

ASSEMBLY BILL NO. 81—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 20, 2014

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing programs of treatment for the abuse of alcohol or drugs. (BDR 40-488)

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

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

AN ACT relating to specialty court programs; revising provisions governing programs of treatment for the abuse of alcohol or drugs; defining the term “treatment provider”; replacing certain references to a facility for the treatment of alcohol or drugs with the term “treatment provider”; authorizing a court to allow a person to complete treatment for the abuse of alcohol or drugs under the supervision of a treatment provider in another jurisdiction in certain circumstances; requiring a treatment provider to comply with the requirements of a specialty court in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that in certain circumstances, an alcoholic or a drug addict who has been convicted of a crime is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs before he or she is sentenced. (NRS 458.300) If the court finds that the person is eligible to make such an election, the court is required to hold a hearing before it sentences the person to determine whether the person should receive treatment under the supervision of a state-approved facility for the treatment of alcohol or drugs. (NRS 458.310) **Section 11** of this bill defines the term “treatment provider” as a public or private agency, residential treatment center, facility for the treatment of abuse of alcohol or drugs, voluntary organization which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services, or a licensed



or certified psychologist, marriage and family therapist, social worker or alcohol, drug and gambling counselor. **Sections 12-19 and 21-24** of this bill replace certain references to the term "facility" in chapter 458 of NRS with the term "treatment provider." **Sections 9, 10 and 26.5** of this bill provide that if a court places a person under the supervision of a treatment provider to receive treatment, the court may, in certain circumstances, authorize the person to complete any period of treatment remaining under the supervision of a treatment provider in another jurisdiction. **Sections 9 and 21** revise the duties of the court when the court offers the election of a treatment program to a person. **Section 22** provides that if a person makes such an election to participate in a treatment program and the court has a specialty court for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court.

Existing law also allows certain offenders found guilty of driving under the influence of alcohol or a prohibited substance to apply to the court to undergo a program of treatment for alcoholism and drug abuse. (NRS 484C.320, 484C.330, 484C.340) **Sections 27-34** of this bill replace the term "treatment facility" for the purposes of chapter 484C of NRS with the term "treatment provider." **Sections 28-30** also revise the duties of the court upon determining that an application for treatment should be granted.

Sections 8, 9, 25 and 26 of this bill generally replace references to facilities for the treatment of abuse of alcohol or drugs in other chapters of NRS with the term "treatment provider."

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:



(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, 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 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by ~~an approved facility for the treatment of abuse of drugs~~ *a treatment provider approved by the court* to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that the person is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580. *As used in this subparagraph, "treatment provider" has the meaning ascribed to it in NRS 458.010.*

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.



5. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

6. As used in this section:

(a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) "Sterile hypodermic device program" has the meaning ascribed to it in NRS ~~[439.943.]~~ **439.986.**

Sec. 9. NRS 453.580 is hereby amended to read as follows:

453.580 1. A court may establish an appropriate treatment program to which it may assign a person pursuant to subsection 4 of NRS 453.336, NRS 453.3363 or 458.300, or it may assign such a person to an appropriate ~~[facility for the treatment of abuse of alcohol or drugs which is certified by the Division of Public and Behavioral Health of the Department.]~~ **treatment provider.** The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.

2. A program to which a court assigns a person pursuant to subsection 1 must include:

(a) Information and encouragement for the participant to cease abusing alcohol or using controlled substances through educational, counseling and support sessions developed with the cooperation of various community, health, substance abuse, religious, social service and youth organizations;

(b) The opportunity for the participant to understand the medical, psychological and social implications of substance abuse; and

(c) Alternate courses within the program based on the different substances abused and the addictions of participants.

3. If the offense with which the person was charged involved the use or possession of a controlled substance, in addition to the program or as a part of the program, the court must also require ~~[frequent urinalysis]~~ **random testing or screening** to determine that the person is not using a controlled substance. ~~[The court shall specify how frequent such examinations must be and how many must be successfully completed, independently of other requisites for successful completion of the program.]~~

4. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required pursuant to subsection 3, to the extent of the



1 financial resources of the person. If the person does not have the
2 financial resources to pay all of the related costs, the court shall, to
3 the extent practicable, arrange for the person to be assigned to a
4 program ~~[at a facility]~~ *with a treatment provider* that receives a
5 sufficient amount of federal or state funding to offset the remainder
6 of the costs.

