

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

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

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

484.3798 1. If a defendant pleads guilty *or guilty but mentally ill* to, or is found guilty *or guilty but mentally ill* of, any violation of NRS 484.379, 484.3795 or 484.37955 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:


(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.

1       **Sec. 90.** NRS 484.3945 is hereby amended to read as follows:

2       484.3945 1. A person required to install a device pursuant to NRS 484.3943  
3 shall not operate a motor vehicle without a device or tamper with the device.

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

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

7       (b) Shall be:

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

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

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

18       **Sec. 91.** NRS 484.777 is hereby amended to read as follows:

19       484.777 1. The provisions of this chapter are applicable and uniform  
20 throughout this State on all highways to which the public has a right of access or to  
21 which persons have access as invitees or licensees.

22       2. Unless otherwise provided by specific statute, any local authority may  
23 enact by ordinance traffic regulations which cover the same subject matter as the  
24 various sections of this chapter if the provisions of the ordinance are not in conflict  
25 with this chapter. It may also enact by ordinance regulations requiring the  
26 registration and licensing of bicycles.

27       3. A local authority shall not enact an ordinance:

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

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

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

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

37       **Sec. 92.** NRS 487.650 is hereby amended to read as follows:

38       487.650 1. The Department may refuse to issue a license or, after notice and  
39 hearing, may suspend, revoke or refuse to renew a license to operate a body shop  
40 upon any of the following grounds:

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

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

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

47       (d) Willful failure of the applicant or licensee to comply with the motor vehicle  
48 laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or 597.480 to  
49 597.590, inclusive.

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

52       (f) Failure or refusal to provide to the Department an authorization for the  
53 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 submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

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

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

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

(a) Is under the influence of intoxicating liquor;

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

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

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

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

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

and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more 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 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, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more 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 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 0.10 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.



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. 95.** 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 0.08 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 0.08 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 488.410;

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

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

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

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

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

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

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

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

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

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

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or

1 resulting from any other conduct prohibited by this section or NRS 488.410 or  
2 488.420; or

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

5 **Sec. 96.** NRS 488.425 is hereby amended to read as follows:

6 488.425 1. A person commits homicide by vessel if he:

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

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

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

11 (3) Is found by measurement within 2 hours after operating or being in  
12 actual physical control of a vessel under power or sail to have a concentration of  
13 alcohol of 0.10 or more in his blood or breath;

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

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

20 (6) Has a prohibited substance in his blood or urine in an amount that is  
21 equal to or greater than the amount set forth in subsection 3 of NRS 488.420;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

488.427 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who violates the provisions of NRS 488.410 and who has previously been convicted of a violation of NRS 488.420 or 488.425 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct as set forth in NRS 488.420 or 488.425 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender so imprisoned must, 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. The facts concerning a prior violation of NRS 488.420 or 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:

(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.

**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;

(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 or a plea of guilty , *guilty but mentally ill* or nolo contendere in a criminal proceeding; or

2. Any institution or facility for the mentally ill as a result of a plea of not guilty by reason of insanity in a criminal proceeding,

1     ↪ in this State, another state or a foreign country.

2     **Sec. 104.** NRS 623.270 is hereby amended to read as follows:

3     623.270 1. The Board may place the holder of any certificate of registration  
4 issued pursuant to the provisions of this chapter on probation, publicly reprimand  
5 him, fine him not more than \$10,000, suspend or revoke his license, impose the  
6 costs of investigation and prosecution upon him or take any combination of these  
7 disciplinary actions for any of the following acts:

8         (a) The certificate was obtained by fraud or concealment of a material fact.

9         (b) The holder of the certificate has been found guilty by the Board or *found*  
10 *guilty or guilty but mentally ill* by a court of justice of any fraud, deceit or  
11 concealment of a material fact in his professional practice, or has been convicted by  
12 a court of justice of a crime involving moral turpitude.

13         (c) The holder of the certificate has been found guilty by the Board of  
14 incompetency, negligence or gross negligence in:

15             (1) The practice of architecture or residential design; or

16             (2) His practice as a registered interior designer.

