

Amendment No. 353

Assembly Amendment to Assembly Bill No. 316	(BDR 43-312)
Proposed by: Assembly Committee on Growth and Infrastructure	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 316 (§ 18).

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.



ASSEMBLY BILL NO. 316—ASSEMBLYMEN TOLLES,
ROBERTS, HANSEN, LEAVITT; AND ELLISON

MARCH 18, 2019

JOINT SPONSOR: SENATOR SEEVERS GANSERT

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to driving under the influence of alcohol or a prohibited substance. (BDR 43-312)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to public safety; enacting the Nevada 24/7 Sobriety and Drug Monitoring Program Act; establishing a voluntary statewide sobriety and drug monitoring program; requiring ~~the Department of Public Safety~~ any political subdivision that elects to participate in the program to adopt ~~regulations~~ guidelines relating to implement the program; requiring such ~~regulations~~ guidelines to establish certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill enacts the Nevada 24/7 Sobriety and Drug Monitoring Program Act. **Section 14** of this bill establishes a statewide sobriety and drug monitoring program ~~within the Department of Public Safety that is administered by the Director of the Department and~~ in which any ~~county~~ political subdivision in this State may elect to participate. **Section 15** of this bill provides that if a ~~county~~ political subdivision elects to participate in the program, the Department **of Public Safety** is ~~required~~ authorized to assist the ~~county~~ political subdivision in the establishment and administration of the program ~~in the county~~ and the ~~board of county commissioners~~ political subdivision is required to designate a law enforcement agency ~~in the county~~ to enforce the program.

Section 16 of this bill authorizes a court ~~in a county that elects to participate in the program~~ to assign an offender who is found guilty of driving under the influence of alcohol or a prohibited substance for the second or third time within 7 years to the program for a specified period determined by the court. ~~Section 22 of this bill provides that if a person is arrested for such a repeat offense and the person will be released on bail, the court is authorized to assign the person to the program if the county in which the person resides or is required to remain participates in the program. Section 23 of this bill provides that if a person who was convicted of such a repeat offense will be released on parole in a county that participates in the program, the State Board of Parole Commissioners is authorized to assign the parolee to the program as a condition of parole.~~

Section 17 of this bill provides that any person who is assigned to the program: (1) must abstain from alcohol and prohibited substances while assigned to the program; (2) generally

must undergo testing to determine the presence of alcohol in the person's system not less than two times each day; (3) must undergo random testing not less than two times each week to determine the presence of a prohibited substance in the person's system; (4) must be subject to sanctions for using alcohol or a prohibited substance while assigned to the program or for failing or refusing to undergo required testing; and (5) if the person's driver's license is suspended or revoked, is eligible for a restricted driver's license for the purpose of driving to and from a testing location, ~~for~~ work, court appearances or counseling or to receive regularly scheduled medical care. Section 16 authorizes the Department of Motor Vehicles to adopt any regulations necessary to provide for the issuance of such a restricted driver's license to a person assigned to the program.

Section 18 of this bill requires ~~the Department~~ each political subdivision that elects to participate in the program to adopt ~~regulations~~ guidelines relating to ~~implement~~ the program, including ~~regulations~~ guidelines that: (1) provide for the nature and manner of testing and the testing procedures and devices to be used; (2) establish certain fees; and (3) provide for the establishment and use of a local program ~~account~~ account for the deposit of any fees collected. Section 19 of this bill requires ~~the~~ the law enforcement agency that enforces the program ~~in a county~~ for the political subdivision to collect any fees required by such ~~regulations~~ guidelines and deposit the fees into the applicable local program account. Section 19 also establishes provisions relating to the distribution and use of such fees.

