

(Reprinted with amendments adopted on April 19, 2021)**FIRST REPRINT****A.B. 427**

ASSEMBLY BILL NO. 427—COMMITTEE ON JUDICIARY

MARCH 26, 2021

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to driving under the influence of alcohol or a prohibited substance. (BDR 43-373)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; revising provisions relating to the revocation of the license, permit or privilege of a driver; revising provisions concerning the issuance of a restricted driver's license; authorizing the Department of Motor Vehicles to issue an ignition interlock privilege to certain persons in lieu of a restricted driver's license; establishing provisions concerning ignition interlock devices; requiring the Director of the Department of Public Safety to establish the Ignition Interlock Program and adopt rules and regulations necessary to carry out the Program; establishing the Account for the Ignition Interlock Program; requiring the Department of Public Safety to adopt regulations establishing certain reasonable fees relating to ignition interlock devices; transferring certain duties from the Committee on Testing for Intoxication to the Department of Public Safety; revising various provisions concerning offenders who commit a violation of driving under the influence of alcohol or a prohibited substance; revising provisions relating to the statewide sobriety and drug monitoring program; authorizing a person who commits a first violation within 7 years of driving under the influence of alcohol or a prohibited substance to be sentenced to residential confinement in lieu of imprisonment; revising provisions relating to certain programs of treatment established by courts; providing penalties; and providing other matters properly relating thereto.



* A B 4 2 7 R 1 *

Legislative Counsel's Digest:

1 Existing law requires the Department of Motor Vehicles (hereinafter
2 "Department"), after receiving a record of a driver's final conviction of certain
3 offenses, to revoke the license, permit or privilege of the driver for a period of 185
4 days, 1 year or 3 years, depending on the offense committed. (NRS 483.460)
5 **Section 5** of this bill additionally requires the Department to make such a
6 revocation for a period of either 3 or 5 years for offenses relating to driving without
7 or tampering with an ignition interlock device.

8 Existing law establishes the circumstances in which the Department is
9 authorized to issue a restricted driver's license to a person whose license has been
10 suspended or revoked, which enables the person to drive to and from certain places
11 for certain purposes. (NRS 483.490) Existing law also requires a court to order
12 certain persons to install for a certain period, depending on the offense committed,
13 an ignition interlock device in any motor vehicle that the person operates as a
14 condition to obtaining such a restricted license. (NRS 484C.210, 484C.460)
15 **Section 28** of this bill requires a court to order certain persons to install an ignition
16 interlock device for a period of 185 days, 1 year or 3 years, depending on the
17 offense committed, which aligns such periods with the periods of the revocation of
18 person's license, permit or privilege to drive under **section 5**. **Section 7** of this bill
19 requires the Department to issue an ignition interlock privilege in lieu of a restricted
20 driver's license to such persons who have been ordered by the court to install an
21 ignition interlock device after such persons provide proof of compliance with the
22 order. **Section 7** also provides that any person for whom a court has provided an
23 exception relating to the installation of an ignition interlock device is eligible for a
24 restricted driver's license while participating in and complying with the
25 requirements of the statewide sobriety and drug monitoring program. **Section 14** of
26 this bill requires a court to give day-for-day credit to certain persons who install an
27 ignition interlock device before the court orders the installation if such persons
28 provide proof satisfactory to the court that the ignition interlock device was
29 installed.

30 **Section 7** provides that a person who violates any condition of an ignition
31 interlock privilege is guilty of a misdemeanor and shall be punished by: (1)
32 imprisonment in jail for not less than 30 days or more than 6 months, or by serving
33 a term of residential confinement for not less than 60 days or more than 6 months;
34 and (2) a fine of not less than \$500 and not more than \$1,000. **Section 6** of this bill
35 additionally authorizes the Department to suspend the license of a driver without a
36 preliminary hearing upon a sufficient showing that he or she failed to comply with
37 the conditions of the issuance of an ignition interlock privilege.

38 **Section 11** of this bill requires the Director of the Department of Public Safety
39 to establish the Ignition Interlock Program and adopt rules and regulations that are
40 necessary to carry out the Program. **Section 11** also establishes the Account for the
41 Ignition Interlock Program and requires the Director or his or her designee to
42 administer the Account, which can only be used to pay the expenses of the Program
43 and must be funded by fees charged by the Department of Public Safety relating to
44 ignition interlock devices. **Section 11** requires the Department of Public Safety to
45 adopt regulations establishing reasonable fees for: (1) the certification,
46 recertification and reinstatement of the certification of manufacturers and vendors
47 of ignition interlock devices; (2) the installation of an ignition interlock device by
48 such manufacturers and vendors; and (3) repeat violations relating to an ignition
49 interlock device.

50 Existing law requires the Committee on Testing for Intoxication to adopt
51 regulations relating to ignition interlock devices. (NRS 484C.480) **Section 31** of
52 this bill transfers such a responsibility to the Department of Public Safety and
53 requires that such regulations provide for the certification of manufacturers and



54 vendors of ignition interlock devices to allow such manufacturers and vendors to
55 conduct business in this State.

56 Existing law requires a police officer to seize the driver's license or permit of a
57 person who fails to submit to a preliminary breath test to determine the
58 concentration of alcohol in his or her breath at the request of the police officer.
59 (NRS 484C.150) **Section 13** of this bill removes such a requirement.

60 Existing law requires that certain offenders be evaluated before being sentenced
61 to determine whether the offender has an alcohol or other substance use disorder
62 and can be successfully treated for the disorder, and requires the person conducting
63 the evaluation to forward the results of the evaluation to the Director of the
64 Department of Corrections. (NRS 484C.300) **Section 17** of this bill provides that if
65 the offender is assigned to any specialty court or diversionary program, the person
66 conducting the evaluation is instead required to forward the results of the
67 evaluation to the court having jurisdiction over the offender.

68 Existing law authorizes a person who is found guilty of a first or second
69 violation within 7 years of driving under the influence of alcohol or a prohibited
70 substance to apply to the court to undergo a program of treatment for an alcohol or
71 other substance use disorder for at least 6 months or 1 year, respectively. The court
72 is required to authorize the treatment if the offender satisfies certain requirements,
73 including if the offender has served or will serve a term of imprisonment in jail of 1
74 day or 5 days, respectively. If the offender satisfactorily completes the treatment,
75 his or her sentence will be reduced to a term of imprisonment that is no longer than
76 the applicable 1-day or 5-day period. (NRS 484C.320, 484C.330) **Sections 18 and**
77 **19** of this bill, respectively, instead provide that such a term of imprisonment must
78 be not less than 1 day or 5 days, as applicable.

79 Existing law also authorizes a person who pleads guilty or nolo contendere to a
80 third violation within 7 years of driving under the influence of alcohol or a
81 prohibited substance to apply to the court to undergo a program of treatment for an
82 alcohol or other substance use disorder for a period of at least 3 years. If the court
83 grants the application for treatment, the court is required to advise the offender that
84 the court may order him or her to be admitted to a residential treatment facility or
85 be provided with outpatient treatment in the community. (NRS 484C.340) **Section**
86 **20** of this bill removes such an option for outpatient treatment. **Section 20** also
87 requires that as a condition of participating in a program of treatment, the offender
88 must be placed under a system of active electronic monitoring and pay any costs
89 associated with his or her participation under the system of active electronic
90 monitoring. **Section 20** provides that a person who intentionally removes or
91 disables or attempts to remove or disable in an unlawful manner an electronic
92 monitoring device placed on an offender is guilty of a gross misdemeanor.

93 Existing law enacts the Nevada 24/7 Sobriety and Drug Monitoring Program
94 Act, which generally establishes a statewide sobriety and drug monitoring program
95 that provides for the frequent testing of persons assigned to the program to
96 determine the presence of alcohol or a prohibited substance in their system. (NRS
97 484C.372-484C.397) A court is authorized to assign an offender to the program
98 who is found guilty of a second or third violation within 7 years of driving under
99 the influence of alcohol or a prohibited substance. (NRS 484C.394) **Sections 23-26**
100 **and 45** of this bill make various changes to the program. **Section 23** requires a
101 participant in the program to be subject to: (1) testing to determine the presence of
102 alcohol in his or her system either at a designated testing location at least twice
103 each day or by using any other method approved under federal regulations; and (2)
104 if appropriate, random testing to determine the presence of a prohibited substance
105 in his or her system at least two times each week using any method approved under
106 federal regulations. **Section 23** also provides that any person who uses alcohol or a
107 prohibited substance while assigned to the program or fails or refuses to undergo
108 required testing must be subject to an immediate sanction unless the approved



109 testing method used does not allow for the imposition of an immediate sanction, in
110 which case the person must be subject to a timely sanction. **Section 22.5** of this bill
111 revises the definition of the term “timely sanction.” **Section 23** additionally
112 removes a provision allowing other testing methodologies to be used in cases of
113 economic hardship or when a participant is rewarded with less stringent testing
114 requirements. **Section 45** repeals certain provisions that have been included in or
115 are amended by **section 23**. **Section 24** of this bill authorizes a person who was
116 arrested or found guilty, as applicable, of a first, second or third violation within 7
117 years of driving under the influence of alcohol or a prohibited substance to be
118 assigned to the program as a condition of pretrial release, a sentence, or suspension
119 of sentence or probation. **Section 24** requires a person who committed: (1) a first
120 violation within 7 years of driving under the influence of alcohol or a controlled
121 substance to participate in the program for not less than 90 days; and (2) a second
122 or third violation within 7 years of driving under the influence of alcohol or a
123 prohibited substance to participate in the program for not less than 1 year or 18
124 months, respectively, and receive an assessment of whether the person has an
125 alcohol or other substance use disorder and any appropriate treatment. If any such
126 repeat offender successfully completes the program, his or her sentence will be
127 reduced, but the minimum mandatory term of imprisonment the person serves must
128 not be less than 5 or 10 days, respectively. **Section 26** of this bill specifies that if
129 rewards are given to participants in the program who meet certain standards of
130 compliance, such a reward cannot include undergoing less frequent testing than that
131 which is required.

132 Existing law generally provides that a person who commits a first violation
133 within 7 years of driving under the influence of alcohol or a prohibited substance
134 must be sentenced to imprisonment for not less than 2 days and not more than 6
135 months in jail, and a person who commits a second violation within 7 years of
136 driving under the influence of alcohol or a prohibited substance must be sentenced
137 to imprisonment in jail or residential confinement for not less than 10 days and not
138 more than 6 months. (NRS 484C.400) **Section 27** of this bill authorizes a person
139 who commits a first violation within 7 years of driving under the influence of
140 alcohol or a prohibited substance to be sentenced to residential confinement in lieu
141 of being sentenced to imprisonment in jail. **Section 27** also provides that a person
142 who commits a third violation within 7 years of driving under the influence of
143 alcohol or a prohibited substance may be ordered to attend a program of treatment
144 for an alcohol or other substance use disorder if the person has been evaluated and
145 the results of the evaluation indicate that the person has such a disorder and can be
146 treated successfully for the condition.

147 Existing law authorizes a court to establish a program for the treatment of
148 veterans and members of the military to which certain eligible defendants may be
149 assigned. (NRS 176A.280) If the defendant was charged with a violation of certain
150 provisions of law, including driving under the influence of alcohol or a prohibited
151 substance, the court is authorized to conditionally dismiss the charges against the
152 defendant upon his or her fulfillment of the terms and conditions of the program.
153 (NRS 176A.290) Not sooner than 7 years after the charges are conditionally
154 dismissed, the records relating to the case can be sealed by court order. (NRS
155 176A.295) **Section 37** of this bill additionally authorizes the court to set aside the
156 judgment of conviction against such a defendant, if applicable, and provides that
157 any judgment of conviction that is set aside is a conviction for certain purposes,
158 including for the purpose of additional penalties imposed for second or subsequent
159 convictions. **Section 38** of this bill authorizes the records relating to the case to be
160 sealed by court order not sooner than 7 years after the judgment of conviction is set
161 aside.

162 Existing law also authorizes a court to establish a program for the treatment of
163 alcohol or other substance use disorders and a program for the treatment of mental



164 illness or intellectual disabilities to which certain eligible defendants may be
165 assigned. (NRS 176A.230, 176A.250) **Sections 33-36** of this bill establish
166 provisions that mirror the provisions in **sections 37 and 38** and authorize: (1) a
167 court to conditionally dismiss the charges or set aside the judgment of conviction
168 against a defendant who was charged with a violation of certain provisions of law,
169 including driving under the influence of alcohol or a prohibited substance, upon the
170 defendant's fulfillment of the terms and conditions of the respective program; and
171 (2) the records relating to such a case to be sealed by court order not sooner than 7
172 years after the charges are conditionally dismissed or the judgment of conviction is
173 set aside. **Sections 33 and 35** of this bill also specify that any charge that is
174 conditionally dismissed or judgment of conviction that is set aside is a conviction
175 for the purpose of additional penalties imposed for second or subsequent
176 convictions.
177 **Section 39** of this bill provides that the provisions of law which prohibit a
178 person who was convicted of a violation of driving under the influence of alcohol
179 or a prohibited substance that is punishable as a felony from being able to petition
180 the court to seal the records relating to such a conviction must not be construed to
181 preclude certain persons from petitioning the court for the sealing of records.

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

1 **Section 1.** Chapter 483 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *As used in this section and NRS 483.420 to 483.525,*
4 *inclusive, and sections 3 and 4 of this act, unless the context*
5 *otherwise requires, the words and terms defined in sections 3 and*
6 *4 of this act have the meanings ascribed to them in those sections.*

7 **Sec. 3.** *"Ignition interlock device" has the meaning ascribed*
8 *to it in section 9 of this act.*

9 **Sec. 4.** *"Ignition interlock privilege" has the meaning*
10 *ascribed to it in section 10 of this act.*

11 **Sec. 5.** NRS 483.460 is hereby amended to read as follows:

12 483.460 1. Except as otherwise provided by specific statute,
13 the Department shall revoke the license, permit or privilege of any
14 driver upon receiving a record of his or her conviction of any of the
15 following offenses, when that conviction has become final, and
16 the driver is not eligible for a license, permit or privilege to drive for
17 the period indicated:

18 (a) *For a period of 185 days, if the offense is a first violation*
19 *within 7 years of NRS 484C.110 or 484C.120.*

20 (b) *For a period of 1 year if the offense is:*

21 (1) *Except as otherwise provided in paragraph (c), any*
22 *manslaughter, including vehicular manslaughter as described in*
23 *NRS 484B.657, resulting from the driving of a motor vehicle or*
24 *felony in the commission of which a motor vehicle is used,*
25 *including the unlawful taking of a motor vehicle.*



1 (2) *Failure to stop and render aid as required pursuant to*
2 *the laws of this State in the event of a motor vehicle crash*
3 *resulting in the death or bodily injury of another.*

4 (3) *Perjury or the making of a false affidavit or statement*
5 *under oath to the Department pursuant to NRS 483.010 to*
6 *483.630, inclusive, and sections 2, 3 and 4 of this act, or pursuant*
7 *to any other law relating to the ownership or driving of motor*
8 *vehicles.*

9 (4) *Conviction, or forfeiture of bail not vacated, upon three*
10 *charges of reckless driving committed within a period of 12*
11 *months.*

12 (5) *A second violation within 7 years of NRS 484C.110 or*
13 *484C.120.*

14 (6) *A violation of NRS 484B.550.*

15 (c) For a period of 3 years if the offense is:

16 (1) *A first violation of driving without an ignition interlock*
17 *device or tampering with an ignition interlock device pursuant to*
18 *subsection 2 of NRS 484C.470 and the driver is not eligible for a*
19 *restricted license or an ignition interlock privilege during any of*
20 *that period.*

21 (2) A violation of subsection 9 of NRS 484B.653.