17         (d) The holder of a certificate has affixed his signature or seal to plans,  
18 drawings, specifications or other instruments of service which have not been  
19 prepared by him or in his office, or under his responsible control, or has permitted  
20 the use of his name to assist any person who is not a registered architect, registered  
21 interior designer or residential designer to evade any provision of this chapter.

22         (e) The holder of a certificate has aided or abetted any unauthorized person to  
23 practice:

24             (1) Architecture or residential design; or

25             (2) As a registered interior designer.

26         (f) The holder of the certificate has violated any law, regulation or code of  
27 ethics pertaining to:

28             (1) The practice of architecture or residential design; or

29             (2) Practice as a registered interior designer.

30         (g) The holder of a certificate has failed to comply with an order issued by the  
31 Board or has failed to cooperate with an investigation conducted by the Board.

32     2. The conditions for probation imposed pursuant to the provisions of  
33 subsection 1 may include, but are not limited to:

34         (a) Restriction on the scope of professional practice.

35         (b) Peer review.

36         (c) Required education or counseling.

37         (d) Payment of restitution to each person who suffered harm or loss.

38     3. An order that imposes discipline and the findings of fact and conclusions of  
39 law supporting that order are public records.

40     4. The Board shall not privately reprimand the holder of any certificate of  
41 registration issued pursuant to this chapter.

42     5. As used in this section:

43         (a) "Gross negligence" means conduct which demonstrates a reckless disregard  
44 of the consequences affecting the life or property of another person.

45         (b) "Incompetency" means conduct which, in:

46             (1) The practice of architecture or residential design; or

47             (2) Practice as a registered interior designer,

48     ↪ demonstrates a significant lack of ability, knowledge or fitness to discharge a  
49 professional obligation.

50         (c) "Negligence" means a deviation from the normal standard of professional  
51 care exercised generally by other members in:

52             (1) The profession of architecture or residential design; or

53             (2) Practice as a registered interior designer.



**Sec. 105.** NRS 624.165 is hereby amended to read as follows:

624.165 1. The Board shall:

(a) Designate one or more of its employees for the investigation of constructional fraud;

(b) Cooperate with other local, state or federal investigative and law enforcement agencies, and the Attorney General;

(c) Assist the Attorney General or any official of an investigative or a law enforcement agency of this State, any other state or the Federal Government who requests assistance in investigating any act of constructional fraud; and

(d) Furnish to those officials any information concerning its investigation or report on any act of constructional fraud.

2. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty *and guilty but mentally ill* pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➤ for the investigation of constructional fraud.

3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:

(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



1     unfitness to act as a contractor, and the time for appeal has elapsed or the judgment  
2     of conviction has been affirmed on appeal; or

3     (d) Had a license revoked or suspended for reasons that would preclude the  
4     granting or renewal of a license for which the application has been made.

5     2. Upon the request of the Board, an applicant for a contractor's license, and  
6     any officer, director, partner or associate of the applicant, must submit to the Board  
7     completed fingerprint cards and a form authorizing an investigation of the  
8     applicant's background and the submission of his fingerprints to the Central  
9     Repository for Nevada Records of Criminal History and the Federal Bureau of  
10    Investigation. The fingerprint cards and authorization form submitted must be those  
11    that are provided to the applicant by the Board. The applicant's fingerprints may be  
12    taken by an agent of the Board or an agency of law enforcement.

13    3. The Board shall keep the results of the investigation confidential and not  
14    subject to inspection by the general public.

15    4. The Board shall establish by regulation the fee for processing the  
16    fingerprints to be paid by the applicant. The fee must not exceed the sum of the  
17    amounts charged by the Central Repository for Nevada Records of Criminal  
18    History and the Federal Bureau of Investigation for processing the fingerprints.

19    5. The Board may obtain records of a law enforcement agency or any other  
20    agency that maintains records of criminal history, including, without limitation,  
21    records of:

- 22    (a) Arrests;
- 23    (b) Guilty *and guilty but mentally ill* pleas;
- 24    (c) Sentencing;
- 25    (d) Probation;
- 26    (e) Parole;
- 27    (f) Bail;
- 28    (g) Complaints; and
- 29    (h) Final dispositions,

30    ↳ for the investigation of a licensee or an applicant for a contractor's license.

