

---

---

ASSEMBLY BILL NO. 17—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Judiciary

**SUMMARY**—Revises provisions relating to penalties for driving under the influence of alcohol or a controlled substance. (BDR 43-465)

**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 motor vehicles; removing the requirement that a person who is convicted of driving under the influence of alcohol or a controlled substance must dress in certain distinctive garb while performing community service ordered by a court; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law prohibits a person from driving or being in actual physical control  
2 of a motor vehicle on a highway or other premises to which the public has access  
3 while under the influence of alcohol or certain controlled substances. (NRS  
4 484C.110, 484C.120) With certain exceptions, existing law requires a court to order  
5 a person who is convicted of driving while under the influence of alcohol or a  
6 controlled substance to perform community service while dressed in distinctive  
7 garb that identifies the person as having been convicted of driving under the  
8 influence of alcohol or a controlled substance. (NRS 484C.400) This bill removes  
9 the requirement that a person must dress in such distinctive garb while performing  
10 community service.



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

1     **Section 1.** NRS 484C.400 is hereby amended to read as  
2 follows:

3     484C.400 1. Unless a greater penalty is provided pursuant to  
4 NRS 484C.430 or 484C.440, and except as otherwise provided in  
5 NRS 484C.394 or 484C.410, a person who violates the provisions  
6 of NRS 484C.110 or 484C.120:

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

10     (1) Except as otherwise provided in subparagraph (4) of this  
11 paragraph or subsection 3 of NRS 484C.420, order the person to pay  
12 tuition for an educational course on alcohol or other substance use  
13 disorders approved by the Department and complete the course  
14 within the time specified in the order, and the court shall notify the  
15 Department if the person fails to complete the course within the  
16 specified time;

17     (2) Unless the sentence is reduced pursuant to  
18 NRS 484C.320:

19     (I) Sentence the person to imprisonment for not less than  
20 2 days nor more than 6 months in jail or residential confinement for  
21 not less than 2 days nor more than 6 months, in the manner provided  
22 in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive; or

23     (II) Order the person to perform not less than 48 hours,  
24 but not more than 96 hours, of community service ; ~~while dressed~~  
25 ~~in distinctive garb that identifies the person as having violated the~~  
26 ~~provisions of NRS 484C.110 or 484C.120;~~

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

29     (4) If the person is found to have a concentration of alcohol  
30 of 0.18 or more in his or her blood or breath, order the person to  
31 attend a program of treatment for an alcohol or other substance use  
32 disorder pursuant to the provisions of NRS 484C.360.

33     (b) For a second offense within 7 years, is guilty of a  
34 misdemeanor. Unless the sentence is reduced pursuant to NRS  
35 484C.330, the court shall:

36     (1) Sentence the person to:

37     (I) Imprisonment for not less than 10 days nor more than  
38 6 months in jail; or

39     (II) Residential confinement for not less than 10 days nor  
40 more than 6 months, in the manner provided in NRS 4.376 to  
41 4.3766, inclusive, or 5.0755 to 5.078, inclusive;



1 (2) Fine the person not less than \$750 nor more than \$1,000,  
2 or order the person to perform an equivalent number of hours of  
3 community service ; ~~while dressed in distinctive garb that identifies~~  
4 ~~the person as having violated the provisions of NRS 484C.110 or~~  
5 ~~484C.120;~~ and

6 (3) Order the person to attend a program of treatment for an  
7 alcohol or other substance use disorder pursuant to the provisions of  
8 NRS 484C.360.

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

12 (c) Except as otherwise provided in NRS 484C.340, for a third  
13 offense within 7 years, is guilty of a category B felony and the  
14 court:

15 (1) Shall:

16 (I) Sentence the person to imprisonment in the state  
17 prison for a minimum term of not less than 1 year and a maximum  
18 term of not more than 6 years; and

19 (II) Fine the person not less than \$2,000 nor more than  
20 \$5,000; and

21 (2) May order the person to attend a program of treatment for  
22 an alcohol or other substance use disorder pursuant to the provisions  
23 of NRS 484C.360 if the results of an evaluation conducted pursuant  
24 to NRS 484C.300 indicate that the person has an alcohol or other  
25 substance use disorder and that the person can be treated  
26 successfully for his or her condition.

27 ↪ An offender who is imprisoned pursuant to the provisions of this  
28 paragraph must, insofar as practicable, be segregated from offenders  
29 whose crimes were violent and, insofar as practicable, be assigned  
30 to an institution or facility of minimum security.

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

34 (a) When evidenced by a conviction; or

35 (b) If the offense is conditionally dismissed or the judgment of  
36 conviction is set aside pursuant to NRS 176A.240, 176A.260 or  
37 176A.290 or dismissed in connection with successful completion of  
38 a diversionary program or specialty court program,

39 ↪ without regard to the sequence of the offenses and convictions.  
40 The facts concerning a prior offense must be alleged in the  
41 complaint, indictment or information, must not be read to the jury or  
42 proved at trial but must be proved at the time of sentencing and, if  
43 the principal offense is alleged to be a felony, must also be shown at  
44 the preliminary examination or presented to the grand jury.



1 3. A term of confinement imposed pursuant to the provisions  
2 of this section may be served intermittently at the discretion of the  
3 judge or justice of the peace, except that a person who is convicted  
4 of a second or subsequent offense within 7 years must be confined  
5 for at least one segment of not less than 48 consecutive hours. This  
6 discretion must be exercised after considering all the circumstances  
7 surrounding the offense, and the family and employment of the  
8 offender, but any sentence of 30 days or less must be served within  
9 6 months after the date of conviction or, if the offender was  
10 sentenced pursuant to NRS 484C.320 or 484C.330 and the  
11 suspension of his or her sentence was revoked, within 6 months  
12 after the date of revocation. Any time for which the offender is  
13 confined must consist of not less than 24 consecutive hours.

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

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

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

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

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

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

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

37 **Sec. 2.** This act becomes effective upon passage and approval.