22 ~~(2)~~ (3) A third or subsequent violation within 7 years of
23 NRS 484C.110 or 484C.120.

24 ~~(3)~~ (4) A violation of NRS 484C.110 or 484C.120
25 resulting in a felony conviction pursuant to NRS 484C.400 or
26 484C.410.

27 ~~(4)~~ (5) A violation of NRS 484C.430 or a homicide
28 resulting from driving or being in actual physical control of a
29 vehicle while under the influence of intoxicating liquor or a
30 controlled substance or resulting from any other conduct prohibited
31 by NRS 484C.110, 484C.130 or 484C.430.

32 ↪ The period during which such a driver is not eligible for a
33 license, permit or privilege to drive must be set aside during any
34 period of imprisonment and the period of revocation must resume
35 when the Department is notified pursuant to NRS 209.517 or
36 213.12185 that the person has completed the period of
37 imprisonment or that the person has been placed on residential
38 confinement or parole.

39 ~~(b) For a period of 1 year if the offense is:~~

40 ~~(1) Any other manslaughter, including vehicular~~
41 ~~manslaughter as described in NRS 484B.657, resulting from the~~
42 ~~driving of a motor vehicle or felony in the commission of which a~~
43 ~~motor vehicle is used, including the unlawful taking of a motor~~
44 ~~vehicle.~~



1 ~~—— (2) Failure to stop and render aid as required pursuant to the~~
2 ~~laws of this State in the event of a motor vehicle crash resulting in~~
3 ~~the death or bodily injury of another.~~

4 ~~—— (3) Perjury or the making of a false affidavit or statement~~
5 ~~under oath to the Department pursuant to NRS 483.010 to 483.630,~~
6 ~~inclusive, or pursuant to any other law relating to the ownership or~~
7 ~~driving of motor vehicles.~~

8 ~~—— (4) Conviction, or forfeiture of bail not vacated, upon three~~
9 ~~charges of reckless driving committed within a period of 12 months.~~

10 ~~—— (5) A second violation within 7 years of NRS 484C.110 or~~
11 ~~484C.120 and the driver is not eligible for a restricted license during~~
12 ~~any of that period.~~

13 ~~—— (6) A violation of NRS 484B.550.~~

14 ~~—(e)] (d) For a period of [not less than 185 days,] 5 years~~ if the
15 offense is a ~~[first] second or subsequent~~ violation ~~[within 7 years of~~
16 ~~NRS 484C.110 or 484C.120.] of driving without an ignition~~
17 ~~interlock device or tampering with an ignition interlock device~~
18 ~~pursuant to subsection 2 of NRS 484C.470 and the driver is not~~
19 ~~eligible for a restricted license or an ignition interlock privilege~~
20 ~~during any of that period.~~

21 2. The Department shall revoke the license, permit or privilege
22 of a driver convicted of violating NRS 484C.110 or 484C.120 who
23 fails to complete the educational course on the use of alcohol and
24 controlled substances within the time ordered by the court and shall
25 add a period of 90 days during which the driver is not eligible for a
26 license, permit or privilege to drive.

27 3. When the Department is notified by a court that a person
28 who has been convicted of a first violation within 7 years of NRS
29 484C.110 has been permitted to enter a program of treatment
30 pursuant to NRS 484C.320, the Department shall reduce by one-half
31 the period during which the person is not eligible for a license,
32 permit or privilege to drive, but shall restore that reduction in time if
33 notified that the person was not accepted for or failed to complete
34 the treatment.

35 4. ~~[The Department shall revoke the license, permit or privilege~~
36 ~~to drive of a person who is required to install a device pursuant to~~
37 ~~NRS 484C.210 or 484C.460 but who operates a motor vehicle~~
38 ~~without such a device:~~

39 ~~—— (a) For 3 years, if it is his or her first such offense during the~~
40 ~~period of required use of the device.~~

41 ~~—— (b) For 5 years, if it is his or her second such offense during the~~
42 ~~period of required use of the device.~~

43 ~~—— 5. A driver whose license, permit or privilege is revoked~~
44 ~~pursuant to subsection 4 is not eligible for a restricted license during~~



~~the period set forth in paragraph (a) or (b) of that subsection, whichever applies.~~

~~6.]~~ In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064, 206.330 or 392.148, chapters 484A to 484E, inclusive, of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

~~[7.—As used in this section, “device” has the meaning ascribed to it in NRS 484C.450.]~~

Sec. 6. NRS 483.470 is hereby amended to read as follows:

483.470 1. The Department may suspend the license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction;

(b) Has been involved as a driver in any crash resulting in the death or personal injury of another or serious property damage;

(c) Is physically or mentally incompetent to drive a motor vehicle;

(d) Has permitted an unlawful or fraudulent use of his or her license;

(e) Has committed an offense in another state which if committed in this State would be grounds for suspension or revocation; or

(f) Has failed to comply with the conditions of issuance of a restricted license ~~[.]~~ *or an ignition interlock privilege.*

2. Upon suspending the license of any person as authorized in this section, the Department shall immediately notify the person in writing, and upon his or her request shall afford the person an opportunity for a hearing as early as practical within 20 days after receipt of the request in the county wherein the person resides unless the person and the Department agree that the hearing may be held in some other county. The Administrator, or an authorized agent thereof, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee in connection with the hearing. Upon the hearing, the Department shall either rescind its order of suspension or, for good cause, extend the suspension of the license or revoke it.

Sec. 7. 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



1 during which the driver is not eligible for a license has expired, the
2 Department may, unless the statute authorizing the suspension *or*
3 *revocation* prohibits the issuance of a restricted license, issue a
4 restricted driver's license to an applicant permitting the applicant to
5 drive a motor vehicle:

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

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

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

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

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

20 ~~—(b) May not receive a restricted license pursuant to this section~~
21 ~~until:~~

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

24 ~~—(I) A violation of NRS 484C.430 or a homicide resulting~~
25 ~~from driving or being in actual physical control of a vehicle while~~
26 ~~under the influence of intoxicating liquor or a controlled substance~~
27 ~~or resulting from any other conduct prohibited by NRS 484C.110,~~
28 ~~484C.130 or 484C.430; or~~

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

31 ~~—(2) After at least 180 days of the period during which the~~
32 ~~person is not eligible for a license, if the person was convicted of a~~
33 ~~violation of subsection 9 of NRS 484B.653.~~

34 ~~—3. If the Department has received a copy of an order requiring a~~
35 ~~person to install a device in a motor vehicle pursuant to NRS~~
36 ~~484C.460 or following an order of revocation issued pursuant to~~
37 ~~NRS 484C.220, the Department shall not issue a restricted driver's~~
38 ~~license to such a person pursuant to this section unless the applicant~~
39 ~~has submitted proof of compliance with the order and subsection 2.~~

40 ~~—4.] If the driver's license of a person assigned to a program~~
41 ~~established pursuant to NRS 484C.392 is suspended or revoked, the~~
42 ~~Department may [after verifying the proof of compliance~~
43 ~~submitted pursuant to subsection 3, if applicable,] issue a restricted~~
44 ~~driver's license to [such] an applicant that is valid while he or she is~~
45 ~~[a participant] participating in and complying with the~~



1 **requirements of** the program and that permits the applicant to drive
2 a motor vehicle:

3 (a) To and from a testing location established by a **designated**
4 law enforcement agency pursuant to NRS 484C.393;

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

7 (c) To and from court appearances;

8 (d) To and from counseling; or

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

11 ~~[5.]~~ **3.** Except as otherwise provided in NRS 62E.630, after a
12 driver's license has been revoked or suspended pursuant to title 5 of
13 NRS or NRS 392.148, the Department may issue a restricted
14 driver's license to an applicant permitting the applicant to drive a
15 motor vehicle:

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

18 (b) If applicable, to and from school.

19 ~~[6.]~~ **4.** After a driver's license has been suspended pursuant to
20 NRS 483.443, the Department may issue a restricted driver's license
21 to an applicant permitting the applicant to drive a motor vehicle:

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

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

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

28 ~~[7.]~~ **5.** A driver who violates a condition of a restricted license
29 issued pursuant to subsection 1 or ~~[4-or-by-another-jurisdiction]~~ **2** is
30 guilty of a misdemeanor and, if the license of the driver was
31 suspended or revoked for:

32 (a) A violation of NRS 484C.110, 484C.210 or 484C.430;

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

38 (c) A violation of a law of any other jurisdiction that prohibits
39 the same or similar conduct as set forth in paragraph (a) or (b),
40 ➔ the driver shall be punished in the manner provided pursuant to
41 subsection 2 of NRS 483.560.

42 ~~[8.]~~ **6.** The periods of suspensions and revocations required
43 pursuant to this chapter and NRS 484C.210 must run consecutively,
44 except as otherwise provided in NRS 483.465 and 483.475, when
45 the suspensions must run concurrently.



1 ~~19.1~~ 7. Whenever the Department suspends or revokes a
2 license, the period of suspension, or of ineligibility for a license
3 after the revocation, begins upon the effective date of the revocation
4 or suspension as contained in the notice thereof.

5 8. *Any person for whom a court provides an exception*
6 *relating to the installation of an ignition interlock device pursuant*
7 *to subsection 4 of NRS 484C.210 or subsection 2 of NRS 484C.460*
8 *is eligible for a restricted driver's license under this section while*
9 *the person is participating in and complying with the requirements*
10 *of a program established pursuant to NRS 484C.392.*

11 9. *If the Department receives a copy of an order requiring a*
12 *person to install an ignition interlock device in a motor vehicle*
13 *pursuant to NRS 484C.460, the Department shall issue an ignition*
14 *interlock privilege to the person after he or she submits proof of*
15 *compliance with the order. A person who is required to install an*
16 *ignition interlock device pursuant to NRS 484C.210 or 484C.460*
17 *shall install the device not later than 14 days after the date on*
18 *which the order was issued. A driver who violates any condition of*
19 *an ignition interlock privilege issued pursuant to this subsection is*
20 *guilty of a misdemeanor and shall be punished in the same*
21 *manner provided in subsection 2 of NRS 483.560 for driving a*
22 *vehicle while a driver's license is cancelled, revoked or suspended.*

23 **Sec. 8.** Chapter 484C of NRS is hereby amended by adding
24 thereto the provisions set forth as sections 9, 10 and 11 of this act.

25 **Sec. 9.** "Ignition interlock device" means a mechanism that:

26 1. *Tests a person's breath to determine the concentration of*
27 *alcohol in his or her breath; and*

28 2. *If the results of the test indicate that the person has a*
29 *concentration of alcohol of 0.02 or more in his or her breath,*
30 *prevents the motor vehicle in which it is installed from starting.*

31 **Sec. 10.** "Ignition interlock privilege" means a license issued
32 by the Department which authorizes the holder to operate a motor
33 vehicle that has an ignition interlock device installed.

34 **Sec. 11.** 1. *The Director of the Department of Public Safety*
35 *shall:*

36 (a) *Establish the Ignition Interlock Program; and*

37 (b) *Adopt rules and regulations which are necessary to carry*
38 *out the Program.*

39 2. *The Director may contract for the provision of services*
40 *necessary for the Program.*

41 3. *The Account for the Ignition Interlock Program is hereby*
42 *created as a special account in the State Highway Fund. The*
43 *Director, or his or her designee, shall administer the Account.*

44 4. *The Account must be funded through the fees established*
45 *by regulation pursuant to subsection 7. The money in the Account*



1 *may only be used to pay the expenses of the Program, including,*
2 *without limitation:*

3 (a) *Enforcement activities relating to driving under the*
4 *influence of alcohol or a prohibited substance;*

5 (b) *The creation and maintenance of a case management*
6 *statistical tracking system;*

7 (c) *An on-site audit program;*

8 (d) *Treatment assistance;*

9 (e) *Educational programs and training for law enforcement*
10 *officers; and*

11 (f) *Outreach programs.*

12 5. *The interest and income earned on the money in the*
13 *Account, after deducting any applicable charges, must be credited*
14 *to the Account.*

15 6. *Any money remaining in the Account at the end of each*
16 *fiscal year does not revert to the State Highway Fund but must be*
17 *carried over into the next fiscal year.*

18 7. *The Department of Public Safety shall adopt regulations to*
19 *establish a fee schedule that includes reasonable fees for:*

20 (a) *The certification of manufacturers and vendors of ignition*
21 *interlock devices;*

22 (b) *The annual recertification of manufacturers and vendors*
23 *of ignition interlock devices;*

24 (c) *The reinstatement of the certification of manufacturers and*
25 *vendors of ignition interlock devices;*

26 (d) *The installation of an ignition interlock device by*
27 *manufacturers and vendors of ignition interlock devices; and*

28 (e) *Repeat violations relating to an ignition interlock device.*

29 **Sec. 12.** NRS 484C.010 is hereby amended to read as follows:

30 484C.010 As used in this chapter, unless the context otherwise
31 requires, the words and terms defined in NRS 484C.020 to
32 484C.105, inclusive, *and sections 9 and 10 of this act* have the
33 meanings ascribed to them in those sections.

34 **Sec. 13.** NRS 484C.150 is hereby amended to read as follows:

35 484C.150 1. Any person who drives or is in actual physical
36 control of a vehicle on a highway or on premises to which the public
37 has access shall be deemed to have given his or her consent to a
38 preliminary test of his or her breath to determine the concentration
39 of alcohol in his or her breath when the test is administered at the
40 request of a police officer at the scene of a vehicle crash or where
41 the police officer stops a vehicle, if the officer has reasonable
42 grounds to believe that the person to be tested was:

43 (a) *Driving or in actual physical control of a vehicle while under*
44 *the influence of intoxicating liquor or a controlled substance; or*



1 (b) Engaging in any other conduct prohibited by NRS 484C.110,
2 484C.120, 484C.130 or 484C.430.

3 2. If the person fails to submit to the test, the officer shall ~~f~~
4 ~~—(a) Seize the license or permit of the person to drive as provided~~
5 ~~in NRS 484C.220; and~~
6 ~~—(b) If~~, if reasonable grounds otherwise exist, arrest the person
7 and take him or her to a convenient place for the administration of a
8 reasonably available evidentiary test under NRS 484C.160.

9 3. The result of the preliminary test must not be used in any
10 criminal action, except to show there were reasonable grounds to
11 make an arrest.

12 **Sec. 14.** NRS 484C.210 is hereby amended to read as follows:

13 484C.210 1. If a person fails to submit to an evidentiary test
14 as requested by a police officer pursuant to NRS 484C.160, the
15 license, permit or privilege to drive of the person must be revoked as
16 provided in NRS 484C.220, and the person is not eligible for a
17 license, permit or privilege to drive for a period of:

18 (a) One year; or

19 (b) Three years, if the license, permit or privilege to drive of the
20 person has been revoked during the immediately preceding 7 years
21 for failure to submit to an evidentiary test.

22 2. If the result of a test given under NRS 484C.150 or
23 484C.160 shows that a person had a concentration of alcohol of 0.08
24 or more in his or her blood or breath or a detectable amount of a
25 controlled substance or prohibited substance in his or her blood or
26 urine for which he or she did not have a valid prescription, as
27 defined in NRS 453.128, or hold a valid registry identification card,
28 as defined in NRS 678C.080, at the time of the test, the license,
29 permit or privilege of the person to drive must be revoked as
30 provided in NRS 484C.220 and the person is not eligible for a
31 license, permit or privilege for a period of ~~[90]~~ 185 days.