31    **Sec. 107.** NRS 632.320 is hereby amended to read as follows:

32    632.320 The Board may deny, revoke or suspend any license or certificate  
33    applied for or issued pursuant to this chapter, or take other disciplinary action  
34    against a licensee or holder of a certificate, upon determining that he:

35    1. Is guilty of fraud or deceit in procuring or attempting to procure a license  
36    or certificate pursuant to this chapter.

37    2. Is guilty of any offense:

- 38    (a) Involving moral turpitude; or
- 39    (b) Related to the qualifications, functions or duties of a licensee or holder of a  
40    certificate,

41    ↳ in which case the record of conviction is conclusive evidence thereof.

42    3. Has been convicted of violating any of the provisions of NRS 616D.200,  
43    616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

44    4. Is unfit or incompetent by reason of gross negligence or recklessness in  
45    carrying out usual nursing functions.

46    5. Uses any controlled substance, dangerous drug as defined in chapter 454 of  
47    NRS, or intoxicating liquor to an extent or in a manner which is dangerous or  
48    injurious to any other person or which impairs his ability to conduct the practice  
49    authorized by his license or certificate.

50    6. Is mentally incompetent.

51    7. Is guilty of unprofessional conduct, which includes, but is not limited to,  
52    the following:

(a) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(b) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(c) Impersonating another licensed practitioner or holder of a certificate.

(d) Permitting or allowing another person to use his license or certificate to practice as a licensed practical nurse, registered nurse or nursing assistant.

(e) Repeated malpractice, which may be evidenced by claims of malpractice settled against him.

(f) Physical, verbal or psychological abuse of a patient.

(g) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

8. Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

9. Is guilty of aiding or abetting any person in a violation of this chapter.

10. Has falsified an entry on a patient's medical chart concerning a controlled substance.

11. Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

12. Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or has committed an act in another state which would constitute a violation of this chapter.

13. Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

14. Has willfully failed to comply with a regulation, subpoena or order of the Board.

➤ For the purposes of this section, a plea or verdict of guilty *or guilty but mentally ill* or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.

**Sec. 108.** NRS 639.006 is hereby amended to read as follows:

639.006 "Conviction" means a plea or verdict of guilty *or guilty but mentally ill* or a conviction following a plea of nolo contendere to a charge of a felony, any offense involving moral turpitude or any violation of the provisions of this chapter or chapter 453 or 454 of NRS.

**Sec. 109.** NRS 639.500 is hereby amended to read as follows:

639.500 1. In addition to the requirements for an application set forth in NRS 639.100, each applicant for a license to engage in wholesale distribution shall submit with his application a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. If the applicant is a:

(a) Natural person, that person must submit his fingerprints.

(b) Partnership, each partner must submit his fingerprints.

(c) Corporation, each officer and director of the corporation must submit his fingerprints.

(d) Sole proprietorship, that sole proprietor must submit his fingerprints.

2. In addition to the requirements of subsection 1, the applicant shall submit with his application a list containing each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the applicant. The Board may require any person on the applicant's list to submit a

complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the applicant as a licensed wholesaler. The fingerprints must be submitted with written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of an applicant who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. The Board may issue a provisional license to an applicant pending receipt of the reports from the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified.

4. An applicant who is issued a license by the Board shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, a felony or offense involving moral turpitude or related to the qualifications, functions or duties of that person in connection with the operation of the wholesaler.

5. The Board shall not issue a license to an applicant if the requirements of this section are not satisfied.

**Sec. 110.** NRS 639.505 is hereby amended to read as follows:

639.505 1. On an annual basis, each licensed wholesaler shall submit to the Board an updated list of each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the wholesaler who is employed by or otherwise contracts with the wholesaler for the provision of services in connection with the operation of the licensee as a wholesaler. Any changes to the list must be submitted to the Board not later than 30 days after the change is made.

2. If a person identified on an updated list of the wholesaler is employed by or otherwise contracts with the wholesaler after the wholesaler is issued a license and that person did not submit his fingerprints pursuant to NRS 639.500, the Board may require that person to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the licensee as a wholesaler. The fingerprints must be submitted within 30 days after being requested to do so by the Board and must include written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of a wholesaler who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. A wholesaler shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any 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 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

1 application must contain the name and address of each member thereof. If the  
2 application is for a corporation which is applying to do business as a real estate  
3 salesman, real estate broker-salesman or real estate broker, the application must  
4 contain the name and address of each officer and director thereof. If the applicant is  
5 a limited-liability company which is applying to do business as a real estate broker,  
6 the company's articles of organization must designate a manager, and the name and  
7 address of the manager and each member must be listed in the application.