WHEREAS, A RAND Corporation study published in the *American Journal of Public Health* in January 2013 concluded that the frequent alcohol testing required by 24/7 sobriety and drug monitoring programs, combined with swift, certain and modest sanctions for violations, can reduce problem drinking and improve public health outcomes; and

WHEREAS, The RAND Corporation analysis provides strong evidence that 24/7 sobriety and drug monitoring programs, when applied to offenders who repeatedly drive under the influence of intoxicating liquor or a prohibited substance, are successful in reducing arrests for such a crime; and

WHEREAS, As a result of the success of 24/7 sobriety and drug monitoring programs, such a program is an authorized program for which impaired driving countermeasure incentive grant funding is available under federal law; now, therefore,

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

Section 1. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a violation of NRS 484C.110, and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his or her work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her immediate family.

➤ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if the applicant is issued a restricted license.

2. A person who is required to install a device in a motor vehicle pursuant to NRS 484C.210 or 484C.460:

(a) Shall install the device not later than 14 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which the person is not eligible for a license, if the person was convicted of:

(I) A violation of NRS 484C.430 or 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

(II) A violation of NRS 484C.110 that is punishable as a felony pursuant to NRS 484C.410 or 484C.420; or

(2) After at least 180 days of the period during which the person is not eligible for a license, if the person was convicted of a violation of subsection 6 of NRS 484B.653.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484C.460 or following an order of revocation issued pursuant to NRS 484C.220, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. *If the driver's license of a person assigned to a program established pursuant to section 14 of this act is suspended or revoked, the Department may, after verifying the proof of compliance submitted pursuant to subsection 3, if applicable, issue a restricted driver's license to such an applicant that is valid while he or she is a participant in the program and that permits the applicant to drive a motor vehicle:*

(a) To and from a testing location established by a law enforcement agency pursuant to section 15 of this act;

(b) If applicable, to and from work or in the course of his or her work, or both; ~~for~~

(c) To and from court appearances;

(d) To and from counseling; or

(e) To receive regularly scheduled medical care for himself or herself.

5. Except as otherwise provided in NRS 62E.630, after a driver's license has been revoked or suspended pursuant to title 5 of NRS or NRS 392.148, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both; or

(b) If applicable, to and from school.

~~5.5~~ 6. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both;

(b) To receive regularly scheduled medical care for himself, herself or a member of his or her immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

~~6.5~~ 7. A driver who violates a condition of a restricted license issued pursuant to subsection 1 *or 4* or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484C.110, 484C.210 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),
↳ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

~~7.7~~ 8. The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

~~8.8~~ 9. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 2. Chapter 484C of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 19, inclusive, of this act.

Sec. 3. *Sections 3 to 19, inclusive, of this act may be cited as the Nevada 24/7 Sobriety and Drug Monitoring Program Act.*

Sec. 4. 1. *The Legislature hereby declares that driving in this State is a privilege, not a right, and a driver who wishes to enjoy the benefits of such a privilege must accept the corresponding responsibilities.*

2. *The Legislature further declares that the purpose of sections 3 to 19, inclusive, of this act is to:*

(a) *Protect the public health and welfare by reducing the number of people on the highways of this State who drive under the influence of intoxicating liquor or a prohibited substance; and*

(b) *Strengthen the options available to courts and prosecuting attorneys in responding to offenders who repeatedly drive under the influence of intoxicating liquor or a prohibited substance.*

Sec. 5. *As used in sections 3 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 13, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 6. *“Core components” means the elements of the program that analysis demonstrates are most likely to account for positive outcomes.*

Sec. 7. ~~“Department” means the Department of Public Safety.~~ (Deleted by amendment.)

Sec. 8. *“Designated law enforcement agency” means a law enforcement agency designated ~~[by a board of county commissioners]~~ to enforce the program ~~[in a county]~~ pursuant to section 15 of this act.*

Sec. 9. *“Immediate sanction” means a sanction that is able to be applied within minutes after the results of testing indicate the presence of alcohol or a prohibited substance in a program participant’s system.*

Sec. 9.5. “Political subdivision” includes, without limitation, any county, city, other local government, court or entity that administers alternative sentencing.