32 3. ~~[Except as otherwise provided in subsection 1, at]~~ At any
33 time while a person is not eligible for a license, permit or privilege
34 to drive following a revocation under subsection 1 or 2, ~~[which was~~
35 ~~based on the person having a concentration of alcohol of 0.08 or~~
36 ~~more in his or her blood or breath,]~~ the person shall install, at his or
37 her own expense, ~~[a]~~ an ignition interlock device in any motor
38 vehicle which the person operates as a condition to obtaining ~~[a~~
39 ~~restricted license]~~ an ignition interlock privilege pursuant to
40 NRS 483.490.

41 4. *The Department may provide for an exception to the*
42 *requirements of subsection 3 and issue a restricted license*
43 *pursuant to subsection 1 of NRS 483.490 if the Department*
44 *determines that the person is not a repeat intoxicated driver, as*
45 *that term is defined in 23 C.F.R. § 1275.3(k) and:*



1 (a) *The person is unable to provide a deep lung breath sample*
2 *for analysis by an ignition interlock device, as certified in writing*
3 *by a physician or an advanced practice registered nurse of the*
4 *person; or*

5 (b) *The person resides more than 100 miles from a*
6 *manufacturer of an ignition interlock device or its agent.*

7 5. If a revocation of a person's license, permit or privilege to
8 drive under NRS 62E.640 or 483.460 follows a revocation under
9 subsection 2 which was based on the person having a concentration
10 of alcohol of 0.08 or more in his or her blood or breath, the
11 Department shall cancel the revocation under that subsection and
12 give the person credit for any period during which the person was
13 not eligible for a license, permit or privilege.

14 ~~[5.]~~ 6. If an order to install ~~[a]~~ *an ignition interlock* device
15 pursuant to NRS 62E.640 or 484C.460 follows the installation of ~~[a]~~
16 *an ignition interlock* device pursuant to subsection 3, the court
17 ~~[may]~~ *shall* give the person day-for-day credit for any period during
18 which the person ~~[installed a]~~ *can provide proof satisfactory to the*
19 *court that he or she had an ignition interlock* device installed as a
20 condition to obtaining ~~[a restricted license.]~~ *an ignition interlock*
21 *privilege.*

22 ~~[6.]~~ 7. Periods of ineligibility for a license, permit or privilege
23 to drive which are imposed pursuant to this section must run
24 consecutively.

25 ~~[7.— As used in this section, “device” has the meaning ascribed~~
26 ~~to it in NRS 484C.450.]~~

27 **Sec. 15.** NRS 484C.220 is hereby amended to read as follows:

28 484C.220 1. As agent for the Department, the officer who
29 requested that a test be given pursuant to NRS 484C.150 or
30 484C.160 or who obtained the result of a test given pursuant to NRS
31 484C.150 or 484C.160 shall immediately serve an order of
32 revocation of the license, permit or privilege to drive on a person
33 who failed to submit to a test requested by the police officer
34 pursuant to NRS ~~[484C.150 or]~~ 484C.160 or who has a
35 concentration of alcohol of 0.08 or more in his or her blood or
36 breath or has a detectable amount of a controlled substance or
37 prohibited substance in his or her blood or urine for which he or she
38 did not have a valid prescription, as defined in NRS 453.128, or
39 hold a valid registry identification card, as defined in NRS
40 678C.080, if that person is present, and shall seize the license or
41 permit to drive of the person. The officer shall then, unless the
42 information is expressly set forth in the order of revocation, advise
43 the person of his or her right to administrative and judicial review of
44 the revocation pursuant to NRS 484C.230 and, except as otherwise
45 provided in this subsection, that the person has a right to request a



1 temporary license. The officer shall also, unless the information is
2 expressly set forth in the order of revocation, advise the person that
3 he or she is required to install ~~fa~~ *an ignition interlock* device
4 pursuant to NRS 484C.210. If the person currently is driving with a
5 temporary license that was issued pursuant to this section or NRS
6 484C.230, the person is not entitled to request an additional
7 temporary license pursuant to this section or NRS 484C.230, and the
8 order of revocation issued by the officer must revoke the temporary
9 license that was previously issued. If the person is entitled to request
10 a temporary license, the officer shall issue the person a temporary
11 license on a form approved by the Department if the person requests
12 one, which is effective for only 7 days including the date of
13 issuance. The officer shall immediately transmit the person's license
14 or permit to the Department along with the written certificate
15 required by subsection 2.

16 2. When a police officer has served an order of revocation of a
17 driver's license, permit or privilege on a person pursuant to
18 subsection 1, or later receives the result of an evidentiary test which
19 indicates that a person, not then present, had a concentration of
20 alcohol of 0.08 or more in his or her blood or breath or had a
21 detectable amount of a controlled substance or prohibited substance
22 in his or her blood or urine for which he or she did not have a valid
23 prescription, as defined in NRS 453.128, or hold a valid registry
24 identification card, as defined in NRS 678C.080, the officer shall
25 immediately prepare and transmit to the Department, together with
26 the seized license or permit and a copy of the result of the test, if
27 any, a written certificate that the officer had reasonable grounds to
28 believe that the person had been driving or in actual physical control
29 of a vehicle:

30 (a) With a concentration of alcohol of 0.08 or more in his or her
31 blood or breath or with a detectable amount of a controlled
32 substance or prohibited substance in his or her blood or urine for
33 which he or she did not have a valid prescription, as defined in NRS
34 453.128, or hold a valid registry identification card, as defined in
35 NRS 678C.080, as determined by a chemical test; or

36 (b) While under the influence of intoxicating liquor or a
37 controlled substance or with a prohibited substance in his or her
38 blood or urine and the person refused to submit to a required
39 evidentiary test.

40 ➤ The certificate must also indicate whether the officer served an
41 order of revocation on the person and whether the officer issued the
42 person a temporary license.

43 3. The Department, upon receipt of such a certificate for which
44 an order of revocation has not been served, after examining the
45 certificate and copy of the result of the chemical test, if any, and



1 finding that revocation is proper, shall issue an order revoking the
2 person's license, permit or privilege to drive by mailing the order to
3 the person at the person's last known address. The order must
4 indicate the grounds for the revocation and the period during which
5 the person is not eligible for a license, permit or privilege to drive
6 and state that the person has a right to administrative and judicial
7 review of the revocation and to have a temporary license. The order
8 must also ~~indicate that~~ *state whether* the person is required to
9 install ~~an~~ *an ignition interlock* device pursuant to NRS 484C.210.
10 The order of revocation becomes effective 5 days after mailing.

11 4. Notice of an order of revocation and notice of the
12 affirmation of a prior order of revocation or the cancellation of a
13 temporary license provided in NRS 484C.230 is sufficient if it is
14 mailed to the person's last known address as shown by any
15 application for a license. The date of mailing may be proved by the
16 certificate of any officer or employee of the Department, specifying
17 the time of mailing the notice. The notice is presumed to have been
18 received upon the expiration of 5 days after it is deposited, postage
19 prepaid, in the United States mail.

20 ~~[5. — As used in this section, "device" has the meaning ascribed~~
21 ~~to it in NRS 484C.450.]~~

22 **Sec. 16.** NRS 484C.230 is hereby amended to read as follows:

23 484C.230 1. At any time while a person is not eligible for a
24 license, permit or privilege to drive following an order of revocation
25 issued pursuant to NRS 484C.220, the person may request in writing
26 a hearing by the Department to review the order of revocation, but
27 the person is only entitled to one hearing. The hearing must be
28 conducted as soon as is practicable at any location, if the hearing
29 officer permits each party and witness to attend the hearing by
30 telephone, videoconference or other electronic means. The Director
31 or agent of the Director may issue subpoenas for the attendance of
32 witnesses and the production of relevant books and papers and may
33 require a reexamination of the requester. Unless the person is
34 ineligible for a temporary license pursuant to NRS 484C.220, the
35 Department shall issue an additional temporary license for a period
36 which is sufficient to complete the administrative review. A person
37 who is issued a temporary license is not subject to and is exempt
38 *during the period of the administrative review* from the
39 requirement to install ~~an~~ *an ignition interlock* device pursuant to
40 NRS 484C.210.

41 2. The scope of the hearing must be limited to the issue of
42 whether the person:

43 (a) Failed to submit to a required test provided for in NRS
44 ~~[484C.150 or]~~ 484C.160; or



1 (b) At the time of the test, had a concentration of alcohol of 0.08
2 or more in his or her blood or breath or a detectable amount of a
3 controlled substance or prohibited substance in his or her blood or
4 urine for which he or she did not have a valid prescription, as
5 defined in NRS 453.128, or hold a valid registry identification card,
6 as defined in NRS 678C.080.

7 ↪ Upon an affirmative finding on either issue, the Department shall
8 affirm the order of revocation. Otherwise, the order of revocation
9 must be rescinded.

10 3. If, after the hearing, the order of revocation is affirmed, the
11 person whose license, permit or privilege to drive has been revoked
12 shall, if not previously installed, install ~~an~~ *an ignition interlock*
13 device pursuant to NRS 484C.210.

14 4. If, after the hearing, the order of revocation is affirmed, the
15 person whose license, privilege or permit has been revoked is
16 entitled to a review of the same issues in district court in the same
17 manner as provided by chapter 233B of NRS. The court shall notify
18 the Department upon the issuance of a stay, and the Department
19 shall issue an additional temporary license for a period which is
20 sufficient to complete the review. A person who is issued a
21 temporary license is not subject to and is exempt *during the period*
22 *of the judicial review* from the requirement to install ~~an~~ *an ignition*
23 *interlock* device pursuant to NRS 484C.210.

24 5. If a hearing officer grants a continuance of a hearing at the
25 request of the person whose license was revoked, or a court does so
26 after issuing a stay of the revocation, the officer or court shall notify
27 the Department, and the Department shall cancel the temporary
28 license and notify the holder by mailing the order of cancellation to
29 the person's last known address.

30 ~~[6.—As used in this section, “device” has the meaning ascribed~~
31 ~~to it in NRS 484C.450.]~~

32 **Sec. 17.** NRS 484C.300 is hereby amended to read as follows:

33 484C.300 1. Before sentencing an offender for a violation of
34 NRS 484C.110 or 484C.120 that is punishable as a felony pursuant
35 to NRS 484C.400 or 484C.410, other than an offender who has been
36 evaluated pursuant to NRS 484C.340, or a violation of NRS
37 484C.130 or 484C.430, the court shall require that the offender be
38 evaluated to determine whether the offender has an alcohol or other
39 substance use disorder and whether the offender can be treated
40 successfully for the condition.

41 2. The evaluation must be conducted by:

42 (a) An alcohol and drug counselor who is licensed or certified,
43 or a clinical alcohol and drug counselor who is licensed, pursuant to
44 chapter 641C of NRS, to make such an evaluation;



1 (b) A physician who is certified to make such an evaluation by
2 the Board of Medical Examiners;

3 (c) An advanced practice registered nurse who is certified to
4 make such an evaluation by the State Board of Nursing; or

5 (d) A psychologist who is certified to make such an evaluation
6 by the Board of Psychological Examiners.

7 3. The alcohol and drug counselor, clinical alcohol and drug
8 counselor, physician, advanced practice registered nurse or
9 psychologist who conducts the evaluation shall immediately forward
10 the results of the evaluation to the Director of the Department of
11 Corrections ~~and~~ *or, if the offender is assigned to any specialty court
12 or diversionary program, to the court having jurisdiction over the
13 offender.*

14 **Sec. 18.** NRS 484C.320 is hereby amended to read as follows:

15 484C.320 1. An offender who is found guilty of a violation
16 of NRS 484C.110 or 484C.120 that is punishable pursuant to
17 paragraph (a) of subsection 1 of NRS 484C.400, other than an
18 offender who is found to have a concentration of alcohol of 0.18 or
19 more in his or her blood or breath, may, at that time or any time
20 before the offender is sentenced, apply to the court to undergo a
21 program of treatment for an alcohol or other substance use disorder
22 for at least 6 months. The court shall authorize that treatment if:

23 (a) The offender is diagnosed as a person with an alcohol or
24 other substance use disorder by:

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

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

30 (3) An advanced practice registered nurse who is certified to
31 make that diagnosis by the State Board of Nursing;

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

34 (c) The offender has served or will serve a term of imprisonment
35 in jail of *not less than* 1 day, or has performed or will perform 24
36 hours of community service.

37 2. A prosecuting attorney may, within 10 days after receiving
38 notice of an application for treatment pursuant to this section,
39 request a hearing on the question of whether the offender is eligible
40 to undergo a program of treatment for an alcohol or other substance
41 use disorder. The court shall order a hearing on the application upon
42 the request of the prosecuting attorney or may order a hearing on its
43 own motion. The hearing must be limited to the question of whether
44 the offender is eligible to undergo such a program of treatment.



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

6 4. If the court grants an application for treatment, the court
7 shall:

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

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

19 (c) Advise the offender that:

20 (1) He or she may be placed under the supervision of a
21 treatment provider for a period not to exceed 3 years.

22 (2) The court may order the offender to be admitted to a
23 residential treatment facility or to be provided with outpatient
24 treatment in the community.

25 (3) If the offender fails to complete the program of treatment
26 satisfactorily, the offender shall serve the sentence imposed by the
27 court. Any sentence of imprisonment must be reduced by a time
28 equal to that which the offender served before beginning treatment.

29 (4) If the offender completes the treatment satisfactorily, the
30 offender's sentence will be reduced to a term of imprisonment
31 which is ~~[no longer]~~ **not less** than ~~[that provided for the offense in~~
32 ~~paragraph (c) of subsection 1]~~ **1 day** and a fine of not more than the
33 minimum fine provided for the offense in NRS 484C.400, but
34 the conviction must remain on the record of criminal history of the
35 offender ~~[]~~ **for the period prescribed by law.**

36 5. The court shall administer the program of treatment pursuant
37 to the procedures provided in NRS 176A.230 to 176A.245,
38 inclusive, except that the court:

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

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

44 6. The court shall notify the Department, on a form approved
45 by the Department, upon granting the application of the offender for



1 treatment and his or her failure to be accepted for or complete
2 treatment.

3 **Sec. 19.** NRS 484C.330 is hereby amended to read as follows:
4 484C.330 1. An offender who is found guilty of a violation
5 of NRS 484C.110 or 484C.120 that is punishable pursuant to
6 paragraph (b) of subsection 1 of NRS 484C.400 may, at that time or
7 any time before the offender is sentenced, apply to the court to
8 undergo a program of treatment for an alcohol or other substance
9 use disorder for at least 1 year. The court shall authorize that
10 treatment if:

11 (a) The offender is diagnosed as a person with an alcohol or
12 other substance use disorder by:

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

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

18 (3) An advanced practice registered nurse who is certified to
19 make that diagnosis by the State Board of Nursing;

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

22 (c) The offender has served or will serve a term of imprisonment
23 in jail of *not less than* 5 days and, if required pursuant to NRS
24 484C.400, has performed or will perform not less than one-half of
25 the hours of community service.