7 *5. If a court places a person under the supervision of a*
8 *treatment provider to receive treatment for the abuse of alcohol or*
9 *use of controlled substances pursuant to this section, the court*
10 *may authorize the person to complete any period of treatment*
11 *remaining under the supervision of a treatment provider in*
12 *another jurisdiction if the court determines that:*

13 *(a) The person is eligible to receive treatment under a program*
14 *of treatment in the other jurisdiction; and*

15 *(b) The program of treatment in the other jurisdiction is*
16 *substantially similar to the program of treatment to which the*
17 *person is assigned in this State.*

18 *6. As used in this section:*

19 *(a) "Treatment provider" has the meaning ascribed to it in*
20 *NRS 458.010.*

21 *(b) "Treatment provider in another jurisdiction" means a*
22 *person or a public or private agency, residential treatment center,*
23 *facility for the treatment of abuse of alcohol or drugs, or voluntary*
24 *organization which holds a license, certificate or other credential*
25 *issued by a regulatory agency in another jurisdiction.*

26 **Sec. 10.** Chapter 458 of NRS is hereby amended by adding
27 thereto a new section to read as follows:

28 *1. If a court places a person under the supervision of a*
29 *treatment provider to receive treatment for the abuse of alcohol or*
30 *drugs pursuant to NRS 458.290 to 458.350, inclusive, the court*
31 *may authorize the person to complete any period of treatment*
32 *remaining under the supervision of a treatment provider in*
33 *another jurisdiction if the court determines that:*

34 *(a) The person is eligible to receive treatment under a program*
35 *of treatment in the other jurisdiction; and*

36 *(b) The program of treatment in the other jurisdiction is*
37 *substantially similar to the program of treatment to which the*
38 *person is assigned in this State.*

39 *2. As used in this section, "treatment provider in another*
40 *jurisdiction" means a person or a public or private agency,*
41 *residential treatment center, facility for the treatment of abuse of*
42 *alcohol or drugs, or voluntary organization which holds a license,*
43 *certificate or other credential issued by a regulatory agency in*
44 *another jurisdiction.*



Sec. 11. NRS 458.010 is hereby amended to read as follows:

458.010 As used in NRS 458.010 to 458.350, inclusive, *and section 10 of this act*, unless the context requires otherwise:

1. “Administrator” means the Administrator of the Division.

2. “Alcohol and drug abuse program” means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.

3. “Alcohol and drug abuser” means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects the ability of the person to function socially or economically.

4. “Alcoholic” means any person who habitually uses alcoholic beverages to the extent that the person endangers the health, safety or welfare of himself or herself or any other person or group of persons.

5. “Civil protective custody” means a custodial placement of a person to protect the health or safety of the person. Civil protective custody does not have any criminal implication.

6. “Detoxification technician” means a person who is certified by the Division to provide screening for the safe withdrawal from alcohol and other drugs.

7. “Division” means the Division of Public and Behavioral Health of the Department of Health and Human Services.

8. “Facility” means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers.

9. *“Treatment provider” means a public or private agency, residential treatment center, facility for the treatment of abuse of alcohol or drugs, voluntary organization which is certified by the Division or a practitioner licensed or certified pursuant to chapter 641, 641A, 641B or 641C of NRS.*

Sec. 12. NRS 458.025 is hereby amended to read as follows:

458.025 The Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the ~~facilities~~ *treatment providers* needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and



1 recovery of alcohol and drug abusers, and a plan to provide the
2 necessary treatment.

3 ➡ In developing and revising the state plan, the Division shall
4 consider, without limitation, the amount of money available from
5 the Federal Government for alcohol and drug abuse programs and
6 the conditions attached to the acceptance of that money, and the
7 limitations of legislative appropriations for alcohol and drug abuse
8 programs.

9 2. Shall coordinate the efforts to carry out the state plan and
10 coordinate all state and federal financial support of alcohol and drug
11 abuse programs in this State.

12 3. Must be consulted in the planning of projects and advised of
13 all applications for grants from within this State which are
14 concerned with alcohol and drug abuse programs, and shall review
15 the applications and advise the applicants concerning the
16 applications.

17 4. Shall certify or deny certification of detoxification
18 technicians or any facilities or programs on the basis of the
19 standards established by the Division pursuant to this section, and
20 publish a list of certified detoxification technicians, facilities and
21 programs. Any detoxification technicians, facilities or programs
22 which are not certified are ineligible to receive state and federal
23 money for alcohol and drug abuse programs. The Division shall
24 adopt regulations. The regulations:

25 (a) Must prescribe the requirements for continuing education for
26 persons certified as detoxification technicians; and

27 (b) May prescribe the fees for the certification of detoxification
28 technicians, facilities or programs. A fee prescribed pursuant to this
29 paragraph must be calculated to produce the revenue estimated to
30 cover the costs related to the certifications, but in no case may a fee
31 for a certificate exceed the actual cost to the Division of issuing the
32 certificate.

33 5. Upon request from a facility which is self-supported, may
34 certify the facility, its programs and detoxification technicians and
35 add them to the list described in subsection 4.

36 **Sec. 13.** NRS 458.080 is hereby amended to read as follows:

37 458.080 The Division may, by contracting with organized
38 groups, render partial financial assistance ~~for the operation of~~
39 ~~facilities~~ *for treatment providers* established by these groups. Each
40 such contract must contain a provision allowing for an audit of all
41 accounts, books and other financial records of the organization with
42 which the agency contracts.

43 **Sec. 14.** (Deleted by amendment.)