8 (b) In the case of a broker, the name under which the business is to be  
9 conducted. The name is a fictitious name if it does not contain the name of the  
10 applicant or the names of the members of the applicant's company, firm,  
11 partnership or association. Except as otherwise provided in NRS 645.387, a license  
12 must not be issued under a fictitious name which includes the name of a real estate  
13 salesman or broker-salesman. A license must not be issued under the same fictitious  
14 name to more than one licensee within the State. All licensees doing business under  
15 a fictitious name shall comply with other pertinent statutory regulations regarding  
16 the use of fictitious names.

17 (c) In the case of a broker, the place or places, including the street number, city  
18 and county, where the business is to be conducted.

19 (d) The business or occupation engaged in by the applicant for at least 2 years  
20 immediately preceding the date of the application, and the location thereof.

21 (e) The time and place of the applicant's previous experience in the real estate  
22 business as a broker or salesman.

23 (f) Whether the applicant has ever been convicted of or is under indictment for  
24 a felony or has entered a plea of guilty, *guilty but mentally ill* or nolo contendere  
25 to a charge of felony and, if so, the nature of the felony.

26 (g) Whether the applicant has been convicted of or entered a plea of nolo  
27 contendere to forgery, embezzlement, obtaining money under false pretenses,  
28 larceny, extortion, conspiracy to defraud, engaging in the business of selling real  
29 estate without a license or any crime involving moral turpitude.

30 (h) Whether the applicant has been refused a real estate broker's, broker-  
31 salesman's or salesman's license in any state, or whether his license as a broker or  
32 salesman has been revoked or suspended by any other state, district or territory of  
33 the United States or any other country.

34 (i) If the applicant is a member of a limited-liability company, partnership or  
35 association, or an officer of a corporation, the name and address of the office of the  
36 limited-liability company, partnership, association or corporation of which the  
37 applicant is a member or officer.

38 (j) All information required to complete the application.

39 3. An applicant for a license as a broker-salesman or salesman shall provide a  
40 verified statement from the broker with whom he will be associated, expressing the  
41 intent of that broker to associate the applicant with him and to be responsible for  
42 the applicant's activities as a licensee.

43 4. If a limited-liability company, partnership or association is to do business  
44 as a real estate broker, the application for a broker's license must be verified by at  
45 least two members thereof. If a corporation is to do business as a real estate broker,  
46 the application must be verified by the president and the secretary thereof.

47 **Sec. 113.** NRS 645.633 is hereby amended to read as follows:

48 645.633 1. The Commission may take action pursuant to NRS 645.630  
49 against any person subject to that section who is guilty of any of the following acts:

50 (a) Willfully using any trade name, service mark or insignia of membership in  
51 any real estate organization of which the licensee is not a member, without the legal  
52 right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or salesman who has not secured his license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his state of residence.

(d) A conviction of, or the entry of a plea of guilty, *guilty but mentally ill* or nolo contendere to:

(1) A felony relating to the practice of the licensee, property manager or owner-developer; or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which he is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before he became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesman or salesman, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2. The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesman's or salesman's license issued to him by any other jurisdiction.

3. The Commission may take action pursuant to NRS 645.630 against any person who:

(a) Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) In connection with any property for which the person has obtained a property management agreement pursuant to 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 certificate, license or permit suspended or revoked, in any other jurisdiction.

7. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

8. Any other information the Division requires.

**Sec. 115.** NRS 645C.320 is hereby amended to read as follows:

645C.320 1. The Administrator shall issue a certificate or license, as appropriate, to any person:

(a) Of good moral character, honesty and integrity;

(b) Who meets the educational requirements and has the experience prescribed in NRS 645C.330 or any regulation adopted pursuant to that section;

(c) Who, except as otherwise provided in NRS 645C.360, has satisfactorily passed a written examination approved by the Commission; and

(d) Who submits all information required to complete an application for a certificate or license.