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

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

36 4. If the court grants an application for treatment, the court
37 shall:

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

40 (b) Suspend the sentence of the offender for not more than 3
41 years upon the condition that the offender be accepted for treatment
42 by a treatment provider that is approved by the court, that the
43 offender complete the treatment satisfactorily and that the offender
44 comply with any other condition ordered by the court. If the court
45 has a specialty court program for the supervision and monitoring of



1 the person, the treatment provider must comply with the
2 requirements of the specialty court, including, without limitation,
3 any requirement to submit progress reports to the specialty court.

4 (c) Advise the offender that:

5 (1) He or she may be placed under the supervision of the
6 treatment provider for a period not to exceed 3 years.

7 (2) The court may order the offender to be admitted to a
8 residential treatment facility or to be provided with outpatient
9 treatment in the community.

10 (3) If the offender fails to complete the program of treatment
11 satisfactorily, the offender shall serve the sentence imposed by the
12 court. Any sentence of imprisonment must be reduced by a time
13 equal to that which the offender served before beginning treatment.

14 (4) If the offender completes the treatment satisfactorily, the
15 offender's sentence will be reduced to a term of imprisonment
16 which is ~~no longer~~ *not less* than ~~that provided for the offense in~~
17 ~~paragraph (c) of subsection 1~~ *5 days* and a fine of not more than the
18 minimum provided for the offense in NRS 484C.400, but
19 the conviction must remain on the record of criminal history of the
20 offender ~~for~~ *for the period prescribed by law.*

21 5. The court shall administer the program of treatment pursuant
22 to the procedures provided in NRS 176A.230 to 176A.245,
23 inclusive, except that the court:

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

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

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

33 **Sec. 20.** NRS 484C.340 is hereby amended to read as follows:

34 484C.340 1. An offender who enters a plea of guilty or nolo
35 contendere to a violation of NRS 484C.110 or 484C.120 that is
36 punishable pursuant to paragraph (c) of subsection 1 of NRS
37 484C.400 may, at the time the offender enters a plea, apply to the
38 court to undergo a program of treatment for an alcohol or other
39 substance use disorder for at least 3 years. The court may authorize
40 that treatment if:

41 (a) The offender is diagnosed as a person with an alcohol or
42 other substance use disorder by:

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



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

3 (3) An advanced practice registered nurse who is certified to
4 make that diagnosis by the State Board of Nursing; and

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

7 ↪ An alcohol and drug counselor, a clinical alcohol and drug
8 counselor, a physician or an advanced practice registered nurse who
9 diagnoses an offender as a person with an alcohol or other substance
10 use disorder shall make a report and recommendation to the court
11 concerning the length and type of treatment required for the
12 offender.

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

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

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

24 (a) Immediately, without entering a judgment of conviction and
25 with the consent of the offender, suspend further proceedings and
26 place the offender on probation for not more than 5 years.

27 (b) Order the offender to complete a program of treatment for an
28 alcohol or other substance use disorder with a treatment provider
29 approved by the court. If the court has a specialty court program for
30 the supervision and monitoring of the person, the treatment provider
31 must comply with the requirements of the specialty court, including,
32 without limitation, any requirement to submit progress reports to the
33 specialty court.

34 (c) Advise the offender that:

35 (1) He or she may be placed under the supervision of a
36 treatment provider for not more than 5 years.

37 (2) The court may order the offender to be admitted to a
38 residential treatment facility. ~~for to be provided with outpatient
39 treatment in the community.]~~

40 (3) The court will enter a judgment of conviction for a
41 violation of paragraph (c) of subsection 1 of NRS 484C.400 if a
42 treatment provider fails to accept the offender for a program of
43 treatment for an alcohol or other substance use disorder or if the
44 offender fails to complete the program of treatment satisfactorily.



1 Any sentence of imprisonment may be reduced by a time equal to
2 that which the offender served before beginning treatment.

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

6 (5) The provisions of NRS 483.460 requiring the revocation
7 of the license, permit or privilege of the offender to drive do not
8 apply.

9 5. The court shall administer the program of treatment pursuant
10 to the procedures provided in NRS 176A.230 to 176A.245,
11 inclusive, except that the court:

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

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

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

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

20 (b) *Be placed under a system of active electronic monitoring,*
21 *through the Division, that is capable of identifying the offender's*
22 *location and producing, upon request, reports or records of the*
23 *offender's presence near or within, or departure from, a specified*
24 *geographic location and pay any costs associated with the*
25 *offender's participation under the system of active electronic*
26 *monitoring;*

27 (c) Install, at his or her own expense, ~~an~~ *an ignition interlock*
28 device for not less than 12 months;

29 ~~(d)~~ (d) Not drive any vehicle unless it is equipped with ~~an~~ *an*
30 *ignition interlock* device;

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

34 ~~(f)~~ (f) Agree to any other conditions that the court deems
35 necessary.

36 7. An offender may not apply to the court to undergo a
37 program of treatment for an alcohol or other substance use disorder
38 pursuant to this section if the offender has previously applied to
39 receive treatment pursuant to this section or if the offender has
40 previously been convicted of:

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

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

43 (c) A homicide resulting from driving or being in actual physical
44 control of a vehicle while under the influence of intoxicating liquor



1 or a controlled substance or resulting from any other conduct
2 prohibited by NRS 484C.110, 484C.130 or 484C.430;

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

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

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

8 8. *An offender placed under a system of active electronic
9 monitoring pursuant to paragraph (b) of subsection 6 shall:*

10 (a) *Follow the instructions provided by the Division to
11 maintain the electronic monitoring device in working order.*

12 (b) *Report any incidental damage or defacement of the
13 electronic monitoring device to the Division within 2 hours after
14 the occurrence of the damage or defacement.*

15 (c) *Abide by any other conditions set forth by the court or the
16 Division with regard to the offender's participation under the
17 system of active electronic monitoring.*

18 9. *Except as otherwise provided in this subsection, a person
19 who intentionally removes or disables or attempts to remove or
20 disable an electronic monitoring device placed on an offender
21 pursuant to this section is guilty of a gross misdemeanor. The
22 provisions of this subsection do not prohibit a person authorized
23 by the Division from performing maintenance or repairs to an
24 electronic monitoring device.*

25 10. As used in this section, ~~["device" has the meaning ascribed
26 to it in NRS 484C.450.] "Division" means the Division of Parole
27 and Probation of the Department of Public Safety.~~

28 **Sec. 21.** NRS 484C.360 is hereby amended to read as follows:

29 484C.360 1. When a program of treatment is ordered
30 pursuant to NRS 484C.340 or ~~paragraph (a) or (b) of~~ subsection 1
31 of NRS 484C.400, the court shall place the offender under the
32 clinical supervision of a treatment provider for treatment in
33 accordance with the report submitted to the court pursuant to NRS
34 484C.340 or subsection 3, 4, 5 or 6 of NRS 484C.350, as
35 appropriate. The court shall:

36 (a) Order the offender to be placed under the supervision of a
37 treatment provider, then release the offender for supervised aftercare
38 in the community; or

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

41 2. The court shall:

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

44 (b) Order the offender, to the extent of his or her financial
45 resources, to pay any charges for treatment pursuant to this section.



1 If the offender does not have the financial resources to pay all those
2 charges, the court shall, to the extent possible, arrange for the
3 offender to obtain the treatment from a treatment provider that
4 receives a sufficient amount of federal or state money to offset the
5 remainder of the charges.

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

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

11 (b) Engages in any other conduct prohibited by NRS 484C.110,
12 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
13 488.410, 488.420 or 488.425 or a law of any other jurisdiction that
14 prohibits the same or similar conduct,

15 ~~↪~~ after the treatment provider has certified that the offender has
16 successfully completed a program of treatment ordered pursuant to
17 NRS 484C.340 or ~~[paragraph (a) or (b) of]~~ subsection 1 of
18 NRS 484C.400.

19 **Sec. 22.** (Deleted by amendment.)

20 **Sec. 22.5.** NRS 484C.390 is hereby amended to read as
21 follows:

22 484C.390 “Timely sanction” means a sanction that is able to be
23 applied as soon as possible ~~[, but not later than 14 days,]~~ after the
24 results of testing indicate the presence of alcohol or a prohibited
25 substance in a program participant’s system.

26 **Sec. 23.** NRS 484C.392 is hereby amended to read as follows:

27 484C.392 1. There is hereby established a statewide sobriety
28 and drug monitoring program in which any political subdivision in
29 this State may elect to participate.

30 2. ~~The ~~core components of the~~ program *established pursuant*~~
31 ~~to subsection 1~~ must ~~[include the use of a primary testing~~
32 ~~methodology that tests for the presence of alcohol or a prohibited~~
33 ~~substance in a program participant’s system, best facilitates the~~
34 ~~ability to apply immediate sanctions for noncompliance and is~~
35 ~~available at an affordable cost. In cases of economic hardship or~~
36 ~~when a program participant is rewarded with less stringent testing~~
37 ~~requirements, testing methodologies with timely sanctions for~~
38 ~~noncompliance may be utilized.] *meet the federal definition of “24-*~~
39 ~~*7 sobriety program” in 23 C.F.R. § 1300.23(b).*~~

40 3. ~~[The program must be evidence based and satisfy at least~~
41 ~~two of the following requirements:~~

42 ~~—(a) The program is included in the National Registry of~~
43 ~~Evidence-based Programs and Practices;~~

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



1 ~~—(c) The program has been documented as effective by informed~~
2 ~~experts and other sources.~~

3 ~~—4. The core components of~~ *Any person who is assigned to the*
4 *program [that generally require] must:*

5 *(a) Abstain from alcohol and prohibited substances while*
6 *assigned to the program; and*

7 *(b) Be subject to [testing]:*

8 *(1) Testing to determine the presence of alcohol in [a*
9 *person's] his or her system [not less than two times]:*

10 *(I) At least twice each day [and random] at a testing*
11 *location established by a designated law enforcement agency*
12 *pursuant to NRS 484C.393; or*

13 *(II) By using any other approved method set forth in the*
14 *federal definition of "24-7 sobriety program" in 23 C.F.R. §*
15 *1300.23(b).*

16 *(2) If appropriate, random testing to determine the presence*
17 *of a prohibited substance in [a person's] his or her system [not less*
18 *than] at least two times each week [must not be altered or*
19 *modified], using any approved method set forth in the federal*
20 *definition of "24-7 sobriety program" in 23 C.F.R. § 1300.23(b).*

21 *4. Must be subject to lawful and consistent sanctions for*
22 *using alcohol or a prohibited substance while assigned to the*
23 *program or for failing or refusing to undergo required testing,*
24 *including, without limitation, incarceration. Any such sanction*
25 *must be an immediate sanction or, if the approved testing method*
26 *being used pursuant to paragraph (b) of subsection 3 does not*
27 *allow for the imposition of an immediate sanction, a timely*
28 *sanction.*

29 *5. Is eligible for a restricted driver's license pursuant to*
30 *subsection 2 of NRS 483.490 while participating in and complying*
31 *with the requirements of the program if the driver's license of the*
32 *person is suspended or revoked.*

33 **Sec. 24.** NRS 484C.394 is hereby amended to read as follows:

34 484C.394 1. A court may, *as a condition of pretrial release,*
35 *a sentence, a suspension of sentence or probation,* assign an
36 offender who is *arrested for or* found guilty of, *as applicable,* a
37 violation of NRS 484C.110 or 484C.120 that is punishable pursuant
38 to paragraph (a), (b) or (c) of subsection 1 of NRS 484C.400 to the
39 program established pursuant to NRS 484C.392. ~~[for a specified~~
40 ~~period determined by the court.]~~

41 2. *If the court assigns to the program an offender who is*
42 *found guilty of a violation of NRS 484C.110 or 484C.120 that is*
43 *punishable pursuant to paragraph (a) of subsection 1 of NRS*
44 *484C.400, the court:*



1 (a) Shall immediately sentence the offender in accordance
2 with NRS 484C.400 and enter judgment accordingly.

3 (b) Shall suspend the sentence of the offender upon the
4 condition that the offender participate in the program for not less
5 than 90 days.

6 (c) Shall advise the offender that:

7 (1) If the offender fails to participate in the program for the
8 period determined by the court or fails to comply with the
9 requirements of the program, the court will require the offender to
10 serve the sentence imposed by the court. The sentence of
11 imprisonment must be reduced by a time equal to that which the
12 offender served before participating in the program.

13 (2) If the offender participates in the program for the
14 period determined by the court and complies with the
15 requirements of the program, the sentencing conditions,
16 including, without limitation, the mandatory period of
17 imprisonment or community service, will be reduced, but the
18 conviction must remain on the record of criminal history of the
19 offender for the period prescribed by law.

20 (3) The offender is eligible for a restricted driver's license
21 pursuant to subsection 2 of NRS 483.490 while participating in
22 and complying with the requirements of the program.

23 (d) May immediately revoke the suspension of sentence for a
24 violation of a condition of suspension.

25 3. If the court assigns an offender to the program who is found
26 guilty of a violation of NRS 484C.110 or 484C.120 that is
27 punishable pursuant to paragraph (b) of subsection 1 of NRS
28 484C.400, the court:

29 (a) Shall immediately sentence the offender *in accordance with*
30 *NRS 484C.400* and enter judgment accordingly.

31 (b) Shall suspend the sentence of the offender upon the
32 condition that the offender participate in the program for ~~fa~~
33 ~~specified period determined by the court.~~ *not less than 1 year and*
34 *require that the offender receive an assessment of whether the*
35 *offender has an alcohol or other substance use disorder and any*
36 *appropriate treatment.*

37 (c) Shall advise the offender that:

38 (1) If the offender fails to participate in the program for the
39 period determined by the court or fails to comply with
40 the requirements of the program, the court ~~may~~ *will* require the
41 offender to serve the sentence imposed by the court. ~~Any~~ *The*
42 sentence of imprisonment must be reduced by a time equal to that
43 which the offender served before participating in the program.

44 (2) ~~##~~ *Except as otherwise provided in subparagraph (2) of*
45 *paragraph (c) of subsection 4, if* the offender participates in the



1 program for the period determined by the court and complies with
2 the requirements of the program, the offender's sentence will be
3 reduced ~~to a~~, **but the minimum mandatory** term of imprisonment
4 ~~[which is] must~~ not ~~[longer]~~ **be less** than ~~[that provided for the~~
5 ~~offense in paragraph (c) of subsection 1 of NRS 484C.330 and a fine~~
6 ~~of not more than the minimum provided for the offense in NRS~~
7 ~~484C.400, but]~~ **5 days, and** the conviction must remain on the
8 record of criminal history of the offender ~~for~~ **for the period**
9 **prescribed by law.**

10 (3) The offender is eligible for a restricted driver's license
11 pursuant to subsection ~~4~~ **2** of NRS 483.490 ~~while participating~~
12 **in and complying with the requirements of the program.**

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

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

18 ~~3~~ **4.** If the court assigns an offender to the program who is
19 found guilty of a violation of NRS 484C.110 or 484C.120 that is
20 punishable pursuant to paragraph (c) of subsection 1 of NRS
21 484C.400, the court:

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

25 (b) Shall order the offender to participate in the program ~~for~~ **for**
26 **not less than 18 months and require that the offender receive an**
27 **assessment of whether the offender has an alcohol or other**
28 **substance use disorder and any appropriate treatment.**

29 (c) Shall advise the offender that:

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

36 (2) If the offender participates in the program for the period
37 determined by the court and complies with the requirements of the
38 program, the court will enter a judgment of conviction for a
39 violation of paragraph (b) of subsection 1 of NRS 484C.400 ~~and~~
40 **and sentence the offender accordingly, but the minimum mandatory**
41 **term of imprisonment must not be less than 10 days, and the**
42 **conviction must remain on the record of criminal history of the**
43 **offender for the period prescribed by law.**

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



1 apply and the offender is eligible for a restricted driver's license
2 pursuant to subsection ~~4~~ 2 of NRS 483.490 ~~and~~ *while participating*
3 *in and complying with the requirements of the program.*

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

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

10 ~~4~~ 5. *If the court assigns an offender to the program as a*
11 *condition of pretrial release after his or her arrest for a violation*
12 *of NRS 484C.110 or 484C.120 that is punishable pursuant to*
13 *paragraph (a) of subsection 1 of NRS 484C.400, the court shall*
14 *advise the offender that:*

15 (a) *If the offender fails to participate in the program, the court*
16 *may remand the offender to custody and require bond or other*
17 *conditions.*

18 (b) *The offender is eligible for a restricted driver's license*
19 *pursuant to subsection 2 of NRS 483.490 while participating in*
20 *and complying with the requirements of the program.*

21 6. If a court assigns a person to the program pursuant to this
22 section, the court shall notify the Department of Motor Vehicles that
23 as a participant in the program, the person is eligible for a restricted
24 driver's license pursuant to subsection ~~4~~ 2 of NRS 483.490. If the
25 person fails to comply with the requirements of the program, the
26 court may notify the Department of Motor Vehicles of the person's
27 noncompliance and direct the Department of Motor Vehicles to
28 revoke the restricted license.