Sec. 15. NRS 458.125 is hereby amended to read as follows:

458.125 1. The Division shall prepare requests for proposals for the provision by ~~{facilities}~~ *treatment providers* of:

(a) Residential treatment of adolescents who engage in substance abuse;

(b) Outpatient treatment of adolescents who engage in substance abuse;

(c) Comprehensive evaluations of adolescents with problems relating to substance abuse or mental illness, or both; and

(d) Transitional housing for adolescents who engage in substance abuse.

2. Upon accepting a proposal submitted in accordance with this section, the Division may advance not more than 8 percent of the amount of the proposal to the ~~{facility}~~ *treatment provider* that submitted the proposal to help defray the costs of starting the provision of the services, including, without limitation, the cost of beds, equipment and rental space for expansion.

3. The Division shall establish such requirements for the requests for proposals as it determines necessary.

4. The Division shall hire, to the extent of legislative authorization, such staff as it determines necessary to carry out the provisions of this section and NRS 458.131.

Sec. 16. NRS 458.131 is hereby amended to read as follows:

458.131 The Division shall, on or before September 1 of each odd-numbered year, submit to the Director of the Department of Health and Human Services a report covering the biennium ending on June 30 of that year. The report must include:

1. The name of each ~~{facility}~~ *treatment provider* that received money pursuant to NRS 458.125 during the biennium, and the amount of money that each ~~{facility}~~ *treatment provider* received for each type of service provided;

2. If a ~~{facility}~~ *treatment provider* received money pursuant to NRS 458.125 during the biennium to help defray the costs of starting the provision of services, the name of the ~~{facility,}~~ *treatment provider*, the amount of money received and an accounting of how the money was used;

3. The number of adolescents who received any of the services described in NRS 458.125 from those ~~{facilities}~~ *treatment providers* during the biennium, and the number of adolescents who were receiving those services as of the end of the biennium; and

4. As of the end of the biennium:

(a) The number of adolescents on waiting lists to receive the services described in NRS 458.125; and

(b) An estimate of the number of other adolescents in this State who are in need of the services described in NRS 458.125.



1 **Sec. 17.** (Deleted by amendment.)

2 **Sec. 18.** NRS 458.270 is hereby amended to read as follows:

3 458.270 1. Except as otherwise provided in subsection 7, a
4 person who is found in any public place under the influence of
5 alcohol, in such a condition that the person is unable to exercise care
6 for his or her health or safety or the health or safety of other persons,
7 must be placed under civil protective custody by a peace officer.

8 2. A peace officer may use upon such a person the kind and
9 degree of force which would be lawful if the peace officer were
10 effecting an arrest for a misdemeanor with a warrant.

11 3. If a licensed facility for the treatment of persons who abuse
12 alcohol *that has been certified by the Division for civil protective*
13 *custody* exists in the community where the person is found, the
14 person must be delivered to the facility for observation and care. If
15 no such facility exists in the community, the person so found may
16 be placed in a county or city jail or detention facility for shelter or
17 supervision for his or her health and safety until he or she is no
18 longer under the influence of alcohol. The person may not be
19 required against his or her will to remain in a licensed facility, jail or
20 detention facility longer than 48 hours.

21 4. An intoxicated person taken into custody by a peace officer
22 for a public offense must immediately be taken to a secure
23 detoxification unit or other appropriate medical facility if the
24 condition of the person appears to require emergency medical
25 treatment. Upon release from the detoxification unit or medical
26 facility, the person must immediately be remanded to the custody of
27 the apprehending peace officer and the criminal proceedings
28 proceed as prescribed by law.

29 5. The placement of a person found under the influence of
30 alcohol in civil protective custody must be:

31 (a) Recorded at the facility, jail or detention facility to which the
32 person is delivered; and

33 (b) Communicated at the earliest practical time to the person's
34 family or next of kin if they can be located.

35 6. Every peace officer and other public employee or agency
36 acting pursuant to this section is performing a discretionary function
37 or duty.

38 7. The provisions of this section do not apply to a person who
39 is apprehended or arrested for:

40 (a) A civil or administrative violation for which intoxication is
41 an element of the violation pursuant to the provisions of a specific
42 statute or regulation;

43 (b) A criminal offense for which intoxication is an element of
44 the offense pursuant to the provisions of a specific statute or
45 regulation;



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(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425; and

(d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.

Sec. 19. NRS 458.280 is hereby amended to read as follows:

458.280 1. Except as otherwise provided in subsection 2, NRS 439.538, 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS, the registration and other records of a treatment facility *and treatment provider* are confidential and must not be disclosed to any person not connected with the treatment facility *or treatment provider* without the consent of the patient.

2. The provisions of subsection 1 do not restrict the use of a patient's records for the purpose of research into the causes and treatment of alcoholism if such information is:

(a) Not published in a way that discloses the patient's name or other identifying information; or

(b) Disclosed pursuant to NRS 439.538.

