

Amendment No. 300

Senate Amendment to Senate Bill No. 449	(BDR 14-1059)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: Yes 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DP/BAW



Date: 4/22/2017

S.B. No. 449—Authorizes justice courts and municipal courts to establish programs for the treatment of certain offenders who are veterans or members of the military. (BDR 14-1059)





## SENATE BILL NO. 449—COMMITTEE ON JUDICIARY

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—~~[Authorizes justice courts and municipal courts to establish]~~ **Revises provisions relating to court** programs for the treatment of ~~[certain offenders who are]~~ veterans ~~for~~ **and** members of the military. (BDR 14-1059)

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

~

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

AN ACT relating to criminal procedure; authorizing justice courts and municipal courts to establish programs for the treatment of certain offenders who are veterans or members of the military; **revising provisions governing the eligibility of a defendant for assignment to such a program;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes a district court to place certain offenders who are veterans or members of the military on probation upon terms and conditions that must include attendance and successful completion of an appropriate program for the treatment of such offenders that is established by the district court. (NRS 176A.280) Existing law also authorizes a justice court or municipal court to transfer jurisdiction of such a defendant to the district court for assignment to an appropriate program of treatment. (NRS 176A.285) **Section 3** of this bill authorizes justice courts and municipal courts to establish such programs and assign such offenders to those programs.

**Existing law provides that a defendant is eligible for assignment to such a program if the defendant is a veteran or a member of the military who: (1) appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service; and (2) would benefit from assignment to the program. (NRS 176A.285) Section 2 of this bill makes a defendant eligible for such a program if the defendant: (1) is the victim of a military sexual assault; and (2) would benefit from assignment to the program. Sections 11-13 of this bill provide that: (1) persons who are charged with first misdemeanor offenses of battery constituting domestic violence or driving under the influence are eligible to be assigned to such a program; and (2) offenses that are conditionally dismissed in connection with successful completion of such a program or a diversionary or specialty court program constitute prior offenses for the purpose of determining whether the person is subject to an enhanced penalty with respect to a subsequent offense.**

**Existing law provides that upon fulfillment of the terms and conditions of such a program, the court shall discharge the defendant and dismiss the proceedings. (NRS 176A.290) Section 5 of this bill provides that for defendants in the program who were charged with battery constituting domestic violence or driving under the influence, the court may conditionally dismiss the charges. Under section 6 of this bill, if the charges**

are conditionally dismissed, then not sooner than 7 years after such a conditional dismissal and upon the filing of a petition by the defendant, the court must order that all records relating to the charges be sealed.

The remaining sections of this bill make conforming changes.

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

**Section 1.** NRS 176.015 is hereby amended to read as follows:

176.015 1. Sentence must be imposed without unreasonable delay. Pending sentence, the court may commit the defendant or continue or alter the bail.

2. Before imposing sentence, the court shall:

(a) Afford counsel an opportunity to speak on behalf of the defendant; and

(b) Address the defendant personally and ask the defendant if:

(1) The defendant wishes to make a statement in his or her own behalf and to present any information in mitigation of punishment; and

(2) The defendant is a veteran or a member of the military. If the defendant ~~is a veteran or a member of the military and~~ meets the qualifications of ~~paragraphs (b) and (c) of subsection 2 of NRS 176A.285,~~ *section 2 of this act*, the court may, if appropriate, assign the defendant to:

(I) A program of treatment established pursuant to NRS 176A.280; or

(II) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. After hearing any statements presented pursuant to subsection 2 and before imposing sentence, the court shall afford the victim an opportunity to:

(a) Appear personally, by counsel or by personal representative; and

(b) Reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution.

4. The prosecutor shall give reasonable notice of the hearing to impose sentence to:

(a) The person against whom the crime was committed;

(b) A person who was injured as a direct result of the commission of the crime;

(c) The surviving spouse, parents or children of a person who was killed as a direct result of the commission of the crime; and

(d) Any other relative or victim who requests in writing to be notified of the hearing.