29 ~~5~~ 7. The Department of Motor Vehicles may adopt any
30 regulations necessary to provide for the issuance of a restricted
31 driver's license to a person assigned to the program.

32 8. *As used in this section, "imprisonment" means*
33 *confinement in jail or an inpatient rehabilitation or treatment*
34 *center or other facility or under house arrest with electronic*
35 *monitoring, provided the person under confinement or house*
36 *arrest is in fact being detained.*

37 **Sec. 25.** (Deleted by amendment.)

38 **Sec. 26.** NRS 484C.396 is hereby amended to read as follows:

39 484C.396 Each political subdivision that elects to participate in
40 the program established pursuant to NRS 484C.392 shall adopt
41 guidelines consistent with NRS 484C.372 to 484C.397, inclusive.
42 Such guidelines must:

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



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

4 3. Establish reasonable participant and testing fees for the
5 program, including, without limitation, fees to pay the cost of
6 installation, monitoring and deactivation of any testing device, and
7 provide for the establishment and use of a local program account for
8 the deposit of any fees collected. The established fees must be as
9 low as possible, but the total amount of the fees and other funds
10 credited to the local program account must defray the entire expense
11 of the program to ensure program sustainability.

12 4. Provide that a political subdivision may accept gifts, grants,
13 donations and any other form of financial assistance from any
14 source for the purpose of enabling the political subdivision to
15 participate in the program and carry out the provisions of NRS
16 484C.372 to 484C.397, inclusive.

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

19 6. Require and provide for the approval of a program data
20 management technology plan to be used to manage testing, data
21 access, fees, fee payments and any required reports.

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

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

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

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

31 8. Require that program participants who meet certain
32 standards of compliance be given positive feedback and rewarded
33 when appropriate ~~[.Such]~~, *except that such* a reward ~~[may]~~ *cannot*
34 include ~~[, without limitation,]~~ undergoing less frequent testing ~~[.]~~
35 *than that which is required pursuant to subsection 3 of*
36 *NRS 484C.392.*

37 **Sec. 27.** NRS 484C.400 is hereby amended to read as follows:

38 484C.400 1. Unless a greater penalty is provided pursuant to
39 NRS 484C.430 or 484C.440, and except as otherwise provided in
40 NRS *484C.394 or* 484C.410, a person who violates the provisions
41 of NRS 484C.110 or 484C.120:

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



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

8 (2) Unless the sentence is reduced pursuant to NRS
9 484C.320 ~~[, sentence]~~ :

10 (I) *Sentence* the person to imprisonment for not less than
11 2 days nor more than 6 months in jail ~~[,]~~ *or residential confinement*
12 *for not less than 2 days nor more than 6 months, in the manner*
13 *provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078,*
14 *inclusive;* or

15 (II) *Order the person* to perform not less than 48 hours,
16 but not more than 96 hours, of community service while dressed in
17 distinctive garb that identifies the person as having violated the
18 provisions of NRS 484C.110 or 484C.120;

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

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

25 (b) For a second offense within 7 years, is guilty of a
26 misdemeanor. Unless the sentence is reduced pursuant to NRS
27 484C.330, ~~for the person is assigned to a program pursuant to NRS~~
28 ~~484C.394,~~ the court shall:

29 (1) Sentence the person to:

30 (I) Imprisonment for not less than 10 days nor more than
31 6 months in jail; or

32 (II) Residential confinement for not less than 10 days nor
33 more than 6 months, in the manner provided in NRS 4.376 to
34 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

35 (2) Fine the person not less than \$750 nor more than \$1,000,
36 or order the person to perform an equivalent number of hours of
37 community service while dressed in distinctive garb that identifies
38 the person as having violated the provisions of NRS 484C.110 or
39 484C.120; and

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

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



1 (c) Except as otherwise provided in NRS 484C.340, ~~and unless~~
2 ~~the person is assigned to a program pursuant to NRS 484C.394,~~ for
3 a third offense within 7 years, is guilty of a category B felony and
4 ~~shall be punished by~~ *the court:*

5 (1) *Shall:*

6 (I) *Sentence the person to* imprisonment in the state
7 prison for a minimum term of not less than 1 year and a maximum
8 term of not more than 6 years ~~and shall be further punished by a~~
9 ~~fine of~~; *and*

10 (II) *Fine the person* not less than \$2,000 nor more than
11 \$5,000 ~~;~~; *and*

12 (2) *May order the person to attend a program of treatment*
13 *for an alcohol or other substance use disorder pursuant to the*
14 *provisions of NRS 484C.360 if the results of an evaluation*
15 *conducted pursuant to NRS 484C.300 indicate that the person has*
16 *an alcohol or other substance use disorder and that the person can*
17 *be treated successfully for his or her condition.*

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

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

25 (a) When evidenced by a conviction; or

26 (b) If the offense is conditionally dismissed *or the judgment of*
27 *conviction is set aside* pursuant to NRS 176A.240, 176A.260 or
28 176A.290 or dismissed in connection with successful completion of
29 a diversionary program or specialty court program,

30 ↪ without regard to the sequence of the offenses and convictions.
31 The facts concerning a prior offense must be alleged in the
32 complaint, indictment or information, must not be read to the jury or
33 proved at trial but must be proved at the time of sentencing and, if
34 the principal offense is alleged to be a felony, must also be shown at
35 the preliminary examination or presented to the grand jury.

36 3. A term of confinement imposed pursuant to the provisions
37 of this section may be served intermittently at the discretion of the
38 judge or justice of the peace, except that a person who is convicted
39 of a second or subsequent offense within 7 years must be confined
40 for at least one segment of not less than 48 consecutive hours. This
41 discretion must be exercised after considering all the circumstances
42 surrounding the offense, and the family and employment of the
43 offender, but any sentence of 30 days or less must be served within
44 6 months after the date of conviction or, if the offender was
45 sentenced pursuant to NRS 484C.320 or 484C.330 and the



1 suspension of his or her sentence was revoked, within 6 months
2 after the date of revocation. Any time for which the offender is
3 confined must consist of not less than 24 consecutive hours.

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

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

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

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

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

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

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

27 **Sec. 28.** NRS 484C.460 is hereby amended to read as follows:

28 484C.460 1. Except as otherwise provided in subsections 2
29 and 5, ~~[and unless the person is assigned to a program pursuant to~~
30 ~~NRS 484C.394.]~~ a court shall order a person ~~[convicted of:]~~ *to*
31 *install, at his or her own expense, an ignition interlock device in*
32 *any motor vehicle which the person operates as a condition to*
33 *obtaining an ignition interlock privilege pursuant to NRS 483.490*
34 *to reinstate the driving privilege of the person:*

35 (a) ~~[Except as otherwise provided in paragraph (b), a violation~~
36 ~~of paragraph (a), (b) or (c) of subsection 1 or paragraph (b) of~~
37 ~~subsection 2 of NRS 484C.110 that is punishable pursuant to~~
38 ~~paragraph (a) or (b) of subsection 1 of NRS 484C.400, to install, at~~
39 ~~his or her own expense and for a period of not less than]~~ *For a*
40 *period of* 185 days ~~[, a device in any motor vehicle which]~~ *if* the
41 person ~~[operates as a condition to obtaining a restricted license~~
42 ~~pursuant to NRS 483.490 or as a condition of reinstatement of the~~
43 ~~driving privilege of the person.]~~ *is convicted of a first violation*
44 *within 7 years of NRS 484C.110.*



1 (b) ~~[A violation of.]~~ For a period of 1 year if the person is
2 convicted of a second violation within 7 years of NRS 484C.110.

3 (c) For a period of 3 years if the person is convicted of:

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

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

10 ~~[(3)] (2) A violation of~~ NRS 484C.130 or 484C.430. ~~;~~
11 ~~→ to install, at his or her own expense and for a period of not less~~
12 ~~than 12 months or more than 36 months, a device in any motor~~
13 ~~vehicle which the person operates as a condition to obtaining a~~
14 ~~restricted license pursuant to NRS 483.490 or as a condition of~~
15 ~~reinstatement of the driving privilege of the person.]~~

16 2. A court may ~~[, in the interests of justice,]~~ provide for an
17 exception to the provisions of subsection 1 for a person who is
18 convicted of a violation of NRS 484C.110 that is punishable
19 pursuant to paragraph (a) of subsection 1 of NRS 484C.400, if the
20 court determines that:

21 (a) The person is unable to provide a deep lung breath sample
22 for ~~[a]~~ *analysis by an ignition interlock* device, as certified in
23 writing by a physician or an advanced practice registered nurse of
24 the person; or

25 (b) The person resides more than 100 miles from a manufacturer
26 of ~~[a]~~ *an ignition interlock* device or its agent.

27 3. If the court orders a person to install ~~[a]~~ *an ignition*
28 *interlock* device pursuant to subsection 1:

29 (a) The court shall immediately prepare and transmit a copy of
30 its order to the Director. The order must include a statement that ~~[a]~~
31 *an ignition interlock* device is required and the specific period for
32 which it is required. The Director shall cause this information to be
33 incorporated into the records of the Department and noted ~~[as a~~
34 ~~restriction]~~ on the person's ~~[driver's license.]~~ *ignition interlock*
35 *privilege*.

36 (b) The person who is required to install the *ignition interlock*
37 device shall provide proof of compliance to the Department before
38 the person may receive ~~[a restricted license or before the driving]~~ *an*
39 *ignition interlock* privilege . ~~[of the person may be reinstated, as~~
40 ~~applicable.]~~ Each model of ~~[a]~~ *an ignition interlock* device installed
41 pursuant to this section must have been certified by the ~~[Committee~~
42 ~~on Testing for Intoxication.]~~ *Department of Public Safety*.

43 4. A person ~~[whose driving]~~ *who obtains an ignition interlock*
44 *privilege* ~~[is restricted]~~ pursuant to this section or NRS 483.490
45 shall have the *ignition interlock* device inspected, calibrated,



1 monitored and maintained by the manufacturer of the *ignition*
2 *interlock* device or its agent at least one time each 90 days during
3 the period in which the person is required to use the *ignition*
4 *interlock* device to determine whether the *ignition interlock* device
5 is operating properly. Any inspection, calibration, monitoring or
6 maintenance required pursuant to this subsection must be conducted
7 in accordance with regulations adopted pursuant to NRS 484C.480.
8 The manufacturer or its agent shall submit a report to the Director *of*
9 *the Department of Public Safety* indicating ~~[whether the device is~~
10 ~~operating properly,]~~ whether any of the incidents listed in subsection
11 1 of NRS 484C.470 have occurred and whether the *ignition*
12 *interlock* device has been tampered with. ~~[If the device has been~~
13 ~~tampered with, the Director and the manufacturer or its agent shall~~
14 ~~notify the court that ordered the installation of the device. Upon~~
15 ~~receipt of such notification and before]~~ *Before* the court imposes a
16 penalty pursuant to subsection 3 of NRS 484C.470, the court shall
17 afford any interested party an opportunity for a hearing after
18 reasonable notice.

19 5. If a person is required to operate a motor vehicle in the
20 course and scope of his or her employment and the motor vehicle is
21 owned by the person's employer, the person may operate that
22 vehicle without the installation of ~~[a]~~ *an ignition interlock* device,
23 if:

24 (a) The employee notifies his or her employer that the
25 ~~[employee's driving privilege]~~ *employee* has been ~~[so restricted;]~~
26 *issued an ignition interlock privilege*; and

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

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

33 6. The running of the period during which a person is required
34 to have ~~[a]~~ *an ignition interlock* device installed pursuant to this
35 section commences when the Department issues ~~[a restricted~~
36 ~~license]~~ *an ignition interlock privilege* to the person ~~[or reinstates~~
37 ~~the driving privilege of the person]~~ and is tolled whenever and for as
38 long as the person is, with regard to a violation of NRS 484C.110,
39 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of
40 residential confinement, placed under the supervision of a treatment
41 provider, on parole or on probation.

42 **Sec. 29.** NRS 484C.470 is hereby amended to read as follows:

43 484C.470 1. The court may extend the order of a person who
44 is required to install ~~[a]~~ *an ignition interlock* device pursuant to
45 NRS 484C.210 or 484C.460, ~~[not]~~ to ~~[exceed]~~ one-half of the period



1 during which the person is required to have [a] *an ignition interlock*
2 device installed, if the court receives from the Director of the
3 Department of Public Safety or the manufacturer of the *ignition*
4 *interlock* device or its agent a report that 4 consecutive months prior
5 to the date of release any of the following incidents occurred:

6 (a) Any attempt by the person to start the vehicle with a
7 concentration of alcohol of 0.04 or more in his or her breath unless
8 a subsequent test performed within 10 minutes registers a
9 concentration of alcohol lower than 0.04 and the digital image
10 confirms the same person provided both samples;

11 (b) Failure of the person to take any random test unless a review
12 of the digital image confirms that the vehicle was not occupied by
13 the person at the time of the missed test;

14 (c) Failure of the person to pass any random retest with a
15 concentration of alcohol of 0.025 or lower in his or her breath unless
16 a subsequent test performed within 10 minutes registers a
17 concentration of alcohol lower than 0.025, and the digital image
18 confirms the same person provided both samples;

19 (d) Failure of the person to have the *ignition interlock* device
20 inspected, calibrated, monitored and maintained by the manufacturer
21 or its agent pursuant to subsection 4 of NRS 484C.460; or

22 (e) Any attempt by the person to operate a motor vehicle
23 without [a] *an ignition interlock* device or tamper with the *ignition*
24 *interlock* device.

25 2. A person required to install [a] *an ignition interlock* device
26 pursuant to NRS 484C.210 or 484C.460 shall not operate a motor
27 vehicle without [a] *an ignition interlock* device or tamper with the
28 *ignition interlock* device.

29 3. A person who violates any provision of subsection 2:

30 (a) Must have his or her driving privilege revoked in the manner
31 set forth in *paragraph (c) or (d) of* subsection [4] *1* of NRS 483.460
32 [4], *as applicable*; and

33 (b) Shall be:

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

36 (2) Sentenced to a term of not less than 60 days in residential
37 confinement nor more than 6 months, and by a fine of not less than
38 \$500 nor more than \$1,000.