Sec. 20. NRS 458.300 is hereby amended to read as follows:

458.300 Subject to the provisions of NRS 458.290 to 458.350, inclusive, *and section 10 of this act*, an alcoholic or a drug addict who has been convicted of a crime is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 before he or she is sentenced unless:

1. The crime is:

(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;

(b) A crime against a child as defined in NRS 179D.0357;

(c) A sexual offense as defined in NRS 179D.097; or

(d) An act which constitutes domestic violence as set forth in NRS 33.018;

2. The crime is that of trafficking of a controlled substance;

3. The crime is a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430;

4. The alcoholic or drug addict has a record of two or more convictions of a crime described in subsection 1 or 2, a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;



6. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election; or

7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, *and section 10 of this act* to a program of treatment not more than twice within the preceding 5 years.

Sec. 21. NRS 458.310 is hereby amended to read as follows:

458.310 1. If the court has reason to believe that a person who has been convicted of a crime is an alcoholic or drug addict, or the person states that he or she is an alcoholic or drug addict, and the court finds that the person is eligible to make the election provided for in NRS 458.300, the court shall hold a hearing before it sentences the person to determine whether or not the person should receive treatment under the supervision of a ~~[state-approved facility for the treatment of abuse of alcohol or drugs.]~~ *treatment provider approved by the court.* The district attorney may present the court with any evidence concerning the advisability of permitting the person to make the election.

2. At the hearing the court shall advise the person that sentencing will be postponed if he or she elects to submit to treatment and is accepted for treatment by a ~~[state-approved facility.]~~ *treatment provider approved by the court.* In offering the election, the court shall advise the person that:

(a) The court may impose any conditions upon the election of treatment that could be imposed as conditions of probation;

(b) If the person elects to submit to treatment and is accepted, he or she may be placed under the supervision of the ~~[facility]~~ *treatment provider* for a period of not less than 1 year nor more than 3 years;

(c) ~~[During treatment the person may be confined in an institution or, at the discretion of the facility, released for]~~ *The court may order the person to be admitted to a residential treatment facility or to be provided with outpatient treatment [or supervised care]* in the community; and

(d) If the person satisfactorily completes treatment and satisfies the conditions upon the election of treatment, as determined by the court, the conviction will be set aside, but if the person does not satisfactorily complete the treatment and satisfy the conditions, he or she may be sentenced and the sentence executed.

Sec. 22. NRS 458.320 is hereby amended to read as follows:

458.320 1. If the court, after a hearing, determines that a person is entitled to accept the treatment offered pursuant to NRS 458.310, the court shall order ~~[an approved facility for the treatment of abuse of alcohol or drugs]~~ *a treatment provider approved by the*



court to conduct an ~~[examination]~~ *evaluation* of the person to determine whether the person is an alcoholic or drug addict and is likely to be rehabilitated through treatment. The ~~[facility]~~ *treatment provider* shall report to the court the results of the ~~[examination]~~ *evaluation* and recommend whether the person should be placed under supervision for treatment.

2. If the court, acting on the report or other relevant information, determines that the person is not an alcoholic or drug addict, is not likely to be rehabilitated through treatment or is otherwise not a good candidate for treatment, the person may be sentenced and the sentence executed.

3. If the court determines that the person is an alcoholic or drug addict, is likely to be rehabilitated through treatment and is a good candidate for treatment, the court may:

(a) Impose any conditions to the election of treatment that could be imposed as conditions of probation;

(b) Defer sentencing until such time, if any, as sentencing is authorized pursuant to NRS 458.330; and

(c) Place the person under the supervision of ~~[an approved facility]~~ *a treatment provider approved by the court* for treatment for not less than 1 year nor more than 3 years.

➔ The court may require such progress reports on the treatment of the person as it deems necessary. *If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.*

4. A person who is placed under the supervision of ~~[an approved facility]~~ *a treatment provider approved by the court* for treatment shall pay the cost of the program of treatment to which the person is assigned and the cost of any additional supervision that may be required, to the extent of his or her financial resources. The court may issue a judgment in favor of the ~~[court or facility for]~~ *treatment provider* for the costs of the treatment and supervision which remain unpaid at the conclusion of the treatment. Such a judgment constitutes a lien in like manner as a judgment for money rendered in a civil action, but in no event may the amount of the judgment include any amount of the debt which was extinguished by the successful completion of community service pursuant to subsection 5.

5. If the person who is placed under the supervision of ~~[an approved facility]~~ *a treatment provider approved by the court* for treatment does not have the financial resources to pay all of the related costs:



(a) The court shall, to the extent practicable, arrange for the person to be assigned to a program ~~[at a facility]~~ *with a treatment provider* that receives a sufficient amount of federal or state funding to offset the remainder of the costs; and

(b) The court may order the person to perform supervised community service in lieu of paying the remainder of the costs relating to the treatment and supervision of the person. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents. The court may require the person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community service, unless, in the case of industrial insurance, it is provided by the authority for which the person performs the community service.

6. No person may be placed under the supervision of a ~~[facility]~~ *treatment provider* under this section unless the ~~[facility]~~ *treatment provider* accepts the person for treatment.