2. The Administrator may deny an application for a certificate or license to any person who:

(a) Has been convicted of, or entered a plea of guilty, *guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application; or

(c) Has had a certificate, license or registration card suspended or revoked pursuant to this chapter, or a certificate, license or permit to act as an appraiser suspended or revoked in any other jurisdiction, within the 10 years immediately preceding the date of his application.



1       **Sec. 116.** NRS 645D.170 is hereby amended to read as follows:

2       645D.170 An application for a certificate must be in writing upon a form  
3 prepared and furnished by the Division. The application must include the following  
4 information:

5       1. The name, age and address of the applicant.

6       2. The place or places, including the street number, city and county, at which  
7 the applicant intends to maintain an office to conduct business as an inspector.

8       3. The business, occupation or other employment of the applicant during the 5  
9 years immediately preceding the date of the application, and the location thereof.

10      4. The applicant's education and experience to qualify for a certificate.

11      5. Whether the applicant has ever been convicted of, is under indictment for,  
12 or has entered a plea of guilty, *guilty but mentally ill* or nolo contendere to:

13      (a) A felony ~~and~~ and, if so, the nature of the felony.

14      (b) Forgery, embezzlement, obtaining money under false pretenses, larceny,  
15 extortion, conspiracy to defraud or any crime involving moral turpitude.

16      6. If the applicant is a member of a partnership or association or is an officer  
17 of a corporation, the name and address of the principal office of the partnership,  
18 association or corporation.

19      7. Any other information relating to the qualifications or background of the  
20 applicant that the Division requires.

21      8. All other information required to complete the application.

22       **Sec. 117.** NRS 645D.200 is hereby amended to read as follows:

23       645D.200 1. The Administrator shall issue a certificate to any person who:

24       (a) Is of good moral character, honesty and integrity;

25       (b) Has the education and experience prescribed in the regulations adopted  
26 pursuant to NRS 645D.120;

27       (c) Has submitted proof that he or his employer holds a policy of insurance that  
28 complies with the requirements of subsection 1 of NRS 645D.190; and

29       (d) Has submitted all information required to complete an application for a  
30 certificate.

31      2. The Administrator may deny an application for a certificate to any person  
32 who:

33      (a) Has been convicted of, or entered a plea of guilty, *guilty but mentally ill* or  
34 nolo contendere to, forgery, embezzlement, obtaining money under false pretenses,  
35 larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

36      (b) Makes a false statement of a material fact on his application;

37      (c) Has had a certificate suspended or revoked pursuant to this chapter within  
38 the 10 years immediately preceding the date of his application; or

39      (d) Has not submitted proof that he or his employer holds a policy of insurance  
40 that complies with the requirements of subsection 1 of NRS 645D.190.

41       **Sec. 118.** NRS 683A.0892 is hereby amended to read as follows:

42       683A.0892 1. The Commissioner:

43       (a) Shall suspend or revoke the certificate of registration of an administrator if  
44 the Commissioner has determined, after notice and a hearing, that the administrator:

45           (1) Is in an unsound financial condition;

46           (2) Uses methods or practices in the conduct of his business that are  
47 hazardous or injurious to insured persons or members of the general public; or

48           (3) Has failed to pay any judgment against him in this State within 60 days  
49 after the judgment became final.

50       (b) May suspend or revoke the certificate of registration of an administrator if  
51 the Commissioner determines, after notice and a hearing, that the administrator:



1 (1) Has willfully violated or failed to comply with any provision of this  
2 Code, any regulation adopted pursuant to this Code or any order of the  
3 Commissioner;

4 (2) Has refused to be examined by the Commissioner or has refused to  
5 produce accounts, records or files for examination upon the request of the  
6 Commissioner;

7 (3) Has, without just cause, refused to pay claims or perform services  
8 pursuant to his contracts or has, without just cause, caused persons to accept less  
9 than the amount of money owed to them pursuant to the contracts, or has caused  
10 persons to employ an attorney or bring a civil action against him to receive full  
11 payment or settlement of claims;

12 (4) Is affiliated with, managed by or owned by another administrator or an  
13 insurer who transacts insurance in this State without a certificate of authority or  
14 certificate of registration;

15 (5) Fails to comply with any of the requirements for a certificate of  
16 registration;

17 (6) Has been convicted of , or has entered a plea of guilty , *guilty but*  
18 *mentally ill* or nolo contendere to , a felony, whether or not adjudication was  
19 withheld;

20 (7) Has had his authority to act as an administrator in another state limited,  
21 suspended or revoked; or

22 (8) Has failed to file an annual report in accordance with NRS  
23 683A.08528.