39 ↪ No person who is punished pursuant to this section may be
40 granted probation, and no sentence imposed for such a violation
41 may be suspended. No prosecutor may dismiss a charge of such a
42 violation in exchange for a plea of guilty, guilty but mentally ill or
43 nolo contendere to a lesser charge or for any other reason unless, in
44 the judgment of the attorney, the charge is not supported by
45 probable cause or cannot be proved at trial.



1 **Sec. 30.** NRS 484C.475 is hereby amended to read as follows:
2 484C.475 Any person who provides a sample of breath for ~~[a]~~
3 *an ignition interlock* device, with the intent to start a motor vehicle
4 of another and for the purpose of allowing a person required to
5 install ~~[a]~~ *an ignition interlock* device pursuant to NRS 484C.210
6 or 484C.460 to avoid providing a sample of his or her breath, is
7 guilty of a misdemeanor.

8 **Sec. 31.** NRS 484C.480 is hereby amended to read as follows:
9 484C.480 1. The ~~[Committee on Testing for Intoxication]~~
10 *Department of Public Safety* shall adopt regulations which:

11 (a) Provide for the certification of ~~[each model of those]~~
12 *manufacturers and vendors of ignition interlock* devices ~~[-~~
13 ~~described by manufacturer and model, which it approves as~~
14 ~~designed and manufactured to be accurate and reliable to test a~~
15 ~~person's breath to determine the concentration of alcohol in the~~
16 ~~person's breath and, if the results of the test indicate that the person~~
17 ~~has a concentration of alcohol of 0.02 or more in his or her breath,~~
18 ~~prevent the motor vehicle in which it is installed from starting.]~~ *to*
19 *allow such manufacturers and vendors to conduct business in this*
20 *State.*

21 (b) Prescribe the form and content of records respecting the
22 calibration of *ignition interlock* devices, which must be kept by the
23 manufacturer of the *ignition interlock* device or its agent, and other
24 records respecting the installation, removal, inspection, maintenance
25 and operation of the *ignition interlock* devices which it finds should
26 be kept by the manufacturer or its agent.

27 (c) Prescribe standards and procedures for the proper
28 installation, removal, inspection, calibration, maintenance and
29 operation of ~~[a]~~ *an ignition interlock* device installed by the
30 manufacturer or its agent.

31 (d) Require the manufacturer or its agent to waive the cost of
32 installing or removing the *ignition interlock* device and adjust the
33 fee to lease, calibrate or monitor the *ignition interlock* device, if the
34 person required to install ~~[a]~~ *an ignition interlock* device pursuant
35 to NRS 484C.210 or 484C.460:

36 (1) Has an income which is at or below 100 percent of the
37 federally designated level signifying poverty, to 50 percent of the
38 fee; or

39 (2) Receives supplemental nutritional assistance, as defined
40 in NRS 422A.072, was determined indigent pursuant to NRS
41 171.188 or has an income which is at or below 149 percent of the
42 federally designated level signifying poverty, to 75 percent of the
43 fee.

44 2. The ~~[Committee]~~ *Department of Public Safety* shall
45 establish its own standards and procedures for evaluating the models



1 of the *ignition interlock* devices and obtain evaluations of those
2 models from the Director or the manufacturer of the *ignition*
3 *interlock* device or its agent.

4 3. If a model of ~~{a}~~ *an ignition interlock* device has been
5 certified by the ~~{Committee}~~ *Department of Public Safety* to be
6 accurate and reliable pursuant to subsection 1, it is presumed that, as
7 designed and manufactured, each *ignition interlock* device of that
8 model is accurate and reliable to test a person's breath to determine
9 the concentration of alcohol in the person's breath and, if the results
10 of the test indicate that the person has a concentration of alcohol of
11 0.02 or more in his or her breath, will prevent the motor vehicle in
12 which it is installed from starting.

13 **Sec. 32.** NRS 62E.640 is hereby amended to read as follows:

14 62E.640 1. If a child is adjudicated delinquent for an
15 unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or
16 484C.430, the juvenile court shall, if the child possesses a driver's
17 license:

18 (a) Issue an order revoking the driver's license of the child for
19 185 days and requiring the child to surrender the driver's license of
20 the child to the juvenile court; and

21 (b) Not later than 5 days after issuing the order, forward to the
22 Department of Motor Vehicles a copy of the order and the driver's
23 license of the child.

24 2. The Department of Motor Vehicles shall order the child to
25 submit to the tests and other requirements which are adopted by
26 regulation pursuant to subsection 1 of NRS 483.495 as a condition
27 of reinstatement of the driver's license of the child.

28 3. If the child is adjudicated delinquent for a subsequent
29 unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or
30 484C.430, the juvenile court shall order an additional period of
31 revocation to apply consecutively with the previous order.

32 4. The juvenile court may:

33 (a) Authorize the Department of Motor Vehicles to issue ~~{a~~
34 ~~restricted driver's license}~~ *an ignition interlock privilege* pursuant
35 to NRS 483.490 to a child whose driver's license is revoked
36 pursuant to this section; and

37 (b) Order the child to install, at his or her own expense, or at the
38 expense of the parent or guardian of the child, ~~{a}~~ *an ignition*
39 *interlock* device in any motor vehicle the child operates as a
40 condition to obtaining ~~{a restricted license}~~ *an ignition interlock*
41 *privilege* pursuant to NRS 483.490.

42 5. As used in this section ~~{, "device"}~~ :

43 (a) *"Ignition interlock device"* has the meaning ascribed to it in
44 ~~{NRS 484C.450.}~~ *section 9 of this act.*



1 **(b) “Ignition interlock privilege” has the meaning ascribed to**
2 **it in section 10 of this act.**

3 **Sec. 33.** NRS 176A.240 is hereby amended to read as follows:
4 176A.240 1. Except as otherwise provided in subparagraph

5 (1) of paragraph (a) of subsection 3 of NRS 176.211, if a defendant
6 who suffers from a substance use disorder or any co-occurring
7 disorder tenders a plea of guilty, guilty but mentally ill or nolo
8 contendere to, or is found guilty or guilty but mentally ill of, any
9 offense for which the suspension of sentence or the granting of
10 probation is not prohibited by statute, the court may:

11 (a) Without entering a judgment of conviction and with the
12 consent of the defendant, suspend or defer further proceedings and
13 place the defendant on probation upon terms and conditions that
14 must include attendance and successful completion of a program
15 established pursuant to NRS 176A.230 if the court determines that
16 the defendant is eligible for participation in such a program; or

17 (b) Enter a judgment of conviction and place the defendant on
18 probation upon terms and conditions that must include attendance
19 and successful completion of a program established pursuant to
20 NRS 176A.230 if the court determines that the defendant is eligible
21 for participation in such a program.

22 2. Except as otherwise provided in subsection 4, a defendant is
23 eligible for participation in a program established pursuant to NRS
24 176A.230 if the defendant is diagnosed as having a substance use
25 disorder or any co-occurring disorder:

26 (a) After an in-person clinical assessment by:

27 (1) A counselor who is licensed or certified to make such a
28 diagnosis; or

29 (2) A duly licensed physician qualified by the Board of
30 Medical Examiners to make such a diagnosis; or

31 (b) Pursuant to a substance use assessment.

32 3. A counselor or physician who diagnoses a defendant as
33 having a substance use disorder shall submit a report and
34 recommendation to the court concerning the length and type of
35 treatment required for the defendant.

36 4. If the offense committed by the defendant is a category A
37 felony or a sexual offense as defined in NRS 179D.097 that is
38 punishable as a category B felony, the defendant is not eligible for
39 assignment to the program.

40 5. Upon violation of a term or condition:

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

44 (b) Notwithstanding the provisions of paragraph (e) of
45 subsection 2 of NRS 193.130, the court may order the defendant to



1 the custody of the Department of Corrections if the offense is
2 punishable by imprisonment in the state prison.

3 6. ~~Upon~~ *Except as otherwise provided in subsection 8, upon*
4 fulfillment of the terms and conditions, the court:

5 (a) Shall discharge the defendant and dismiss the proceedings or
6 set aside the judgment of conviction, as applicable, unless the
7 defendant:

8 (1) Has been previously convicted in this State or in any
9 other jurisdiction of a felony; or

10 (2) Has previously failed to complete a specialty court
11 program; or

12 (b) May discharge the defendant and dismiss the proceedings or
13 set aside the judgment of conviction, as applicable, if the defendant:

14 (1) Has been previously convicted in this State or in any
15 other jurisdiction of a felony; or

16 (2) Has previously failed to complete a specialty court
17 program.

18 7. Discharge and dismissal pursuant to this section is without
19 adjudication of guilt and is not a conviction for purposes of this
20 section or for purposes of employment, civil rights or any statute or
21 regulation or license or questionnaire or for any other public or
22 private purpose, but is a conviction for the purpose of additional
23 penalties imposed for second or subsequent convictions or the
24 setting of bail. Discharge and dismissal restores the defendant, in the
25 contemplation of the law, to the status occupied before the arrest,
26 indictment or information. The defendant may not be held thereafter
27 under any law to be guilty of perjury or otherwise giving a false
28 statement by reason of failure to recite or acknowledge that arrest,
29 indictment, information or trial in response to an inquiry made of
30 the defendant for any purpose.

31 8. *If the defendant was charged with a violation of NRS*
32 *200.485, 484C.110 or 484C.120, upon fulfillment of the terms and*
33 *conditions, the district court, justice court or municipal court, as*
34 *applicable, may conditionally dismiss the charges or set aside the*
35 *judgment of conviction, as applicable. If a court conditionally*
36 *dismisses the charges or sets aside the judgment of conviction, the*
37 *court shall notify the defendant that any conditionally dismissed*
38 *charge or judgment of conviction that is set aside is a conviction*
39 *for the purpose of additional penalties imposed for second or*
40 *subsequent convictions or the setting of bail in a future case, but is*
41 *not a conviction for purposes of employment, civil rights or any*
42 *statute or regulation or license or questionnaire or for any other*
43 *public or private purpose. Conditional dismissal or having a*
44 *judgment of conviction set aside restores the defendant, in the*
45 *contemplation of the law, to the status occupied before the arrest,*



1 *complaint, indictment or information. The defendant may not be*
2 *held thereafter under any law to be guilty of perjury or otherwise*
3 *giving a false statement by reason of failure to recite or*
4 *acknowledge that arrest, complaint, indictment, information or*
5 *trial in response to an inquiry made of the defendant for any*
6 *purpose.*

7 **Sec. 34.** NRS 176A.245 is hereby amended to read as follows:

8 176A.245 1. ~~After~~ *Except as otherwise provided in*
9 *subsection 2, after* a defendant is discharged from probation or a
10 case is dismissed pursuant to NRS 176A.240, the court shall order
11 sealed all documents, papers and exhibits in the defendant's record,
12 minute book entries and entries on dockets, and other documents
13 relating to the case in the custody of such other agencies and
14 officers as are named in the court's order if the defendant fulfills the
15 terms and conditions imposed by the court and the Division. The
16 court shall order those records sealed without a hearing unless the
17 Division petitions the court, for good cause shown, not to seal the
18 records and requests a hearing thereon.

19 2. *If the defendant is charged with a violation of NRS*
20 *200.485, 484C.110 or 484C.210 and the charges are conditionally*
21 *dismissed or the judgment of conviction is set aside as provided in*
22 *NRS 176A.240, not sooner than 7 years after the charges are*
23 *conditionally dismissed or the judgment of conviction is set aside*
24 *and upon the filing of a petition by the defendant, the justice*
25 *court, municipal court or district court, as applicable, shall order*
26 *that all documents, papers and exhibits in the defendant's record,*
27 *minute book entries and entries on dockets, and other documents*
28 *relating to the case in the custody of such other agencies and*
29 *officers as are named in the court's order be sealed. The justice*
30 *court, municipal court or district court, as applicable, shall order*
31 *those records sealed without a hearing unless the Division*
32 *petitions the court, for good cause shown, not to seal the records*
33 *and requests a hearing thereon.*

34 3. If the court orders sealed the record of a defendant who is
35 discharged from probation, ~~or~~ whose case is dismissed, *whose*
36 *charges were conditionally dismissed or whose judgment of*
37 *conviction was set aside* pursuant to NRS 176A.240, the court shall
38 send a copy of the order to each agency or officer named in the
39 order. Each such agency or officer shall notify the court in writing
40 of its compliance with the order.

41 **Sec. 35.** NRS 176A.260 is hereby amended to read as follows:

42 176A.260 1. Except as otherwise provided in subparagraph
43 (1) of paragraph (a) of subsection 3 of NRS 176.211, if a defendant
44 who suffers from mental illness or is intellectually disabled tenders
45 a plea of guilty, guilty but mentally ill or nolo contendere to, or is



1 found guilty or guilty but mentally ill of, any offense for which the
2 suspension of sentence or the granting of probation is not prohibited
3 by statute, the court may:

4 (a) Without entering a judgment of conviction and with the
5 consent of the defendant, suspend or defer further proceedings and
6 place the defendant on probation upon terms and conditions that
7 must include attendance and successful completion of a program
8 established pursuant to NRS 176A.250 if the court determines that
9 the defendant is eligible for participation in such a program; or

10 (b) Enter a judgment of conviction and place the defendant on
11 probation upon terms and conditions that must include attendance
12 and successful completion of a program established pursuant to
13 NRS 176A.250, if the court determines that the defendant is eligible
14 for participation in such a program.

15 2. Except as otherwise provided in subsection 4, a defendant is
16 eligible for participation in a program established pursuant to NRS
17 176A.250 if the defendant is diagnosed as having a mental illness or
18 an intellectual disability:

19 (a) After an in-person clinical assessment by:

20 (1) A counselor who is licensed or certified to make such a
21 diagnosis; or

22 (2) A duly licensed physician qualified by the Board of
23 Medical Examiners to make such a diagnosis; and

24 (b) If the defendant appears to suffer from a mental illness,
25 pursuant to a mental health screening that indicates the presence of a
26 mental illness.

27 3. A counselor or physician who diagnoses a defendant as
28 having a mental illness or intellectual disability shall submit a report
29 and recommendation to the court concerning the length and type of
30 treatment required for the defendant within the maximum probation
31 terms applicable to the offense for which the defendant is convicted.

32 4. If the offense committed by the defendant is a category A
33 felony or a sexual offense as defined in NRS 179D.097 that is
34 punishable as a category B felony, the defendant is not eligible for
35 assignment to the program.

36 5. Upon violation of a term or condition:

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

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

44 6. ~~Upon~~ *Except as otherwise provided in subsection 8, upon*
45 fulfillment of the terms and conditions, the court:



1 (a) Shall discharge the defendant and dismiss the proceedings or
2 set aside the judgment of conviction, as applicable, unless the
3 defendant:

4 (1) Has been previously convicted in this State or in any
5 other jurisdiction of a felony; or

6 (2) Has previously failed to complete a specialty court
7 program; or

8 (b) May discharge the defendant and dismiss the proceedings or
9 set aside the judgment of conviction, as applicable, if the defendant:

10 (1) Has been previously convicted in this State or in any
11 other jurisdiction of a felony; or

12 (2) Has previously failed to complete a specialty court
13 program.