Sec. 23. NRS 458.330 is hereby amended to read as follows:

458.330 1. Whenever a person is placed under the supervision of a treatment ~~[facility,]~~ *provider, including a treatment provider in another jurisdiction pursuant to section 10 of this act,* the person's sentencing must be deferred and the person's conviction must be set aside if ~~[the]~~ :

(a) *The* treatment ~~[facility]~~ *provider* certifies to the court that the person has satisfactorily completed the treatment program ; ~~[,]~~ and ~~[the]~~

(b) *The* court approves the certification and determines that the conditions upon the election of treatment have been satisfied.

2. If, upon the expiration of the treatment period, the treatment ~~[facility]~~ *provider* has yet to certify that the person has completed his or her treatment program, the court shall sentence the person. If the person has satisfied the conditions to the election of treatment and the court believes that the person will complete his or her treatment on a voluntary basis, it may, in its discretion, set the conviction aside.

3. If, before the treatment period expires, the treatment ~~[facility]~~ *provider* determines that the person is not likely to benefit from further treatment ~~[at the facility,]~~ *with the treatment provider,* it shall so advise the court. The court shall then:

(a) Arrange for the transfer of the person to a more suitable treatment ~~[facility,]~~ *provider,* if any; or



(b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

➡ Whenever a person is sentenced under this section, time spent in ~~[institutional care]~~ *inpatient treatment* must be deducted from any sentence imposed.

4. Upon satisfactory completion of the treatment program, the court shall order sealed all documents, papers and exhibits in the person's record, minute book entries and entries on dockets, and other documents related to the case in the custody of such other agencies and officers as are named in the court's order. The court shall order those records sealed without a hearing unless the prosecution petitions the court, for good cause shown, not to seal the records and requests a hearing thereon. When the court orders sealed the records of a person pursuant to this subsection, the court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order. The provisions of this subsection apply only to the offense for which the person has been placed into treatment pursuant to NRS 458.290 to 458.350, inclusive ~~[]~~ *and section 10 of this act.*

Sec. 24. NRS 458.350 is hereby amended to read as follows:

458.350 The provisions of NRS 458.290 to 458.350, inclusive, *and section 10 of this act* do not require the State or any of its political subdivisions to establish or finance any ~~[facility]~~ *treatment provider* for the treatment of abuse of alcohol or drugs.

Sec. 25. NRS 62A.340 is hereby amended to read as follows:

62A.340 "~~Treatment [facility] means a facility for the treatment of abuse of alcohol or drugs that is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.]~~ *provider" has the meaning ascribed to it in NRS 458.010.*

Sec. 26. NRS 62E.620 is hereby amended to read as follows:

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

(a) An unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430;

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

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

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

(a) A clinical alcohol and drug abuse counselor who is licensed, an alcohol and drug abuse counselor who is licensed or certified, or



1 an alcohol and drug abuse counselor intern or a clinical alcohol and
2 drug abuse counselor intern who is certified, pursuant to chapter
3 641C of NRS, to make that classification; or

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

6 3. If the child resides in this State but the nearest location at
7 which an evaluation may be conducted is in another state, the court
8 may allow the evaluation to be conducted in the other state if the
9 person conducting the evaluation:

10 (a) Possesses qualifications that are substantially similar to the
11 qualifications described in subsection 2;

12 (b) Holds an appropriate license, certificate or credential issued
13 by a regulatory agency in the other state; and

14 (c) Is in good standing with the regulatory agency in the other
15 state.

16 4. The evaluation of the child may be conducted at an
17 evaluation center.

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

22 6. The juvenile court shall:

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

26 (b) Require the treatment ~~facility~~ **provider** to submit monthly
27 reports on the treatment of the child pursuant to this section.

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

33 (1) The juvenile court shall, to the extent possible, arrange
34 for the child to receive treatment from a treatment ~~facility~~ **provider**
35 which receives a sufficient amount of federal or state money to
36 offset the remainder of the costs; and

37 (2) The juvenile court may order the child, in lieu of paying
38 the charges relating to the child's evaluation and treatment, to
39 perform community service.

40 7. After a treatment ~~facility~~ **provider** has certified a child's
41 successful completion of a program of treatment ordered pursuant to
42 this section, the treatment ~~facility~~ **provider** is not liable for any
43 damages to person or property caused by a child who:



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

(b) Engages in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

8. The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Division of Public and Behavioral Health of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

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

9. Except as otherwise provided in NRS 239.0115, all information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:

(a) The juvenile court;

(b) The child;

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

(d) The parents or guardian of the child;

(e) The district attorney; and

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

10. A record of any finding that a child has violated the provisions of NRS 484C.110, 484C.120, 484C.130 or 484C.430 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 26.5. Chapter 484C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a court places a person under the supervision of a treatment provider to receive treatment for the abuse of alcohol or drugs pursuant to NRS 484C.320, 484C.330, 484C.340 or 484C.360, the court may authorize the person to complete any period of treatment remaining under the supervision of a treatment provider in another jurisdiction if the court determines that:

(a) The person is eligible to receive treatment under a program of treatment in the other jurisdiction; and



(b) *The program of treatment in the other jurisdiction is substantially similar to the program of treatment to which the person is assigned in this State.*

