

SENATE BILL NO. 297—SENATOR HAMMOND

MARCH 18, 2019

JOINT SPONSORS: ASSEMBLYMEN ROBERTS AND MUNK

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to driving or operating a vessel under the influence of alcohol or a prohibited substance. (BDR 43-1013)

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 driving or operating a vessel under the influence of alcohol or a prohibited substance; establishing provisions governing the residential confinement of certain offenders; increasing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law makes it unlawful for a person to be found by measurement to
- 2 have a designated blood alcohol level of 0.08 or more in his or her blood or breath
- 3 within 2 hours after driving or physically controlling a vehicle. (NRS 484C.110,
- 4 484C.120, 484C.130, 484C.430) **Sections 3-5 and 8** of this bill increase the period
- 5 of time from 2 to 3 hours. **Sections 10-12** of this bill make the same change in the
- 6 period of time to similar provisions of existing law relating to a person operating or
- 7 being in actual physical control of a vessel under power or sail on the waters of this
- 8 State.
- 9 Existing law provides that a person who commits certain unlawful acts relating
- 10 to driving or operating a vehicle while impaired by alcohol or a prohibited
- 11 substance multiple times within a period of 7 years is subject to increased penalties
- 12 for the commission of such acts. (NRS 484C.400, 484C.410, 484C.520) **Sections 6,**
- 13 **7 and 9** of this bill extend the period of time from 7 to 10 years in which the
- 14 increased penalties apply. **Sections 1, 2 and 21-23** of this bill make conforming
- 15 changes.



16 When a person drives or operates a vehicle while impaired by alcohol or a
17 prohibited substance, existing law makes the first offense a misdemeanor
18 punishable by imprisonment in jail for not less than 2 days and not more than 6
19 months, and a fine of not less than \$400 and not more than \$1,000. (NRS
20 484C.400) **Section 6** of this bill increases the minimum term of imprisonment from
21 2 days to 30 days and increases the minimum fine from \$400 to \$600.

22 When a person drives or operates a vehicle while impaired by alcohol or a
23 prohibited substance, existing law makes the second offense a misdemeanor
24 punishable by imprisonment in jail for not less than 10 days nor more than 6
25 months or a term of residential confinement for not less than 10 days nor more than
26 6 months. (NRS 484C.400) **Section 6** increases the term of imprisonment or
27 residential confinement, respectively, making a second offense a gross
28 misdemeanor punishable by not less than 6 months nor more than 364 days in jail
29 or residential confinement. **Sections 14-20 and 24** of this bill make conforming
30 changes relating to such residential confinement.

31 Existing law provides that a person commits vehicular homicide, punishable as
32 a category A felony, when the person: (1) drives or operates a vehicle while
33 impaired by alcohol or a prohibited substance; (2) proximately causes the death of
34 another person while driving or operating such a vehicle; and (3) has previously
35 been convicted of at least three offenses concerning driving while impaired by
36 alcohol or a prohibited substance. (NRS 484C.130, 484C.440) **Section 5** of this bill
37 removes the requirement that a person have three such prior offenses in order to
38 commit vehicular homicide. **Section 12** of this bill makes the same change to a
39 similar provision of existing law relating to a person operating or being in actual
40 physical control of a vessel under power or sail on the waters of this State.

41 Existing law provides that a person is guilty of a category B felony if the
42 person: (1) drives or operates a vehicle while impaired by alcohol or a prohibited
43 substance; and (2) through the acts or neglect of that person causes the death or
44 substantial bodily harm to another while operating the vehicle. (NRS 484C.430)
45 **Section 8** of this bill deletes the reference to death, meaning that a person is guilty
46 of a category B felony if the person causes substantial bodily harm to another while
47 driving or operating a vehicle while the person is impaired. **Section 11** of this bill
48 makes the same change to a similar provision of existing law relating to a person
49 operating or being in actual physical control of a vessel under power or sail on the
50 waters of this State.

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

1 **Section 1.** NRS 483.330 is hereby amended to read as follows:

2 483.330 1. The Department may require every applicant for a
3 driver's license, including a commercial driver's license issued
4 pursuant to NRS 483.900 to 483.940, inclusive, to submit to an
5 examination. The examination may include:

6 (a) A test of the applicant's ability to understand official devices
7 used to control traffic;

8 (b) A test of the applicant's knowledge of practices for safe
9 driving and the traffic laws of this State;

10 (c) Except as otherwise provided in subsection 2, a test of the
11 applicant's eyesight; and



1 (d) Except as otherwise provided in subsection 3, an actual
2 demonstration of the applicant's ability to exercise ordinary and
3 reasonable control in the operation of a motor vehicle of the type or
4 class of vehicle for which he or she is to be licensed.