24 (c) May suspend or revoke the certificate of registration of an administrator if  
25 the Commissioner determines, after notice and a hearing, that a responsible person:

26 (1) Has refused to provide any information relating to the administrator's  
27 affairs or refused to perform any other legal obligation relating to an examination  
28 upon request by the Commissioner; or

29 (2) Has been convicted of , or has entered a plea of guilty , *guilty but*  
30 *mentally ill* or nolo contendere to , a felony committed on or after October 1, 2003,  
31 whether or not adjudication was withheld.

32 (d) May, upon notice to the administrator, suspend the certificate of  
33 registration of the administrator pending a hearing if:

34 (1) The administrator is impaired or insolvent;

35 (2) A proceeding for receivership, conservatorship or rehabilitation has  
36 been commenced against the administrator in any state; or

37 (3) The financial condition or the business practices of the administrator  
38 represent an imminent threat to the public health, safety or welfare of the residents  
39 of this State.

40 (e) May, in addition to or in lieu of the suspension or revocation of the  
41 certificate of registration of the administrator, impose a fine of \$2,000 for each act  
42 or violation.

43 2. As used in this section, "responsible person" means any person who is  
44 responsible for or controls or is authorized to control or advise the affairs of an  
45 administrator, including, without limitation:

46 (a) A member of the board of directors, board of trustees, executive committee  
47 or other governing board or committee of the administrator;

48 (b) The president, vice president, chief executive officer, chief operating  
49 officer or any other principal officer of an administrator, if the administrator is a  
50 corporation;

51 (c) A partner or member of the administrator, if the administrator is a  
52 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, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable him to fulfill the responsibilities of an adjuster;

(f) Pass all examinations required under this chapter; and

(g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:

(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom he is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;

(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or

(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (d) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

**Sec. 120.** NRS 686A.292 is hereby amended to read as follows:

686A.292 1. A court may, in addition to imposing the penalties set forth in NRS 193.130, order a person who is convicted of, or who pleads guilty, *guilty but mentally ill* or nolo contendere to, insurance fraud to pay:

(a) Court costs; and

(b) The cost of the investigation and prosecution of the insurance fraud for which the person was convicted or to which the person pleaded guilty, *guilty but mentally ill* or nolo contendere.

2. Any money received by the Attorney General pursuant to paragraph (b) of subsection 1 must be accounted for separately and used to pay the expenses of the Fraud Control Unit for Insurance established pursuant to NRS 228.412, and is hereby authorized for expenditure for that purpose. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

3. An insurer or other organization, or any other person, subject to the jurisdiction of the Commissioner pursuant to this title shall be deemed to be a

1 victim for the purposes of restitution in a case that involves insurance fraud or that  
2 is related to a claim of insurance fraud.

3 **Sec. 121.** NRS 686A.295 is hereby amended to read as follows:

4 686A.295 If a person who is licensed or registered under the laws of the State  
5 of Nevada to engage in a business or profession is convicted of , or pleads guilty *or*  
6 *guilty but mentally ill* to , engaging in an act of insurance fraud, the Commissioner  
7 and the Attorney General shall forward to each agency by which the convicted  
8 person is licensed or registered a copy of the conviction or plea and all supporting  
9 evidence of the act of insurance fraud. An agency that receives information from  
10 the Commissioner and Attorney General pursuant to this section shall, not later than  
11 1 year after the date on which it receives the information, submit a report which sets  
12 forth the action taken by the agency against the convicted person, including, but not  
13 limited to, the revocation or suspension of the license or any other disciplinary  
14 action, to the Director of the Legislative Counsel Bureau for transmittal to the  
15 Legislature.