2. *As used in this section, "treatment provider in another jurisdiction" means a person or a public or private agency, residential treatment center, facility for the treatment of abuse of alcohol or drugs, or voluntary organization which holds a license, certificate or other credential issued by a regulatory agency.*

Sec. 27. NRS 484C.100 is hereby amended to read as follows:

484C.100 ~~"Treatment [facility] means a facility for the treatment of abuse of alcohol or drugs, which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services."~~ *provider" has the meaning ascribed to it in NRS 458.010.*

Sec. 28. NRS 484C.320 is hereby amended to read as follows:

484C.320 1. An offender who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, other than an offender who is found to have a concentration of alcohol of 0.18 or more in his or her blood or breath, may, at that time or any time before the offender is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse ~~[which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services]~~ for at least 6 months. The court shall authorize that treatment if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the cost of the treatment to the extent of his or her financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug abuse. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own



1 motion. The hearing must be limited to the question of whether the
2 offender is eligible to undergo such a program of treatment.

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

8 4. If the court grants an application for treatment, the court
9 shall:

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

12 (b) Suspend the sentence of the offender for not more than 3
13 years upon the condition that the offender be accepted for treatment
14 by a treatment ~~[facility.]~~ *provider that is approved by the court*, that
15 the offender complete the treatment satisfactorily and that the
16 offender comply with any other condition ordered by the court. *If*
17 *the court has a specialty court program for the supervision and*
18 *monitoring of the person, the treatment provider must comply with*
19 *the requirements of the specialty court, including, without*
20 *limitation, any requirement to submit progress reports to the*
21 *specialty court.*

22 (c) Advise the offender that:

23 (1) ~~[If the offender is accepted for treatment by such a~~
24 ~~facility, he] He~~ or she may be placed under the supervision of ~~[the~~
25 ~~facility] a treatment provider~~ for a period not to exceed 3 years .
26 ~~[and during treatment the offender may be confined in an institution~~
27 ~~or, at the discretion of the facility, released for]~~

28 (2) *The court may order the offender to be admitted to a*
29 *residential treatment facility or to be provided with outpatient*
30 *treatment [or supervised aftercare] in the community.*

31 ~~[(2)]~~ (3) If the offender ~~[is not accepted for treatment by~~
32 ~~such a facility or he or she]~~ fails to complete the *program of*
33 *treatment* satisfactorily, the offender shall serve the sentence
34 imposed by the court. Any sentence of imprisonment must be
35 reduced by a time equal to that which the offender served before
36 beginning treatment.

37 ~~[(3)]~~ (4) If the offender completes the treatment
38 satisfactorily, the offender's sentence will be reduced to a term of
39 imprisonment which is no longer than that provided for the offense
40 in paragraph (c) of subsection 1 and a fine of not more than the
41 minimum fine provided for the offense in NRS 484C.400, but
42 the conviction must remain on the record of criminal history of the
43 offender.



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

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

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

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his or her failure to be accepted for or complete treatment.

Sec. 29. NRS 484C.330 is hereby amended to read as follows:

484C.330 1. An offender who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484C.400 may, at that time or any time before the offender is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse ~~[which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services]~~ for at least 1 year . *The court shall authorize that treatment* if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the costs of the treatment to the extent of his or her financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 5 days and, if required pursuant to NRS 484C.400, has performed or will perform not less than one-half of the hours of community service.

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

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



4. If the court ~~{determines that}~~ *grants* an application for treatment, ~~{should be granted,}~~ the court shall:

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

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment ~~{facility,}~~ *provider that is approved by the court*, that the offender complete the treatment satisfactorily and that the offender comply with any other condition ordered by the court. *If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.*

(c) Advise the offender that:

(1) ~~{If the offender is accepted for treatment by such a facility, he}~~ *He* or she may be placed under the supervision of the ~~{facility}~~ *treatment provider* for a period not to exceed 3 years. ~~{and during treatment the offender may be confined in an institution or, at the discretion of the facility, released for}~~

(2) *The court may order the offender to be admitted to a residential treatment facility or to be provided with outpatient treatment* ~~{or supervised aftercare}~~ in the community.

~~{(2)}~~ (3) If the offender ~~{is not accepted for treatment by such a facility or he or she}~~ fails to complete the *program of* treatment satisfactorily, the offender shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which the offender served before beginning treatment.

~~{(3)}~~ (4) If the offender completes the treatment satisfactorily, the offender's sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484C.400, but the conviction must remain on the record of criminal history of the offender.

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

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

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



6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his or her failure to be accepted for or complete treatment.

Sec. 30. NRS 484C.340 is hereby amended to read as follows:

484C.340 1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400 may, at the time the offender enters a plea, apply to the court to undergo a program of treatment for alcoholism or drug abuse ~~[which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services]~~ for at least 3 years. *The court may authorize that treatment* if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his or her financial resources.