Sec. 10. *“Program” means the statewide sobriety and drug monitoring program established pursuant to section 14 of this act.*

Sec. 11. *“Program participant” means a person who is assigned by a court to the program ~~[pursuant to NRS 178.484 or 213.12175 or section 16 of this act].~~*

Sec. 12. *“Testing” means any procedure approved by the ~~[Department in accordance with the regulations adopted pursuant to section 18 of this act]~~ Committee on Testing for Intoxication for determining the concentration of*

1 alcohol or the amount of a prohibited substance in a ~~program participant's~~
2 person's system ~~that is provided for in the applicable guidelines adopted~~
3 pursuant to section 18 of this act.

4 Sec. 13. "Timely sanction" means a sanction that is able to be applied as
5 soon as possible, but not later than 14 days, after the results of testing indicate
6 the presence of alcohol or a prohibited substance in a program participant's
7 system.

8 Sec. 14. 1. There is hereby established a statewide sobriety and drug
9 monitoring program ~~within the Department, to be administered by the Director~~
10 ~~of the Department,~~ in which any ~~county~~ political subdivision in this State may
11 elect to participate.

12 2. The core components of the program must include the use of a primary
13 testing methodology that tests for the presence of alcohol or a prohibited
14 substance in a program participant's system, best facilitates the ability to apply
15 immediate sanctions for noncompliance and is available at an affordable cost. In
16 cases of economic hardship or when a program participant is rewarded with less
17 stringent testing requirements, testing methodologies with timely sanctions for
18 noncompliance may be utilized.

19 3. The program must be evidence-based and satisfy at least two of the
20 following requirements:

21 (a) The program is included in the National Registry of Evidence-based
22 Programs and Practices;

23 (b) The program has been reported in a peer-reviewed journal as having
24 positive effects on the primary targeted outcome; or

25 (c) The program has been documented as effective by informed experts and
26 other sources.

27 4. ~~[Any efforts by the Department to alter or modify the] The core~~
28 ~~components of the program [must include a documented strategy for achieving~~
29 ~~and measuring the effectiveness of the planned modifications. Before core~~
30 ~~components may be modified, the Department must initiate a pilot program with~~
31 ~~defined objectives and timelines in which measurements of the effectiveness and~~
32 ~~impact of any proposed modifications to the core components are monitored. The~~
33 ~~Department must assess the data and determine whether the stated goals were~~
34 ~~achieved and whether the proposed modifications should be formally~~
35 ~~implemented in the program.] that generally require testing to determine the~~
36 presence of alcohol in a person's system not less than two times each day and
37 random testing to determine the presence of a prohibited substance in a person's
38 system not less than two times each week must not be altered or modified.

39 Sec. 15. ~~[1.] If [the board of county commissioners of] a [county adopts a~~
40 ~~resolution electing] political subdivision elects to participate in the program:~~

41 ~~[(a)] 1. The Department [shall] of Public Safety may assist the [county]~~
42 political subdivision in the establishment and administration of the program [in
43 the county] in the manner provided in sections 3 to 19, inclusive, of this act and
44 in determining alternatives to incarceration.

45 ~~[(b)] 2. The [board of county commissioners] political subdivision shall~~
46 designate a law enforcement agency [in the county] to enforce the program.

47 ~~[2.] 3. A designated law enforcement agency:~~

48 (a) May designate an entity to provide testing services or to take any other
49 action required or authorized to be provided by the law enforcement agency
50 pursuant to sections 3 to 19, inclusive, of this act, but such a designated entity
51 may not determine whether to participate in the program.

(b) Shall establish one or more testing locations ~~[within the county]~~ that provide at least two available testing times each day. If only two testing times are made available, the testing times must be approximately 12 hours apart.

Sec. 16. 1. A court ~~in a county that elects to participate in the program established pursuant to section 14 of this act,~~ may assign an offender who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) or (c) of subsection 1 of NRS 484C.400 to the program established pursuant to section 14 of this act for a specified period determined by the court.