16 **Sec. 122.** NRS 688C.210 is hereby amended to read as follows:

17 688C.210 After notice, and after a hearing if requested, the Commissioner  
18 may suspend, revoke, refuse to issue or refuse to renew a license under this chapter  
19 if he finds that:

- 20 1. There was material misrepresentation in the application for the license;
- 21 2. The licensee or an officer, partner, member or significant managerial  
22 employee has been convicted of fraudulent or dishonest practices, is subject to a  
23 final administrative action for disqualification, or is otherwise shown to be  
24 untrustworthy or incompetent;
- 25 3. A provider of viatical settlements has engaged in a pattern of unreasonable  
26 payments to viators;
- 27 4. The applicant or licensee has been found guilty *or guilty but mentally ill*  
28 of, or pleaded guilty , *guilty but mentally ill* or nolo contendere to, a felony or a  
29 misdemeanor involving fraud, forgery, embezzlement, obtaining money under false  
30 pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral  
31 turpitude, whether or not a judgment of conviction has been entered by the court;
- 32 5. A provider of viatical settlements has entered into a viatical settlement in a  
33 form not approved pursuant to NRS 688C.220;
- 34 6. A provider of viatical settlements has failed to honor obligations of a  
35 viatical settlement;
- 36 7. The licensee no longer meets a requirement for initial licensure;
- 37 8. A provider of viatical settlements has assigned, transferred or pledged a  
38 viaticated policy to a person other than another provider licensed under this chapter,  
39 a purchaser of the viatical settlement, a special organization or a trust for a related  
40 provider;
- 41 9. The applicant or licensee has provided materially untrue information to an  
42 insurer that issued a policy that is the subject of a viatical settlement;
- 43 10. The applicant or licensee has failed to pay a tax as required pursuant to  
44 the provisions of chapter 363A of NRS; or
- 45 11. The applicant or licensee has violated a provision of this chapter.

46 **Sec. 123.** NRS 689.235 is hereby amended to read as follows:

47 689.235 1. To qualify for an agent's license, the applicant:

- 48 (a) Must file a written application with the Commissioner on forms prescribed  
49 by the Commissioner;
- 50 (b) Must have a good business and personal reputation; and
- 51 (c) Must not have been convicted of, or entered a plea of guilty , *guilty but*  
52 *mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under

1 false pretenses, larceny, extortion, conspiracy to defraud or any crime involving  
2 moral turpitude.

3 2. The application must:

4 (a) Contain information concerning the applicant's identity, address, social  
5 security number and personal background and business, professional or work  
6 history.

7 (b) Contain such other pertinent information as the Commissioner may require.

8 (c) Be accompanied by a complete set of the fingerprints of the applicant and  
9 written permission authorizing the Commissioner to forward those fingerprints to  
10 the Central Repository for Nevada Records of Criminal History for submission to  
11 the Federal Bureau of Investigation for its report.

12 (d) Be accompanied by a fee representing the amount charged by the Federal  
13 Bureau of Investigation for processing the fingerprints of the applicant.

14 (e) Be accompanied by the statement required pursuant to NRS 689.258.

15 (f) Be accompanied by the applicable fee established in NRS 680B.010, which  
16 is not refundable.

17 3. A conviction of, or plea of guilty , *guilty but mentally ill* or nolo  
18 contendere by, an applicant or licensee for any crime listed in paragraph (c) of  
19 subsection 1 is a sufficient ground for the Commissioner to deny a license to the  
20 applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

21 **Sec. 124.** NRS 689.235 is hereby amended to read as follows:

22 689.235 1. To qualify for an agent's license, the applicant:

23 (a) Must file a written application with the Commissioner on forms prescribed  
24 by the Commissioner;

25 (b) Must have a good business and personal reputation; and

26 (c) Must not have been convicted of, or entered a plea of guilty , *guilty but*  
27 *mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under  
28 false pretenses, larceny, extortion, conspiracy to defraud or any crime involving  
29 moral turpitude.

30 2. The application must:

31 (a) Contain information concerning the applicant's identity, address, personal  
32 background and business, professional or work history.

33 (b) Contain such other pertinent information as the Commissioner may require.

34 (c) Be accompanied by a complete set of his fingerprints and written  
35 permission authorizing the Commissioner to forward those fingerprints to the  
36 Central Repository for Nevada Records of Criminal History for submission to the  
37 Federal Bureau of Investigation for its report.