➤ An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

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

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

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

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place the offender on probation for not more than 5 years. ~~[upon the condition that the offender be accepted for treatment by a treatment facility, that the offender complete the treatment satisfactorily and~~



~~that the offender comply with any other condition ordered by the court.]~~

(b) *Order the offender to complete a program of treatment for alcoholism or drug abuse with a treatment provider approved by the court. If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.*

(c) Advise the offender that:

(1) ~~[If the offender is accepted for treatment by such a facility, he]~~ *He* or she may be placed under the supervision of ~~[the facility]~~ *a treatment provider* for not more than 5 years. ~~[and during treatment]~~

(2) *The court may order* the offender ~~[may]~~ *to* be ~~[confined in an institution or, at the discretion of the]~~ *admitted to a residential treatment facility* ~~[, released for]~~ *or to be provided with outpatient treatment* ~~[for supervised aftercare]~~ in the community.

~~[(2) If the offender is not accepted for treatment by such a treatment facility, or if he or she fails to complete the treatment satisfactorily, the]~~

(3) *The* court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484C.400 ~~[]~~ *if a treatment provider fails to accept the offender for a program of treatment for alcoholism or drug abuse or if the offender fails to complete the program of treatment satisfactorily.* Any sentence of imprisonment may be reduced by a time equal to that which the offender served before beginning treatment.

~~[(3)]~~ (4) If the offender completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484C.400.

~~[(4)]~~ (5) The provisions of NRS 483.460 requiring the revocation of the license, permit or privilege of the offender to drive do not apply.

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

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484C.400 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;



(b) Install, at his or her own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if the offender has previously applied to receive treatment pursuant to this section or if the offender has previously been convicted of:

(a) A violation of NRS 484C.430;

(b) A violation of NRS 484C.130;

(c) 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 484C.110, 484C.130 or 484C.430;

(d) A violation of paragraph (c) of subsection 1 of NRS 484C.400;

(e) A violation of NRS 484C.410; or

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

8. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.

Sec. 31. NRS 484C.360 is hereby amended to read as follows:

484C.360 1. When a program of treatment is ordered pursuant to NRS 484C.340 or paragraph (a) or (b) of subsection 1 of NRS 484C.400, the court shall place the offender under the clinical supervision of a treatment ~~facility~~ *provider* for treatment in accordance with the report submitted to the court pursuant to NRS 484C.340 or subsection 3, 4, 5 or 6 of NRS 484C.350, as appropriate. The court shall:

(a) Order the offender ~~confined in~~ *to be placed under the supervision of* a treatment ~~facility~~ *provider*, then release the offender for supervised aftercare in the community; or

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

2. The court shall:

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

(b) Order the offender, to the extent of his or her financial resources, to pay any charges for treatment pursuant to this section. If the offender does not have the financial resources to pay all those



charges, the court shall, to the extent possible, arrange for the offender to obtain the treatment from a treatment ~~facility~~ provider that receives a sufficient amount of federal or state money to offset the remainder of the charges.

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

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

(b) Engages in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct,

➔ after the treatment ~~facility~~ provider has certified that the offender has successfully completed a program of treatment ordered pursuant to NRS 484C.340 or paragraph (a) or (b) of subsection 1 of NRS 484C.400.

Sec. 32. NRS 484C.400 is hereby amended to read as follows:

484C.400 1. Unless a greater penalty is provided pursuant to NRS 484C.430 or 484C.440, and except as otherwise provided in NRS 484C.410, a person who violates the provisions of NRS 484C.110 or 484C.120:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless the person is allowed to undergo treatment as provided in NRS 484C.320, the court shall:

(1) Except as otherwise provided in subparagraph (4) of this paragraph or subsection 2 of NRS 484C.420, order the person 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 the person fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484C.320, sentence the person 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 the person as having violated the provisions of NRS 484C.110 or 484C.120;

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

(4) If the person is found to have a concentration of alcohol of 0.18 or more in his or her blood or breath, order the person to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.



(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484C.330, the court shall:

(1) Sentence the person to:

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

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

(2) Fine the person not less than \$750 nor more than \$1,000, or order the person to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120; and

(3) Order the person to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.

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

(c) Except as otherwise provided in NRS 484C.340, for a third offense within 7 years, 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 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender who is imprisoned pursuant to the provisions of this paragraph 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. 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.

3. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This



discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484C.320 or 484C.330 and the suspension of his or her sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560, 484C.410 or 485.330 must run consecutively.

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

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

7. As used in this section, unless the context otherwise requires, "offense" means:

(a) A violation of NRS 484C.110, 484C.120 or 484C.430;

(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 484C.110, 484C.130 or 484C.430; 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. 33. NRS 484C.410 is hereby amended to read as follows:

484C.410 1. Unless a greater penalty is provided in NRS 484C.440, a person who has previously been convicted of:

(a) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;

(b) A violation of NRS 484C.430;

(c) 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 484C.110, 484C.130 or 484C.430;

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



(e) A violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484C.400 that was reduced from a felony pursuant to NRS 484C.340,

and who violates the provisions of NRS 484C.110 or 484C.120 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. An offense which is listed in paragraphs (a) to (e), inclusive, of subsection 1 that occurred on any date 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 for 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.

3. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484C.320 or 484C.330 and the suspension of offender's sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560, 484C.400 or 485.330 must run consecutively.