2. If the court assigns an offender to the program 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, the court:

(a) Shall immediately sentence the offender and enter judgment accordingly.

(b) Shall suspend the sentence of the offender upon the condition that the offender participate in the program for a specified period determined by the court.

(c) Shall advise the offender that:

(1) If the offender fails to participate in the program for the period determined by the court or fails to comply with the requirements of the program, the court may require the offender to 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 participating in the program.

(2) If the offender participates in the program for the period determined by the court and complies with the requirements of the program, 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 of NRS 484C.330 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.

(3) The offender is eligible for a restricted driver's license pursuant to subsection 4 of NRS 483.490.

(d) Shall not defer the sentence, set aside the conviction or impose conditions upon participation in the program except as otherwise provided in this section.

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

3. If the court assigns an offender to the program who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400, the court:

(a) Shall immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place the offender on probation.

(b) Shall order the offender to participate in the program.

(c) Shall advise the offender that:

(1) The court may enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484C.400 if the offender fails to participate in the program for the period determined by the court or fails to comply with the requirements of the program. Any sentence of imprisonment may be reduced by a time equal to that which the offender served before participating in the program.

(2) If the offender participates in the program for the period determined by the court and complies with the requirements of the program, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484C.400.

(3) The provisions of NRS 483.460 requiring the revocation of the license, permit or privilege of the offender to drive do not apply and the offender

1 is eligible for a restricted driver's license pursuant to subsection 4 of NRS
2 483.490.

3 (d) Shall not defer the sentence or set aside the conviction upon participation
4 in the program, except as otherwise provided in this section.

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

8 4. If a court assigns a person to the program pursuant to this section, the
9 court shall notify the Department of Motor Vehicles that as a participant in the
10 program, the person is eligible for a restricted driver's license pursuant to
11 subsection 4 of NRS 483.490. If the person fails to comply with the requirements
12 of the program, the court may notify the Department of Motor Vehicles of the
13 person's noncompliance and direct the Department of Motor Vehicles to revoke
14 the restricted license.

15 5. The Department of Motor Vehicles may adopt any regulations necessary
16 to provide for the issuance of a restricted driver's license to a person assigned to
17 the program.

18 Sec. 17. Any person who is assigned to the program:

19 1. ~~[Must]~~ Shall abstain from alcohol and prohibited substances while
20 assigned to the program.

21 2. ~~[Must]~~ Shall undergo testing to determine the presence of alcohol in the
22 person's system:

23 (a) Except as otherwise provided in paragraph (b), not less than two times
24 each day at a testing location established by a designated law enforcement agency
25 pursuant to section 15 of this act so that immediate sanctions can be applied;

26 (b) If being tested two or more times each day is not practical, by ~~continuous~~
27 ~~or transdermal alcohol monitoring using an electronic monitoring device so~~ an
28 alternate method consistent with section 14 of this act that allows timely sanctions
29 to be applied; or

30 (c) By ~~an~~ any other alternate method ~~[approved by the Department and]~~
31 consistent with section 14 of this act.

32 3. ~~[Must]~~ Shall undergo random testing not less than two times each week
33 to determine the presence of a prohibited substance in the person's system.

34 4. Must be subject to immediate, lawful and consistent sanctions for using
35 alcohol or a prohibited substance while assigned to the program or for failing or
36 refusing to undergo required testing ~~[and]~~ , including, without limitation, immediate
37 incarceration.

38 5. Is eligible for a restricted driver's license pursuant to subsection 4 of
39 NRS 483.490 if the driver's license of the person is suspended or revoked.

40 Sec. 18. ~~[The Department]~~ Each political subdivision that elects to
41 participate in the program established pursuant to section 14 of this act shall
42 adopt [regulations to implement the provisions of] guidelines consistent with
43 sections 3 to 19, inclusive, of this act. Such [regulations] guidelines must:

44 1. Provide for the nature and manner of testing and the testing procedures
45 and devices to be used.