➤ Any defect in notice or failure of such persons to appear are not grounds for an appeal or the granting of a writ of habeas corpus. All personal information, including, but not limited to, a current or former address, which pertains to a victim or relative and which is received by the prosecutor pursuant to this subsection is confidential.

5. For the purposes of this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Relative" of a person includes:

(1) A spouse, parent, grandparent or stepparent;

(2) A natural born child, stepchild or adopted child;

(3) A grandchild, brother, sister, half brother or half sister; or

(4) A parent of a spouse.

(c) "Veteran" has the meaning ascribed to it in NRS 176A.090.

(d) "Victim" includes:

(1) A person, including a governmental entity, against whom a crime has been committed;

(2) A person who has been injured or killed as a direct result of the commission of a crime; and

(3) A relative of a person described in subparagraph (1) or (2).

6. This section does not restrict the authority of the court to consider any reliable and relevant evidence at the time of sentencing.

**Sec. 2.** Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. As used in this section and NRS 176A.280 to 176A.295, inclusive, "eligible defendant" means a veteran or a member of the military who:

~~1. Appears~~ (a) Is the victim of a military sexual assault or appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; and

~~2. Would benefit from assignment to a program established pursuant to NRS 176A.280.~~

2. As used in this section, "military sexual assault" means an act of sexual assault that occurred while the veteran or member of the military was serving on active duty, active duty for training, or inactive duty training.

**Sec. 3.** NRS 176A.280 is hereby amended to read as follows:

176A.280 A *district court, justice court or municipal court* may establish an appropriate program for the treatment of veterans and members of the military to which it may assign ~~to~~ *an eligible* defendant pursuant to NRS 176A.290. 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 defendant is making satisfactory progress towards completion of the program.

**Sec. 4.** NRS 176A.285 is hereby amended to read as follows:

176A.285 ~~1. A~~ If a justice court or ~~to~~ municipal court *has not established a program pursuant to NRS 176A.280, the justice court or municipal court, as applicable,* may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant ~~to~~

~~2. As used in this section, "eligible defendant" means a veteran or a member of the military who:~~

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

~~(b) Appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; and~~

~~(c) Would benefit from assignment to a program established pursuant to NRS 176A.280.~~

**Sec. 5.** NRS 176A.290 is hereby amended to read as follows:

176A.290 1. Except as otherwise provided in subsection 2, if ~~to~~ *an eligible* defendant ~~who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as described in NRS 176A.285~~ *an eligible defendant* 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 *district court, justice court or municipal court, as applicable,* may, without entering a judgment of conviction and with the consent of the defendant,

1 suspend further proceedings and place the defendant on probation upon terms and  
2 conditions that must include attendance and successful completion of a program  
3 established pursuant to NRS 176A.280.

4 2. If the offense committed by the defendant involved the use or threatened  
5 use of force or violence or if the defendant was previously convicted in this State or  
6 in any other jurisdiction of a felony that involved the use or threatened use of force  
7 or violence, the *district court, justice court or municipal court, as applicable*, may  
8 not assign the defendant to the program unless the prosecuting attorney stipulates to  
9 the assignment. For the purposes of this subsection, in determining whether an  
10 offense involved the use or threatened use of force or violence, the *district court,*  
11 *justice court or municipal court, as applicable*, shall consider the facts and  
12 circumstances surrounding the offense, including, without limitation, whether the  
13 defendant intended to place another person in reasonable apprehension of bodily  
14 harm.

15 3. Upon violation of a term or condition:

16 (a) The *district court, justice court or municipal court, as applicable*, may  
17 enter a judgment of conviction and proceed as provided in the section pursuant to  
18 which the defendant was charged.

19 (b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS  
20 193.130, the *district court* may order the defendant to the custody of the  
21 Department of Corrections if the offense is punishable by imprisonment in the state  
22 prison.