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

6. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is



1 imprisoned, serving a term of residential confinement, ~~confined in~~
2 *placed under the supervision of* a treatment ~~facility;~~ *provider*, on
3 parole or on probation must be excluded.

4 7. As used in this section, unless the context otherwise
5 requires, "offense" means:

6 (a) A violation of NRS 484C.110, 484C.120 or 484C.430;

7 (b) A homicide resulting from driving or being in actual
8 physical control of a vehicle while under the influence of
9 intoxicating liquor or a controlled substance or resulting from any
10 other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;
11 or

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

14 **Sec. 34.** NRS 484C.460 is hereby amended to read as follows:

15 484C.460 1. Except as otherwise provided in subsections 2
16 and 5, a court:

17 (a) May order a person convicted of a violation of NRS
18 484C.110 that is punishable pursuant to paragraph (a) or (b) of
19 subsection 1 of NRS 484C.400, if the person is found to have had a
20 concentration of alcohol of less than 0.18 in his or her blood or
21 breath, for a period of not less than 3 months nor more than 6
22 months, to install at his or her own expense a device in any motor
23 vehicle which the person owns or operates as a condition to
24 obtaining a restricted license pursuant to NRS 483.490 or as a
25 condition of reinstatement of the driving privilege of the person.

26 (b) Shall order a person convicted of:

27 (1) A violation of NRS 484C.110 that is punishable pursuant
28 to paragraph (a) or (b) of subsection 1 of NRS 484C.400, if the
29 person is found to have had a concentration of alcohol of 0.18 or
30 more in his or her blood or breath;

31 (2) A violation of NRS 484C.110 or 484C.120 that is
32 punishable as a felony pursuant to NRS 484C.400 or 484C.410; or

33 (3) A violation of NRS 484C.130 or 484C.430,
34 ➤ for a period of not less than 12 months nor more than 36 months,
35 to install at his or her own expense a device in any motor vehicle
36 which the person owns or operates as a condition to obtaining a
37 restricted license pursuant to NRS 483.490 or as a condition of
38 reinstatement of the driving privilege of the person.

39 2. A court may provide for an exception to the provisions of
40 subparagraph (1) of paragraph (b) of subsection 1 for a person who
41 is convicted of a violation of NRS 484C.110 that is punishable
42 pursuant to paragraph (a) of subsection 1 of NRS 484C.400, to
43 avoid undue hardship to the person if the court determines that:



(a) Requiring the person to install a device in a motor vehicle which the person owns or operates would cause the person to experience an economic hardship; and

(b) The person requires the use of the motor vehicle to:

(1) Travel to and from work or in the course and scope of his or her employment;

(2) Obtain medicine, food or other necessities or to obtain health care services for the person or another member of the person's immediate family; or

(3) Transport the person or another member of the person's immediate family to or from school.

3. If the court orders a person to install a device pursuant to subsection 1:

(a) The court shall immediately prepare and transmit a copy of its order to the Director. The order must include a statement that a device is required and the specific period for which it is required. The Director shall cause this information to be incorporated into the records of the Department and noted as a restriction on the person's driver's license.

(b) The person who is required to install the device shall provide proof of compliance to the Department before the person may receive a restricted license or before the driving privilege of the person may be reinstated, as applicable. Each model of a device installed pursuant to this section must have been certified by the Committee on Testing for Intoxication.

4. A person whose driving privilege is restricted pursuant to this section shall:

(a) If the person was ordered to install a device pursuant to paragraph (a) of subsection 1, have the device inspected by the manufacturer of the device or its agent at least one time during the period in which the person is required to use the device; or

(b) If the person was ordered to install a device pursuant to paragraph (b) of subsection 1, have the device inspected by the manufacturer of the device or its agent at least one time each 90 days,

↳ to determine whether the device is operating properly. An inspection required pursuant to this subsection must be conducted in accordance with regulations adopted pursuant to NRS 484C.480. The manufacturer or its agent shall submit a report to the Director indicating whether the device is operating properly and whether it has been tampered with. If the device has been tampered with, the Director shall notify the court that ordered the installation of the device.

5. If a person is required to operate a motor vehicle in the course and scope of his or her employment and the motor vehicle is



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owned by the person's employer, the person may operate that vehicle without the installation of a device, if:

(a) The employee notifies his or her employer that the employee's driving privilege has been so restricted; and

(b) The employee has proof of that notification in his or her possession or the notice, or a facsimile copy thereof, is with the motor vehicle.

➤ This exemption does not apply to a motor vehicle owned by a business which is all or partly owned or controlled by the person otherwise subject to this section.

6. The running of the period during which a person is required to have a device installed pursuant to this section commences when the Department issues a restricted license to the person or reinstates the driving privilege of the person and is tolled whenever and for as long as the person is, with regard to a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of residential confinement, ~~[confined in]~~ *placed under the supervision of* a treatment ~~[facility,]~~ *provider*, on parole or on probation.

Sec. 35. (Deleted by amendment.)

Sec. 36. This act becomes effective on July 1, 2015.