46 2. Establish the requirements for compliance with the program, including,
47 without limitation, the immediate sanctions and timely sanctions that may be
48 imposed against a program participant.

49 3. Establish reasonable participant and testing fees for the program,
50 including, without limitation, fees to pay the cost of installation, monitoring and
51 deactivation of any testing device, and provide for the establishment and use of a
52 local program [accounts] account for the deposit of any fees collected. The
53 established fees must be as low as possible, but the total amount of the fees and

1 other funds credited to the local program ~~{accounts}~~ account must defray the
2 entire expense of the program ~~[, including, without limitation, all costs to the~~
3 ~~State,] to ensure program sustainability.~~

4 4. ~~Provide [the Department the authority to apply for any available public~~
5 ~~or private] that a political subdivision may accept gifts, grants, donations and~~
6 any other form of financial assistance from any source for the purpose of
7 enabling the political subdivision to ~~{support any}~~ participate in the program
8 ~~{activities} and carry out the provisions of sections 3 to 19, inclusive, of this act.~~

9 5. Establish a process for the determination and management of program
10 participants who are indigent.

11 6. Require and provide for the approval of a program data management
12 technology plan ~~[that the Department and participating counties must use]~~ to be
13 used to manage testing, data access, fees, fee payments and any required reports.

14 7. Require a program participant to sign an agreement:

15 (a) Acknowledging his or her understanding of the program rules and
16 expectations, including without limitation, the prohibition against using alcohol
17 or a prohibited substance while assigned to the program, and the sanctions that
18 may be imposed;

19 (b) Agreeing to abide by the program rules and expectations; and

20 (c) Authorizing his or her records relating to participation in the program to
21 be used for assessment purposes.

22 8. Require that program participants who meet certain standards of
23 compliance be given positive feedback and rewarded when appropriate. Such a
24 reward may include, without limitation, undergoing less frequent testing.

25 Sec. 19. 1. A designated law enforcement agency shall collect any fees
26 required by ~~[the regulations]~~ any guidelines adopted pursuant to section 18 of
27 this act and deposit such fees into the applicable local program account
28 established by a political subdivision pursuant to such ~~[regulations]~~ guidelines.

29 2. In accordance with the provisions of sections 3 to 19, inclusive, of this act
30 and the ~~[regulations]~~ guidelines adopted pursuant to section 18 of this act, all
31 fees deposited into a local program account must be ~~[distributed to]~~ used by the
32 applicable ~~[county for use by the]~~ designated law enforcement agency or, in
33 accordance with the terms determined by the designated law enforcement agency,
34 any entity designated by the law enforcement agency pursuant to section 15 of
35 this act.

36 3. Each designated law enforcement agency shall distribute a portion of the
37 fees to any entity designated by the law enforcement agency pursuant to section
38 15 of this act in accordance with any agreement entered into with such a
39 designated entity. The remainder of the fees is for the use of the law enforcement
40 agency and may be used only for the purpose of administering and operating the
41 program.

42 Sec. 20. NRS 484C.400 is hereby amended to read as follows:

43 484C.400 1. Unless a greater penalty is provided pursuant to NRS
44 484C.430 or 484C.440, and except as otherwise provided in NRS 484C.410, a
45 person who violates the provisions of NRS 484C.110 or 484C.120:

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

49 (1) Except as otherwise provided in subparagraph (4) of this paragraph or
50 subsection 3 of NRS 484C.420, order the person to pay tuition for an educational
51 course on the abuse of alcohol and controlled substances approved by the
52 Department and complete the course within the time specified in the order, and the

1 court shall notify the Department if the person fails to complete the course within
2 the specified time;

3 (2) Unless the sentence is reduced pursuant to NRS 484C.320, sentence the
4 person to imprisonment for not less than 2 days nor more than 6 months in jail, or
5 to perform not less than 48 hours, but not more than 96 hours, of community
6 service while dressed in distinctive garb that identifies the person as having violated
7 the provisions of NRS 484C.110 or 484C.120;