23 4. ~~Upon~~ *Except as otherwise provided in subsection 5, upon* fulfillment of  
24 the terms and conditions, the *district court, justice court or municipal court, as*  
25 *applicable*, shall discharge the defendant and dismiss the proceedings. Discharge  
26 and dismissal pursuant to this section is without adjudication of guilt and is not a  
27 conviction for purposes of this section or for purposes of employment, civil rights  
28 or any statute or regulation or license or questionnaire or for any other public or  
29 private purpose, but is a conviction for the purpose of additional penalties imposed  
30 for second or subsequent convictions or the setting of bail. Discharge and dismissal  
31 restores the defendant, in the contemplation of the law, to the status occupied  
32 before the arrest, *complaint*, indictment or information. The defendant may not be  
33 held thereafter under any law to be guilty of perjury or otherwise giving a false  
34 statement by reason of failure to recite or acknowledge that arrest, *complaint*,  
35 indictment, information or trial in response to an inquiry made of the defendant for  
36 any purpose.

37 *5. If the defendant was charged with a violation of NRS 200.485, 484C.110*  
38 *or 484C.120, upon fulfillment of the terms and conditions, the district court,*  
39 *justice court or municipal court, as applicable, may conditionally dismiss the*  
40 *charges. If a court conditionally dismisses the charges, the court shall notify the*  
41 *defendant that the conditionally dismissed charges are a conviction for the*  
42 *purpose of additional penalties imposed for second or subsequent convictions or*  
43 *the setting of bail in a future case, but are not a conviction for purposes of*  
44 *employment, civil rights or any statute or regulation or license or questionnaire*  
45 *or for any other public or private purpose. Conditional dismissal restores the*  
46 *defendant, in the contemplation of the law, to the status occupied before the*  
47 *arrest, complaint, indictment or information. The defendant may not be held*  
48 *thereafter under any law to be guilty of perjury or otherwise giving a false*  
49 *statement by reason of failure to recite or acknowledge that arrest, complaint,*  
50 *indictment, information or trial in response to an inquiry made of the defendant*  
51 *for any purpose.*

1        **Sec. 6.** NRS 176A.295 is hereby amended to read as follows:

2        176A.295 1. ~~After a~~ Except as otherwise provided in subsection 2, after  
3 an eligible defendant is discharged from probation pursuant to NRS 176A.290, the  
4 district court, justice court or municipal court, as applicable, shall order sealed all  
5 documents, papers and exhibits in the defendant's record, minute book entries and  
6 entries on dockets, and other documents relating to the case in the custody of such  
7 other agencies and officers as are named in the court's order if the defendant fulfills  
8 the terms and conditions imposed by the court and the Division. The district court,  
9 justice court or municipal court, as applicable, shall order those records sealed  
10 without a hearing unless the Division petitions the court, for good cause shown, not  
11 to seal the records and requests a hearing thereon.

12        2. If the defendant is charged with a violation of NRS 200.485, 484C.110 or  
13 484C.120 and the charges are conditionally dismissed as provided in subsection 5  
14 of NRS 176A.290, not sooner than 7 years after such a conditional dismissal and  
15 upon the filing of a petition by the defendant, the justice court, municipal court  
16 or district court, as applicable, shall order that all documents, papers and exhibits  
17 in the defendant's record, minute book entries and entries on dockets, and other  
18 documents relating to the case in the custody of such other agencies and officers  
19 as are named in the court's order be sealed. The justice court, municipal court or  
20 district court, as applicable, shall order those records sealed without a hearing  
21 unless the Division petitions the court, for good cause shown, not to seal the  
22 records and requests a hearing thereon.

23        3. If the district court, justice court or municipal court, as applicable, orders  
24 sealed the record of ~~an~~ an eligible defendant discharged or whose charges were  
25 conditionally dismissed pursuant to NRS 176A.290, the court shall send a copy of  
26 the order to each agency or officer named in the order. Each such agency or officer  
27 shall notify the district court, justice court or municipal court, as applicable, in  
28 writing of its compliance with the order.