14 7. Discharge and dismissal pursuant to this section is without
15 adjudication of guilt and is not a conviction for purposes of this
16 section or for purposes of employment, civil rights or any statute or
17 regulation or license or questionnaire or for any other public or
18 private purpose, but is a conviction for the purpose of additional
19 penalties imposed for second or subsequent convictions or the
20 setting of bail. Discharge and dismissal restores the defendant, in the
21 contemplation of the law, to the status occupied before the arrest,
22 indictment or information. The defendant may not be held thereafter
23 under any law to be guilty of perjury or otherwise giving a false
24 statement by reason of failure to recite or acknowledge that arrest,
25 indictment, information or trial in response to an inquiry made of
26 the defendant for any purpose.

27 8. *If the defendant was charged with a violation of NRS*
28 *200.485, 484C.110 or 484C.120, upon fulfillment of the terms and*
29 *conditions, the district court, justice court or municipal court, as*
30 *applicable, may conditionally dismiss the charges or set aside the*
31 *judgment of conviction, as applicable. If a court conditionally*
32 *dismisses the charges or sets aside the judgment of conviction, the*
33 *court shall notify the defendant that any conditionally dismissed*
34 *charge or judgment of conviction that is set aside is a conviction*
35 *for the purpose of additional penalties imposed for second or*
36 *subsequent convictions or the setting of bail in a future case, but is*
37 *not a conviction for purposes of employment, civil rights or any*
38 *statute or regulation or license or questionnaire or for any other*
39 *public or private purpose. Conditional dismissal or having a*
40 *judgment of conviction set aside restores the defendant, in the*
41 *contemplation of the law, to the status occupied before the arrest,*
42 *complaint, indictment or information. The defendant may not be*
43 *held thereafter under any law to be guilty of perjury or otherwise*
44 *giving a false statement by reason of failure to recite or*
45 *acknowledge that arrest, complaint, indictment, information or*



1 *trial in response to an inquiry made of the defendant for any*
2 *purpose.*

3 **Sec. 36.** NRS 176A.265 is hereby amended to read as follows:

4 176A.265 1. ~~[After]~~ *Except as otherwise provided in*
5 *subsection 2, after* a defendant is discharged from probation or a
6 case is dismissed pursuant to NRS 176A.260, the court shall order
7 sealed all documents, papers and exhibits in the defendant's record,
8 minute book entries and entries on dockets, and other documents
9 relating to the case in the custody of such other agencies and
10 officers as are named in the court's order if the defendant fulfills the
11 terms and conditions imposed by the court and the Division. The
12 court shall order those records sealed without a hearing unless the
13 Division petitions the court, for good cause shown, not to seal the
14 records and requests a hearing thereon.

15 2. *If the defendant is charged with a violation of NRS*
16 *200.485, 484C.110 or 484C.120 and the charges are conditionally*
17 *dismissed or the judgment of conviction is set aside as provided in*
18 *NRS 176A.260, not sooner than 7 years after the charges are*
19 *conditionally dismissed or the judgment of conviction is set aside*
20 *and upon the filing of a petition by the defendant, the justice*
21 *court, municipal court or district court, as applicable, shall order*
22 *that all documents, papers and exhibits in the defendant's record,*
23 *minute book entries and entries on dockets, and other documents*
24 *relating to the case in the custody of such other agencies and*
25 *officers as are named in the court's order be sealed. The justice*
26 *court, municipal court or district court, as applicable, shall order*
27 *those records sealed without a hearing unless the Division*
28 *petitions the court, for good cause shown, not to seal the records*
29 *and requests a hearing thereon.*

30 3. If the court orders sealed the record of a defendant who is
31 discharged from probation, ~~[or]~~ whose case is dismissed, *whose*
32 *charges were conditionally dismissed or whose judgment of*
33 *conviction was set aside* pursuant to NRS 176A.260, the court shall
34 send a copy of the order to each agency or officer named in the
35 order. Each such agency or officer shall notify the court in writing
36 of its compliance with the order.

37 **Sec. 37.** NRS 176A.290 is hereby amended to read as follows:

38 176A.290 1. Except as otherwise provided in subparagraph
39 (1) of paragraph (a) of subsection 3 of NRS 176.211 and NRS
40 176A.287, if a defendant described in NRS 176A.280 tenders a plea
41 of guilty, guilty but mentally ill or nolo contendere to, or is found
42 guilty or guilty but mentally ill of:

43 (a) Any offense punishable as a felony or gross misdemeanor for
44 which the suspension of sentence or the granting of probation is not
45 prohibited by statute, the district court may:



1 (1) Without entering a judgment of conviction and with the
2 consent of the defendant, suspend or defer further proceedings and
3 place the defendant on probation upon terms and conditions that
4 must include attendance and successful completion of a program
5 established pursuant to NRS 176A.280 if the court determines that
6 the defendant is eligible for participation in such a program; or

7 (2) Enter a judgment of conviction and place the defendant
8 on probation upon terms and conditions that must include
9 attendance and successful completion of a program established
10 pursuant to NRS 176A.280 if the court determines that the
11 defendant is eligible for participation in such a program; or

12 (b) Any offense punishable as a misdemeanor for which the
13 suspension of sentence is not prohibited by statute, the justice court
14 or municipal court, as applicable, may, without entering a judgment
15 of conviction and with the consent of the defendant, suspend further
16 proceedings upon terms and conditions that must include attendance
17 and successful completion of a program established pursuant to
18 NRS 176A.280.

19 2. Upon violation of a term or condition:

20 (a) The district court, justice court or municipal court, as
21 applicable, may impose sanctions against the defendant for the
22 violation, but allow the defendant to remain in the program. Before
23 imposing a sanction, the court shall notify the defendant of the
24 violation and provide the defendant an opportunity to respond. Any
25 sanction imposed pursuant to this paragraph:

26 (1) Must be in accordance with any applicable guidelines for
27 sanctions established by the National Association of Drug Court
28 Professionals or any successor organization; and

29 (2) May include, without limitation, imprisonment in a
30 county or city jail or detention facility for a term set by the court,
31 which must not exceed 25 days.

32 (b) The district court, justice court or municipal court, as
33 applicable, may enter a judgment of conviction, if applicable, and
34 proceed as provided in the section pursuant to which the defendant
35 was charged.

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

40 3. Except as otherwise provided in subsection 5, upon
41 fulfillment of the terms and conditions:

42 (a) The district court:

43 (1) Shall discharge the defendant and dismiss the
44 proceedings or set aside the judgment of conviction, as applicable,
45 unless the defendant:



1 (I) Has been previously convicted in this State or in any
2 other jurisdiction of a felony; or

3 (II) Has previously failed to complete a specialty court
4 program; or

5 (2) May discharge the defendant and dismiss the proceedings
6 or set aside the judgment of conviction, as applicable, if the
7 defendant:

8 (I) Has been previously convicted in this State or in any
9 other jurisdiction of a felony; or

10 (II) Has previously failed to complete a specialty court
11 program; or

12 (b) The justice court or municipal court, as applicable, shall
13 discharge the defendant and dismiss the proceedings.

14 4. Discharge and dismissal pursuant to this section is without
15 adjudication of guilt and is not a conviction for purposes of this
16 section or for purposes of employment, civil rights or any statute or
17 regulation or license or questionnaire or for any other public or
18 private purpose, but is a conviction for the purpose of additional
19 penalties imposed for second or subsequent convictions or the
20 setting of bail. Discharge and dismissal restores the defendant, in the
21 contemplation of the law, to the status occupied before the arrest,
22 complaint, indictment or information. The defendant may not be
23 held thereafter under any law to be guilty of perjury or otherwise
24 giving a false statement by reason of failure to recite or
25 acknowledge that arrest, complaint, indictment, information or trial
26 in response to an inquiry made of the defendant for any purpose.

27 5. If the defendant was charged with a violation of NRS
28 200.485, 484C.110 or 484C.120, upon fulfillment of the terms and
29 conditions, the district court, justice court or municipal court, as
30 applicable, may conditionally dismiss the charges ~~[]~~ *or set aside the*
31 *judgment of conviction, as applicable.* If a court conditionally
32 dismisses the charges ~~[]~~ *or sets aside the judgment of conviction,*
33 the court shall notify the defendant that ~~[the]~~ *any* conditionally
34 dismissed ~~[charges are]~~ *charge or judgment of conviction that is set*
35 *aside is* a conviction for the purpose of additional penalties imposed
36 for second or subsequent convictions or the setting of bail in a future
37 case, but ~~[are]~~ *is* not a conviction for purposes of employment, civil
38 rights or any statute or regulation or license or questionnaire or for
39 any other public or private purpose. Conditional dismissal *or having*
40 *a judgment of conviction set aside* restores the defendant, in the
41 contemplation of the law, to the status occupied before the arrest,
42 complaint, indictment or information. The defendant may not be
43 held thereafter under any law to be guilty of perjury or otherwise
44 giving a false statement by reason of failure to recite or



1 acknowledge that arrest, complaint, indictment, information or trial
2 in response to an inquiry made of the defendant for any purpose.

3 **Sec. 38.** NRS 176A.295 is hereby amended to read as follows:

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

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

31 3. If the justice court, municipal court or district court, as
32 applicable, orders sealed the record of a defendant who is
33 discharged from probation, whose case is dismissed, ~~[or]~~ whose
34 charges were conditionally dismissed *or whose judgment of*
35 *conviction was set aside* pursuant to NRS 176A.290, the court shall
36 send a copy of the order to each agency or officer named in the
37 order. Each such agency or officer shall notify the justice court,
38 municipal court or district court, as applicable, in writing of its
39 compliance with the order.

40 **Sec. 39.** NRS 179.245 is hereby amended to read as follows:

41 179.245 1. Except as otherwise provided in subsection 6 and
42 NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259,
43 201.354 and 453.3365, a person may petition the court in which the
44 person was convicted for the sealing of all records relating to a
45 conviction of:



1 (a) A category A felony, a crime of violence pursuant to NRS
2 200.408 or residential burglary pursuant to NRS 205.060 after 10
3 years from the date of release from actual custody or discharge from
4 parole or probation, whichever occurs later;

5 (b) Except as otherwise provided in paragraphs (a) and (e), a
6 category B, C or D felony after 5 years from the date of release from
7 actual custody or discharge from parole or probation, whichever
8 occurs later;

9 (c) A category E felony after 2 years from the date of release
10 from actual custody or discharge from parole or probation,
11 whichever occurs later;

12 (d) Except as otherwise provided in paragraph (e), any gross
13 misdemeanor after 2 years from the date of release from actual
14 custody or discharge from probation, whichever occurs later;

15 (e) A violation of NRS 422.540 to 422.570, inclusive, a
16 violation of NRS 484C.110 or 484C.120 other than a felony, or a
17 battery which constitutes domestic violence pursuant to NRS 33.018
18 other than a felony, after 7 years from the date of release from actual
19 custody or from the date when the person is no longer under a
20 suspended sentence, whichever occurs later;

21 (f) Except as otherwise provided in paragraph (e), if the offense
22 is punished as a misdemeanor, a battery pursuant to NRS 200.481,
23 harassment pursuant to NRS 200.571, stalking pursuant to NRS
24 200.575 or a violation of a temporary or extended order for
25 protection, after 2 years from the date of release from actual custody
26 or from the date when the person is no longer under a suspended
27 sentence, whichever occurs later; or

28 (g) Any other misdemeanor after 1 year from the date of release
29 from actual custody or from the date when the person is no longer
30 under a suspended sentence, whichever occurs later.

31 2. A petition filed pursuant to subsection 1 must:

32 (a) Be accompanied by the petitioner's current, verified records
33 received from the Central Repository for Nevada Records of
34 Criminal History;

35 (b) If the petition references NRS 453.3365, include a certificate
36 of acknowledgment or the disposition of the proceedings for the
37 records to be sealed from all agencies of criminal justice which
38 maintain such records;

39 (c) Include a list of any other public or private agency, company,
40 official or other custodian of records that is reasonably known to the
41 petitioner to have possession of records of the conviction and to
42 whom the order to seal records, if issued, will be directed; and

43 (d) Include information that, to the best knowledge and belief of
44 the petitioner, accurately and completely identifies the records to be
45 sealed, including, without limitation, the:



1 (1) Date of birth of the petitioner;
2 (2) Specific conviction to which the records to be sealed
3 pertain; and

4 (3) Date of arrest relating to the specific conviction to which
5 the records to be sealed pertain.

6 3. Upon receiving a petition pursuant to this section, the court
7 shall notify the law enforcement agency that arrested the petitioner
8 for the crime and the prosecuting attorney, including, without
9 limitation, the Attorney General, who prosecuted the petitioner for
10 the crime. The prosecuting attorney and any person having relevant
11 evidence may testify and present evidence at any hearing on the
12 petition.

13 4. If the prosecuting attorney who prosecuted the petitioner for
14 the crime stipulates to the sealing of the records after receiving
15 notification pursuant to subsection 3 and the court makes the
16 findings set forth in subsection 5, the court may order the sealing of
17 the records in accordance with subsection 5 without a hearing. If the
18 prosecuting attorney does not stipulate to the sealing of the records,
19 a hearing on the petition must be conducted.

20 5. If the court finds that, in the period prescribed in subsection
21 1, the petitioner has not been charged with any offense for which the
22 charges are pending or convicted of any offense, except for minor
23 moving or standing traffic violations, the court may order sealed all
24 records of the conviction which are in the custody of any agency of
25 criminal justice or any public or private agency, company, official
26 or other custodian of records in the State of Nevada, and may also
27 order all such records of the petitioner returned to the file of the
28 court where the proceeding was commenced from, including,
29 without limitation, the Federal Bureau of Investigation and all other
30 agencies of criminal justice which maintain such records and which
31 are reasonably known by either the petitioner or the court to have
32 possession of such records.

33 6. A person may not petition the court to seal records relating
34 to a conviction of:

- 35 (a) A crime against a child;
36 (b) A sexual offense;
37 (c) Invasion of the home with a deadly weapon pursuant to

38 NRS 205.067;

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

42 (e) A violation of NRS 484C.430;

43 (f) A homicide resulting from driving or being in actual physical
44 control of a vehicle while under the influence of intoxicating liquor



1 or a controlled substance or resulting from any other conduct
2 prohibited by NRS 484C.110, 484C.130 or 484C.430;

3 (g) A violation of NRS 488.410 that is punishable as a felony
4 pursuant to NRS 488.427; or

5 (h) A violation of NRS 488.420 or 488.425.

6 7. *The provisions of paragraph (e) of subsection 1 and*
7 *paragraph (d) of subsection 6 must not be construed to preclude a*
8 *person from being able to petition the court to seal records*
9 *relating to a conviction for a violation of NRS 484C.110 or*
10 *484C.120 pursuant to this section if the person was found guilty of*
11 *a violation of NRS 484C.110 or 484C.120 that is punishable*
12 *pursuant to:*

13 (a) *Paragraph (b) of subsection 1 of NRS 484C.400; or*

14 (b) *Paragraph (c) of subsection 1 of NRS 484C.400 but had a*
15 *judgment of conviction entered against him or her for a violation*
16 *of paragraph (b) of subsection 1 of NRS 484C.400 because the*
17 *person participated in the statewide sobriety and drug monitoring*
18 *program established pursuant to NRS 484C.392.*

19 8. If the court grants a petition for the sealing of records
20 pursuant to this section, upon the request of the person whose
21 records are sealed, the court may order sealed all records of the civil
22 proceeding in which the records were sealed.

23 ~~8.~~ 9. As used in this section:

24 (a) "Crime against a child" has the meaning ascribed to it in
25 NRS 179D.0357.