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

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

12 (b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the
13 sentence is reduced pursuant to NRS 484C.330 ***or the person is assigned to a***
14 ***program pursuant to section 16 of this act***, the court shall:

15 (1) Sentence the person to:

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

18 (II) Residential confinement for not less than 10 days nor more than 6
19 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to
20 5.078, inclusive;

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

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

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

30 (c) Except as otherwise provided in NRS 484C.340 ***or and unless the person***
31 ***is assigned to a program pursuant to section 16 of this act***, for a third offense
32 within 7 years, is guilty of a category B felony and shall be punished by
33 imprisonment in the state prison for a minimum term of not less than 1 year and a
34 maximum term of not more than 6 years, and shall be further punished by a fine of
35 not less than \$2,000 nor more than \$5,000. An offender who is imprisoned pursuant
36 to the provisions of this paragraph must, insofar as practicable, be segregated from
37 offenders whose crimes were violent and, insofar as practicable, be assigned to an
38 institution or facility of minimum security.

39 2. An offense that occurred within 7 years immediately preceding the date of
40 the principal offense or after the principal offense constitutes a prior offense for the
41 purposes of this section:

42 (a) When evidenced by a conviction; or

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

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

51 3. A term of confinement imposed pursuant to the provisions of this section
52 may be served intermittently at the discretion of the judge or justice of the peace,
53 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, placed under the supervision of a treatment 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. 21. NRS 484C.460 is hereby amended to read as follows:

484C.460 1. Except as otherwise provided in subsections 2 and 5 ~~and~~ *and unless the person is assigned to a program pursuant to section 16 of this act*, a court shall order a person convicted of:

(a) A violation of NRS 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, if the person is found to have had a concentration of alcohol of less than 0.18 in his or her blood or breath, to install, at his or her own expense and for a period of not less than 185 days, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

(b) A violation of:

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

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

(3) NRS 484C.130 or 484C.430,

↳ to install, at his or her own expense and for a period of not less than 12 months or more than 36 months, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

2. A court may, in the interests of justice, provide for an exception to the provisions of subsection 1 for a person who is convicted of a violation of NRS 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, to avoid undue hardship to the person if the court determines that:

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

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

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

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

8 (c) The person is unable to provide a deep lung breath sample for a device, as
9 certified in writing by a physician of the person; or

10 (d) The person resides more than 100 miles from a manufacturer of a device or
11 its agent.

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

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

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

23 4. A person whose driving privilege is restricted pursuant to this section or
24 NRS 483.490 shall have the device inspected, calibrated, monitored and maintained
25 by the manufacturer of the device or its agent at least one time each 90 days during
26 the period in which the person is required to use the device to determine whether
27 the device is operating properly. Any inspection, calibration, monitoring or
28 maintenance required pursuant to this subsection must be conducted in accordance
29 with regulations adopted pursuant to NRS 484C.480. The manufacturer or its agent
30 shall submit a report to the Director indicating whether the device is operating
31 properly, whether any of the incidents listed in subsection 1 of NRS 484C.470 have
32 occurred and whether the device has been tampered with. If the device has been
33 tampered with, the Director shall notify the court that ordered the installation of the
34 device. Upon receipt of such notification and before the court imposes a penalty
35 pursuant to subsection 3 of NRS 484C.470, the court shall afford any interested
36 party an opportunity for a hearing after reasonable notice.