29        **Sec. 7.** NRS 4.370 is hereby amended to read as follows:

30        4.370 1. Except as otherwise provided in subsection 2, justice courts have  
31 jurisdiction of the following civil actions and proceedings and no others except as  
32 otherwise provided by specific statute:

33        (a) In actions arising on contract for the recovery of money only, if the sum  
34 claimed, exclusive of interest, does not exceed \$15,000.

35        (b) In actions for damages for injury to the person, or for taking, detaining or  
36 injuring personal property, or for injury to real property where no issue is raised by  
37 the verified answer of the defendant involving the title to or boundaries of the real  
38 property, if the damage claimed does not exceed \$15,000.

39        (c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty  
40 or forfeiture not exceeding \$15,000, given by statute or the ordinance of a county,  
41 city or town, where no issue is raised by the answer involving the legality of any  
42 tax, impost, assessment, toll or municipal fine.

43        (d) In actions upon bonds or undertakings conditioned for the payment of  
44 money, if the sum claimed does not exceed \$15,000, though the penalty may  
45 exceed that sum. Bail bonds and other undertakings posted in criminal matters may  
46 be forfeited regardless of amount.

47        (e) In actions to recover the possession of personal property, if the value of the  
48 property does not exceed \$15,000.

49        (f) To take and enter judgment on the confession of a defendant, when the  
50 amount confessed, exclusive of interest, does not exceed \$15,000.

51        (g) Of actions for the possession of lands and tenements where the relation of  
52 landlord and tenant exists, when damages claimed do not exceed \$15,000 or when  
53 no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$15,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed \$15,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

(l) In actions for a fine imposed for a violation of NRS 484D.680.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is 100,000 or more and less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more; or

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court.

(n) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(o) In small claims actions under the provisions of chapter 73 of NRS.

(p) In actions to contest the validity of liens on mobile homes or manufactured homes.

(q) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

(r) In any action pursuant to NRS 200.378 for the issuance of a protective order against a person alleged to have committed the crime of sexual assault.

(s) In actions transferred from the district court pursuant to NRS 3.221.

(t) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

(u) In any action seeking an order pursuant to NRS 441A.195.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or ***if the justice court has not established a program pursuant to NRS 176A.280 H, to a program established pursuant to that section.***

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.

6. Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

**Sec. 8.** NRS 4.374 is hereby amended to read as follows:

4.374 1. Before accepting a plea from a defendant or proceeding to trial, the justice of the peace shall address the defendant personally and ask the defendant if he or she is a veteran or a member of the military.

2. If the defendant ~~is a veteran or a member of the military and~~ meets the qualifications of ~~NRS 176A.285~~ *section 2 of this act and has not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor*, the justice court may, *if the court has not established a program pursuant to NRS 176A.280 and* if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to NRS 176A.280; or

(b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

**Sec. 9.** NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. The municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or *, if the municipal court has not established a program pursuant to NRS 176A.280* ~~+~~ *, to a program established pursuant to that section.*

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like

manner and with the same effect as provided by law for certification of causes by justice courts.

**Sec. 10.** NRS 5.057 is hereby amended to read as follows:

5.057 1. Before accepting a plea from a defendant or proceeding to trial, the municipal judge shall address the defendant personally and ask the defendant if he or she is a veteran or a member of the military.

2. If the defendant ~~is a veteran or a member of the military and~~ meets the qualifications of ~~NRS 176A.285~~ **section 2 of this act**, the municipal court may, **if the court has not established a program pursuant to NRS 176A.280 and** if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to NRS 176A.280; or

(b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

**Sec. 11. NRS 200.485 is hereby amended to read as follows:**

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

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

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

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

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

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

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

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

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

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

2. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than \$15,000.

3. 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 the person 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 or her 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 the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her 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.

4. 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~~ :

(a) When evidenced by a conviction ~~+~~ ; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program.

➤ 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.