26 (b) "Sexual offense" means:

27 (1) Murder of the first degree committed in the perpetration
28 or attempted perpetration of sexual assault or of sexual abuse or
29 sexual molestation of a child less than 14 years of age pursuant to
30 paragraph (b) of subsection 1 of NRS 200.030.

31 (2) Sexual assault pursuant to NRS 200.366.

32 (3) Statutory sexual seduction pursuant to NRS 200.368, if
33 punishable as a felony.

34 (4) Battery with intent to commit sexual assault pursuant to
35 NRS 200.400.

36 (5) An offense involving the administration of a drug to
37 another person with the intent to enable or assist the commission of
38 a felony pursuant to NRS 200.405, if the felony is an offense listed
39 in this paragraph.

40 (6) An offense involving the administration of a controlled
41 substance to another person with the intent to enable or assist the
42 commission of a crime of violence pursuant to NRS 200.408, if the
43 crime of violence is an offense listed in this paragraph.

44 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
45 involved sexual abuse or sexual exploitation.



1 (8) An offense involving pornography and a minor pursuant
2 to NRS 200.710 to 200.730, inclusive.

3 (9) Incest pursuant to NRS 201.180.

4 (10) Open or gross lewdness pursuant to NRS 201.210, if
5 punishable as a felony.

6 (11) Indecent or obscene exposure pursuant to NRS 201.220,
7 if punishable as a felony.

8 (12) Lewdness with a child pursuant to NRS 201.230.

9 (13) Sexual penetration of a dead human body pursuant to
10 NRS 201.450.

11 (14) Sexual conduct between certain employees of a school
12 or volunteers at a school and a pupil pursuant to NRS 201.540.

13 (15) Sexual conduct between certain employees of a college
14 or university and a student pursuant to NRS 201.550.

15 (16) Luring a child or a person with mental illness pursuant
16 to NRS 201.560, if punishable as a felony.

17 (17) An attempt to commit an offense listed in this
18 paragraph.

19 **Sec. 40.** NRS 179.259 is hereby amended to read as follows:

20 179.259 1. Except as otherwise provided in subsections 3, 4
21 and 5, 4 years after an eligible person completes a program for
22 reentry, the court may order sealed all documents, papers and
23 exhibits in the eligible person's record, minute book entries and
24 entries on dockets, and other documents relating to the case in the
25 custody of such other agencies and officers as are named in the
26 court's order. The court may order those records sealed without a
27 hearing unless the Division of Parole and Probation of the
28 Department of Public Safety petitions the court, for good cause
29 shown, not to seal the records and requests a hearing thereon.

30 2. If the court orders sealed the record of an eligible person, the
31 court shall send a copy of the order to each agency or officer named
32 in the order. Each such agency or officer shall notify the court in
33 writing of its compliance with the order.

34 3. A professional licensing board is entitled, for the purpose of
35 determining suitability for a license or liability to discipline for
36 misconduct, to inspect and to copy from a record sealed pursuant to
37 this section.

38 4. The Division of Insurance of the Department of Business
39 and Industry is entitled, for the purpose of determining suitability
40 for a license or liability to discipline for misconduct, to inspect and
41 to copy from a record sealed pursuant to this section.

42 5. A person may not petition the court to seal records relating
43 to a conviction of a crime against a child or a sexual offense.

44 6. As used in this section:



1 (a) "Crime against a child" has the meaning ascribed to it in
2 NRS 179D.0357.

3 (b) "Eligible person" means a person who has:

4 (1) Successfully completed a program for reentry, which the
5 person participated in pursuant to NRS 209.4886, 209.4888,
6 213.625 or 213.632; and

7 (2) Been convicted of a single offense which was punishable
8 as a felony and which did not involve the use or threatened use of
9 force or violence against the victim. For the purposes of this
10 subparagraph, multiple convictions for an offense punishable as a
11 felony shall be deemed to constitute a single offense if those
12 offenses arose out of the same transaction or occurrence.

13 (c) "Program for reentry" means:

14 (1) A correctional program for reentry of offenders and
15 parolees into the community that is established by the Director of
16 the Department of Corrections pursuant to NRS 209.4887; or

17 (2) A judicial program for reentry of offenders and parolees
18 into the community that is established in a judicial district pursuant
19 to NRS 209.4883.

20 (d) "Sexual offense" has the meaning ascribed to it in
21 ~~[paragraph (b) of subsection 8 of]~~ NRS 179.245.

22 **Sec. 41.** NRS 200.485 is hereby amended to read as follows:

23 200.485 1. Unless a greater penalty is provided pursuant to
24 subsections 2 to 5, inclusive, or NRS 200.481, a person convicted of
25 a battery which constitutes domestic violence pursuant to
26 NRS 33.018:

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

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

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

33 ↪ The person shall be further punished by a fine of not less than
34 \$200, but not more than \$1,000. A term of imprisonment imposed
35 pursuant to this paragraph may be served intermittently at the
36 discretion of the judge or justice of the peace, except that each
37 period of confinement must be not less than 12 consecutive hours
38 and must occur at a time when the person is not required to be at his
39 or her place of employment or on a weekend.

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

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

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



1 ➔ The person shall be further punished by a fine of not less than
2 \$500, but not more than \$1,000. A term of imprisonment imposed
3 pursuant to this paragraph may be served intermittently at the
4 discretion of the judge or justice of the peace, except that each
5 period of confinement must not be less than 12 consecutive hours
6 and must occur at a time when the person is not required to be at his
7 or her place of employment or on a weekend.

8 (c) For the third offense within 7 years, is guilty of a category B
9 felony and shall be punished by imprisonment in the state prison for
10 a minimum term of not less than 1 year and a maximum term of not
11 more than 6 years, and may be further punished by a fine of not less
12 than \$1,000, but not more than \$5,000.

13 2. Unless a greater penalty is provided pursuant to subsection 3
14 or NRS 200.481, a person convicted of a battery which constitutes
15 domestic violence pursuant to NRS 33.018, if the battery is
16 committed by strangulation as described in NRS 200.481, is guilty
17 of a category C felony and shall be punished as provided in
18 NRS 193.130.

19 3. Unless a greater penalty is provided pursuant to
20 NRS 200.481, a person who has been previously convicted of:

21 (a) A felony that constitutes domestic violence pursuant to
22 NRS 33.018;

23 (b) A battery which constitutes domestic violence pursuant to
24 NRS 33.018, if the battery is committed with the use of a deadly
25 weapon as described in NRS 200.481; or

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

28 ➔ and who commits a battery which constitutes domestic violence
29 pursuant to NRS 33.018 is guilty of a category B felony and shall be
30 punished by imprisonment in the state prison for a minimum term of
31 not less than 2 years and a maximum term of not more than 15
32 years, and shall be further punished by a fine of not less than
33 \$2,000, but not more than \$5,000.

34 4. Unless a greater penalty is provided pursuant to NRS
35 200.481, a person convicted of a battery which constitutes domestic
36 violence pursuant to NRS 33.018, if the battery is committed against
37 a victim who was pregnant at the time of the battery and the person
38 knew or should have known that the victim was pregnant:

39 (a) For the first offense, is guilty of a gross misdemeanor.

40 (b) For the second or any subsequent offense, is guilty of a
41 category B felony and shall be punished by imprisonment in the
42 state prison of a minimum term of not less than 1 year and a
43 maximum term of not more than 6 years, and may be further
44 punished by a fine of not less than \$1,000, but not more
45 than \$5,000.



1 5. Unless a greater penalty is provided pursuant to NRS
2 200.481, a person convicted of a battery which constitutes domestic
3 violence pursuant to NRS 33.018, if the battery causes substantial
4 bodily harm, is guilty of a category B felony and shall be punished
5 by imprisonment in the state prison of a minimum term of not less
6 than 1 year and a maximum term of not more than 6 years, and may
7 be further punished by a fine of not less than \$1,000, but not more
8 than \$5,000.

9 6. In addition to any other penalty, if a person is convicted of a
10 battery which constitutes domestic violence pursuant to NRS
11 33.018, the court shall:

12 (a) For the first offense within 7 years, require the person to
13 participate in weekly counseling sessions of not less than 1 1/2
14 hours per week for not less than 6 months, at his or her expense, in a
15 program for the treatment of persons who commit domestic violence
16 that has been certified pursuant to NRS 439.258.

17 (b) For the second offense within 7 years, require the person to
18 participate in weekly counseling sessions of not less than 1 1/2
19 hours per week for not less than 12 months, at his or her expense, in
20 a program for the treatment of persons who commit domestic
21 violence that has been certified pursuant to NRS 439.258.

22 ➤ If the person resides in this State but the nearest location at which
23 counseling services are available is in another state, the court may
24 allow the person to participate in counseling in the other state in a
25 program for the treatment of persons who commit domestic violence
26 that has been certified pursuant to NRS 439.258.

27 7. Except as otherwise provided in this subsection, an offense
28 that occurred within 7 years immediately preceding the date of the
29 principal offense or after the principal offense constitutes a prior
30 offense for the purposes of this section:

31 (a) When evidenced by a conviction; or

32 (b) If the offense is conditionally dismissed *or the judgment of*
33 *conviction is set aside* pursuant to NRS *176A.240, 176A.260 or*
34 *176A.290* or dismissed in connection with successful completion of
35 a diversionary program or specialty court program,

36 ➤ without regard to the sequence of the offenses and convictions.
37 An offense which is listed in paragraph (a), (b) or (c) of subsection 3
38 that occurred on any date preceding the date of the principal offense
39 or after the principal offense constitutes a prior offense for the
40 purposes of this section when evidenced by a conviction, without
41 regard to the sequence of the offenses and convictions. The facts
42 concerning a prior offense must be alleged in the complaint,
43 indictment or information, must not be read to the jury or proved at
44 trial but must be proved at the time of sentencing and, if the



1 principal offense is alleged to be a felony, must also be shown at the
2 preliminary examination or presented to the grand jury.

3 8. In addition to any other penalty, the court may require such a
4 person to participate, at his or her expense, in a program of
5 treatment for an alcohol or other substance use disorder that has
6 been certified by the Division of Public and Behavioral Health of
7 the Department of Health and Human Services.

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

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

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

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

32 11. In every judgment of conviction or admonishment of rights
33 issued pursuant to this section, the court shall:

34 (a) Inform the person convicted that he or she is prohibited from
35 owning, possessing or having under his or her custody or control
36 any firearm pursuant to NRS 202.360; and

37 (b) Order the person convicted to permanently surrender, sell or
38 transfer any firearm that he or she owns or that is in his or her
39 possession or under his or her custody or control in the manner set
40 forth in NRS 202.361.

41 12. A person who violates any provision included in a
42 judgment of conviction or admonishment of rights issued pursuant
43 to this section concerning the surrender, sale, transfer, ownership,
44 possession, custody or control of a firearm is guilty of a category B
45 felony and shall be punished by imprisonment in the state prison for



1 a minimum term of not less than 1 year and a maximum term of not
2 more than 6 years, and may be further punished by a fine of not
3 more than \$5,000. The court must include in the judgment of
4 conviction or admonishment of rights a statement that a violation of
5 such a provision in the judgment or admonishment is a category B
6 felony and shall be punished by imprisonment in the state prison for
7 a minimum term of not less than 1 year and a maximum term of not
8 more than 6 years, and may be further punished by a fine of not
9 more than \$5,000.

10 13. As used in this section:

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

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

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

18 **Sec. 42.** NRS 209.427 is hereby amended to read as follows:

19 209.427 1. If the results of an evaluation conducted pursuant
20 to NRS 484C.300 or 488.430 indicate that an offender has an
21 alcohol or other substance use disorder and that the offender can be
22 treated successfully for his or her condition, the Director shall,
23 except as otherwise provided in this section ~~§~~ *and unless a court*
24 *has already assigned the offender to a program of treatment*
25 *pursuant to subparagraph (2) of paragraph (c) of subsection 1 of*
26 *NRS 484C.400*, assign the offender to the program of treatment
27 established pursuant to NRS 209.425. Such an assignment must be,
28 to the extent that the period reasonably can be predicted, for the
29 year, or as much thereof as practicable, immediately preceding the
30 date the offender is due to be released from prison, either on parole
31 or at the expiration of the offender's term.

32 2. Before assigning an offender to a program of treatment, the
33 Director, in cooperation with the Division of Parole and Probation
34 of the Department of Public Safety, shall determine, to the extent
35 possible:

36 (a) The length of time remaining on the offender's sentence,
37 taking into consideration any credits earned by the offender; and

38 (b) The likelihood that the offender will complete the entire
39 program of treatment.

40 3. The Director shall when assigning offenders to the program,
41 to the extent possible, give preference to those offenders who appear
42 to the Director capable of successfully completing the entire
43 program.

44 4. The Director is not required to assign an offender to the
45 program of treatment if the offender is not eligible for assignment to



1 an institution or facility of minimum security pursuant to the
2 provisions of NRS 209.481 and the regulations adopted pursuant
3 thereto.

4 5. The Director may withdraw the offender from the program
5 of treatment at any time if the Director determines that the offender:
6 (a) Is not responding satisfactorily to the program; or
7 (b) Has failed or refused to comply with any term or condition
8 of the program.

9 6. As used in this section, "entire program" means both phases
10 of the program established pursuant to NRS 209.425, for offenders
11 who have not been released from prison, and NRS 209.429, for
12 offenders who have been assigned to the custody of the Division of
13 Parole and Probation of the Department of Public Safety.

14 **Sec. 43.** Any regulations adopted by the Committee on Testing
15 for Intoxication before the effective date of this act pursuant to NRS
16 484C.480 remain in effect and may be enforced by the Department
17 of Public Safety until the Department adopts regulations to repeal or
18 replace those regulations.

19 **Sec. 44.** Notwithstanding the provisions of NRS 218D.430 and
20 218D.435, a committee, other than the Assembly Standing
21 Committee on Ways and Means and the Senate Standing Committee
22 on Finance, may vote on this act before the expiration of the period
23 prescribed for the return of a fiscal note in NRS 218D.475. This
24 section applies retroactively from and after March 22, 2021.

25 **Sec. 45.** NRS 484C.395 and 484C.450 are hereby repealed.

26 **Sec. 46.** This act becomes effective upon passage and
27 approval.

TEXT OF REPEALED SECTIONS

484C.395 Requirements for offender in program. Any person
who is assigned to the program:

1. Shall abstain from alcohol and prohibited substances while
assigned to the program.

2. Shall undergo testing to determine the presence of alcohol in
the person's system:

(a) Except as otherwise provided in paragraph (b), not less than
two times each day at a testing location established by a designated
law enforcement agency pursuant to NRS 484C.393 so that
immediate sanctions can be applied;



(b) If being tested two or more times each day is not practical, by an alternate method consistent with NRS 484C.392 that allows timely sanctions to be applied; or

(c) By any other alternate method consistent with NRS 484C.392.

3. Shall 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 immediate, lawful and consistent sanctions for using alcohol or a prohibited substance while assigned to the program or for failing or refusing to undergo required testing, including, without limitation, immediate incarceration.

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

484C.450 "Device" defined. As used in NRS 484C.450 to 484C.480, inclusive, unless the context otherwise requires, "device" means a mechanism that:

1. Tests a person's breath to determine the concentration of alcohol in his or her breath; and

2. If the results of the test indicate that the person has a concentration of alcohol of 0.02 or more in his or her breath, prevents the motor vehicle in which it is installed from starting.