37 5. If a person is required to operate a motor vehicle in the course and scope of
38 his or her employment and the motor vehicle is owned by the person's employer,
39 the person may operate that vehicle without the installation of a device, if:

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

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

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

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

Sec. 22. ~~[NRS 178.484 is hereby amended to read as follows:]~~

~~178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.~~

~~2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:~~

~~(a) A court issues an order directing that the person be admitted to bail;~~

~~(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or~~

~~(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.~~

~~3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:~~

~~(a) A court issues an order directing that the person be admitted to bail; or~~

~~(b) A department of alternative sentencing directs the detention facility to admit the person to bail.~~

~~4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.~~

~~5. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on the person's own recognizance unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.~~

~~6. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on the person's own recognizance sooner than 12 hours after arrest.~~

~~7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after arrest. If the person is admitted to bail more than 12 hours after arrest, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:~~

~~(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation;~~

~~(b) Five thousand dollars, if the person has:~~

~~(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which~~

~~the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~— (c) Fifteen thousand dollars, if the person has:~~

~~— (1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 22.018 and there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~— (2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 22.018;~~

~~— The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 22.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~— 8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or for violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 must not be admitted to bail sooner than 12 hours after arrest if:~~

~~— (a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~— (b) The person has previously violated a temporary or extended order for protection of the type for which the person has been arrested; or~~

~~— (c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (1) A concentration of alcohol of 0.08 or more in the person's blood or breath; or~~

~~— (2) An amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110;~~

~~— 9. If a person is admitted to bail more than 12 hours after arrest, pursuant to subsection 8, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:~~

~~— (a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;~~

~~— (b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining~~

~~order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or~~

~~— (c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 22.017 to 22.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;~~

~~— The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 22.017 to 22.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378, if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~— 10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses;~~

~~— 11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:~~

~~— (a) Requiring the person to remain in this State or a certain county within this State;~~

~~— (b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on the person's behalf;~~

~~— (c) Prohibiting the person from entering a certain geographic area; [or]~~

~~— (d) Prohibiting the person from engaging in specific conduct that may be harmful to the person's own health, safety or welfare, or the health, safety or welfare of another person [.] ; or~~

~~— (e) If the person was arrested for a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) or (c) of subsection 1 of NRS 484C.400, and the county in which the person resides or is required to remain participates in a program established pursuant to section 14 of this act, assign the person to such a program.~~

~~— In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 179.485.~~

~~12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:~~

~~(a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

~~(b) Increase the amount of bail pursuant to NRS 478.499.~~

~~13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if the officer has probable cause to believe that the person has violated a condition of bail.~~

~~14. Before a person may be admitted to bail, the person must sign a document stating that:~~

~~(a) The person will appear at all times and places as ordered by the court releasing the person and as ordered by any court before which the charge is subsequently heard;~~

~~(b) The person will comply with the other conditions which have been imposed by the court and are stated in the document; and~~

~~(c) If the person fails to appear when so ordered and is taken into custody outside of this State, the person waives all rights relating to extradition proceedings.~~

~~The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.~~

~~15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.~~

~~16. For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.~~

~~17. As used in this section, "strangulation" has the meaning ascribed to it in NRS 200.481.] (Deleted by amendment.)~~

Sec. 23. ~~[NRS 213.12175 is hereby amended to read as follows:~~

~~213.12175 The Board may, as a condition of releasing a prisoner on parole, impose any reasonable conditions on the parolee to protect the health, safety and welfare of the community, including, without limitation:~~

~~1. Requiring the parolee to remain in this state or a certain county within this state;~~

~~2. Prohibiting the parolee from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on the parolee's behalf;~~

~~3. Prohibiting the parolee from entering a certain geographic area; [and]~~

~~4. Prohibiting the parolee from engaging in specific conduct that may be harmful to his or her own health, safety or welfare, or the health, safety or welfare of another person [;]; and~~

~~5. If the parolee was convicted of a violation of NRS 484C.110 or 484C.120 that was punishable pursuant to paragraph (b) or (c) of subsection 1 of NRS 484C.400, and the county in which the parolee will be released on parole participates in a program established pursuant to section 14 of this act, assign the parolee to such a program.] (Deleted by amendment.)~~

Sec. 24. This act becomes effective ~~[on July 1, 2019.]~~ upon passage and approval.