38 (d) Be accompanied by a fee representing the amount charged by the Federal  
39 Bureau of Investigation for processing the fingerprints of the applicant.

40 (e) Be accompanied by the applicable fee established in NRS 680B.010, which  
41 is not refundable.

42 3. A conviction of, or plea of guilty , *guilty but mentally ill* or nolo  
43 contendere by, an applicant or licensee for any crime listed in paragraph (c) of  
44 subsection 1 is a sufficient ground for the Commissioner to deny a license to the  
45 applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

46 **Sec. 125.** NRS 689.520 is hereby amended to read as follows:

47 689.520 1. To qualify for an agent's license, the applicant:

48 (a) Must file a written application with the Commissioner on forms prescribed  
49 by the Commissioner; and

50 (b) Must not have been convicted of, or entered a plea of guilty , *guilty but*  
51 *mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under  
52 false pretenses, larceny, extortion, conspiracy to defraud or any crime involving  
53 moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(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.

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;

(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.

(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



1 contendere to, forgery, embezzlement, obtaining money under false pretenses,  
2 larceny, extortion, conspiracy to defraud or any crime involving moral turpitude. A  
3 conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an  
4 applicant or licensee for any crime listed in this subsection is a sufficient ground for  
5 the Commissioner to deny a license to the applicant or to suspend or revoke the  
6 license of the agent.

7 **Sec. 130.** 1. The amendatory provisions of sections 15 and 31 to ~~§ 37.1~~ **37.5**,  
8 inclusive, of this act concerning the discharge or conditional release of a person  
9 committed to the custody of the Administrator of the Division of Mental Health and  
10 Developmental Services of the Department of Health and Human Services pursuant  
11 to NRS 175.539 apply to any such person who is in the custody of the  
12 Administrator on or after October 1, 2007.

13 2. The amendatory provisions of sections 38 to 45, inclusive, of this act  
14 concerning the commitment and conditional release of a person committed to the  
15 custody of the Administrator pursuant to NRS 178.400 to 178.460, inclusive, apply  
16 to any such person who is in the custody of the Administrator on October 1, 2007.

17 **Sec. 131.** 1. This section and sections 1 to 66, inclusive, 68 to 84, inclusive,  
18 86, 88 to 93, inclusive, 95, 97 to 123, inclusive, 125 and 127 to 130, inclusive, of  
19 this act become effective on October 1, 2007.

20 2. Section 66 of this act expires by limitation on June 30, 2009.

21 3. Sections 84, 86, 93 and 95 of this act expire by limitation on the date of the  
22 repeal of the federal law requiring each state to make it unlawful for a person to  
23 operate a motor vehicle with a blood alcohol concentration of 0.08 percent or  
24 greater as a condition to receiving federal funding for the construction of highways  
25 in this State.

26 4. Sections 123 and 125 of this act expire by limitation on the date on which  
27 the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under  
28 which the state has authority to withhold or suspend, or to restrict the use of  
29 professional, occupational and recreational licenses of persons who:

30 (a) Have failed to comply with a subpoena or warrant relating to a proceeding  
31 to determine the paternity of a child or to establish or enforce an obligation for the  
32 support of a child; or

33 (b) Are in arrears in the payment for the support of one or more children,  
34 ➤ are repealed by the Congress of the United States.

35 5. Section 67 of this act becomes effective on July 1, 2009.

36 6. Sections 85, 87, 94 and 96 of this act become effective on the date of the  
37 repeal of the federal law requiring each state to make it unlawful for a person to  
38 operate a motor vehicle with a blood alcohol concentration of 0.08 percent or  
39 greater as a condition to receiving federal funding for the construction of highways  
40 in this State.

41 7. Sections 124 and 126 of this act become effective on the date on which the  
42 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under  
43 which the state has the authority to withhold or suspend, or to restrict the use of  
44 professional, occupational and recreational licenses of persons who:

45 (a) Have failed to comply with a subpoena or warrant relating to a proceeding  
46 to determine the paternity of a child or to establish or enforce an obligation for the  
47 support of a child; or

48 (b) Are in arrears in the payment for the support of one or more children,  
49 ➤ are repealed by the Congress of the United States.