5. 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.

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

7. 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 the convicted person's ability to pay.

8. 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 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. ~~A court shall not grant probation to and, except~~ Except as otherwise provided in ~~[NRS 4.373 and 5.055]~~ this subsection, a court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:

(a) As set forth in NRS 4.373 and 5.055; or

(b) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

9. As used in this section:

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

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

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

**Sec. 12. 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

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

3 2. An offense that occurred within 7 years immediately preceding the date of  
4 the principal offense or after the principal offense constitutes a prior offense for the  
5 purposes of this section ~~when~~ ;

6 (a) When evidenced by a conviction ~~or~~ ; or

7 (b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or  
8 dismissed in connection with successful completion of a diversionary program or  
9 specialty court program.

10 without regard to the sequence of the offenses and convictions. The facts  
11 concerning a prior offense must be alleged in the complaint, indictment or  
12 information, must not be read to the jury or proved at trial but must be proved at the  
13 time of sentencing and, if the principal offense is alleged to be a felony, must also  
14 be shown at the preliminary examination or presented to the grand jury.

15 3. A term of confinement imposed pursuant to the provisions of this section  
16 may be served intermittently at the discretion of the judge or justice of the peace,  
17 except that a person who is convicted of a second or subsequent offense within 7  
18 years must be confined for at least one segment of not less than 48 consecutive  
19 hours. This discretion must be exercised after considering all the circumstances  
20 surrounding the offense, and the family and employment of the offender, but any  
21 sentence of 30 days or less must be served within 6 months after the date of  
22 conviction or, if the offender was sentenced pursuant to NRS 484C.320 or  
23 484C.330 and the suspension of his or her sentence was revoked, within 6 months  
24 after the date of revocation. Any time for which the offender is confined must  
25 consist of not less than 24 consecutive hours.

26 4. Jail sentences simultaneously imposed pursuant to this section and NRS  
27 482.456, 483.560, 484C.410 or 485.330 must run consecutively.

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

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

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

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

39 (b) A homicide resulting from driving or being in actual physical control of a  
40 vehicle while under the influence of intoxicating liquor or a controlled substance or  
41 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or  
42 484C.430; or

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

45 **Sec. 13. NRS 484C.420 is hereby amended to read as follows:**

46 484C.420 1. ~~Except as otherwise provided in subsection 2, a~~ person  
47 convicted of violating the provisions of NRS 484C.110 or 484C.120 must not be  
48 released on probation, and a sentence imposed for violating those provisions must  
49 not be suspended except, as provided in NRS 4.373, 5.055, 484C.320, 484C.330  
50 and 484C.340, that portion of the sentence imposed that exceeds the mandatory  
51 minimum. A prosecuting attorney shall not dismiss a charge of violating the  
52 provisions of NRS 484C.110 or 484C.120 in exchange for a plea of guilty, guilty  
53 but mentally ill or nolo contendere to a lesser charge or for any other reason unless

1 the attorney knows or it is obvious that the charge is not supported by probable  
2 cause or cannot be proved at the time of trial.

3 2. The court may grant probation to or suspend the sentence of a person to  
4 assign the person to a program for the treatment of veterans and members of the  
5 military pursuant to NRS 176A.290 if the charge is for a first violation of the  
6 provisions of NRS 484C.110 or 484C.120 that is punishable as a misdemeanor.

7 3. If the person who violated the provisions of NRS 484C.110 or 484C.120  
8 possesses a driver's license issued by a state other than the State of Nevada and  
9 does not reside in the State of Nevada, in carrying out the provisions of  
10 subparagraph (1) of paragraph (a) of subsection 1 of NRS 484C.400, the court  
11 shall:

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

16 (b) Order the person to complete an educational course by correspondence on  
17 the abuse of alcohol and controlled substances approved by the Department within  
18 the time specified in the order,

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

21 ~~Sec. 11.~~ **Sec. 14.** This act becomes effective upon passage and approval.