5 ↪ The examination may also include such further physical and
6 mental examination as the Department finds necessary to determine
7 the applicant's fitness to drive a motor vehicle safely upon the
8 highways. If the Department requires an applicant to submit to a test
9 specified in paragraph (b), the Department shall ensure that the test
10 includes at least one question testing the applicant's knowledge of
11 the provisions of NRS 484B.165.

12 2. The Department may provide by regulation for the
13 acceptance of a report from an ophthalmologist, optician or
14 optometrist in lieu of an eye test by a driver's license examiner.

15 3. If the Department establishes a type or classification of
16 driver's license to operate a motor vehicle of a type which is not
17 normally available to examine an applicant's ability to exercise
18 ordinary and reasonable control of such a vehicle, the Department
19 may, by regulation, provide for the acceptance of an affidavit from
20 a:

21 (a) Past, present or prospective employer of the applicant; or

22 (b) Local joint apprenticeship committee which had jurisdiction
23 over the training or testing, or both, of the applicant,

24 ↪ in lieu of an actual demonstration.

25 4. The Department may waive an examination pursuant to
26 subsection 1 for a person applying for a Nevada driver's license who
27 possesses a valid driver's license of the same type or class issued by
28 another jurisdiction unless that person:

29 (a) Has not attained 21 years of age, except that the Department
30 may, based on the driving record of the applicant, waive the
31 examination to demonstrate the applicant's ability to exercise
32 ordinary and reasonable control in the operation of a motor vehicle
33 of the same type or class of vehicle for which he or she is to be
34 licensed;

35 (b) Has had his or her license or privilege to drive a motor
36 vehicle suspended, revoked or cancelled or has been otherwise
37 disqualified from driving during the immediately preceding 4 years;

38 (c) Has been convicted of a violation of NRS 484C.130 or,
39 during the immediately preceding ~~7~~ 10 years, of a violation of
40 NRS 484C.110, 484C.120 or 484C.430 or a law of any other
41 jurisdiction that prohibits the same or similar conduct;

42 (d) Has restrictions to his or her driver's license which the
43 Department must reevaluate to ensure the safe driving of a motor
44 vehicle by that person;



1 (e) Has had three or more convictions of moving traffic
2 violations on his or her driving record during the immediately
3 preceding 4 years; or

4 (f) Has been convicted of any of the offenses related to the use
5 or operation of a motor vehicle which must be reported pursuant to
6 the provisions of Parts 1327 et seq. of Title 23 of the Code of
7 Federal Regulations relating to the National Driver Register
8 Problem Driver Pointer System during the immediately preceding 4
9 years.

10 **Sec. 2.** NRS 483.460 is hereby amended to read as follows:

11 483.460 1. Except as otherwise provided by specific statute,
12 the Department shall revoke the license, permit or privilege of any
13 driver upon receiving a record of his or her conviction of any of the
14 following offenses, when that conviction has become final, and
15 the driver is not eligible for a license, permit or privilege to drive for
16 the period indicated:

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

18 (1) A violation of subsection 6 of NRS 484B.653.

19 (2) A third or subsequent violation within ~~7~~ 10 years of
20 NRS 484C.110 or 484C.120.

21 (3) A violation of NRS 484C.110 or 484C.120 resulting in a
22 felony conviction pursuant to NRS 484C.400 or 484C.410.

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

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

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

36 (1) Any other manslaughter, including vehicular
37 manslaughter as described in NRS 484B.657, resulting from the
38 driving of a motor vehicle or felony in the commission of which a
39 motor vehicle is used, including the unlawful taking of a motor
40 vehicle.

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

44 (3) Perjury or the making of a false affidavit or statement
45 under oath to the Department pursuant to NRS 483.010 to 483.630,



1 inclusive, or pursuant to any other law relating to the ownership or
2 driving of motor vehicles.

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

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

8 (6) A violation of NRS 484B.550.

9 (c) For a period of not less than 185 days, if the offense is a first
10 violation within ~~7~~ 10 years of NRS 484C.110 or 484C.120.

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

17 3. When the Department is notified by a court that a person
18 who has been convicted of a first violation within ~~7~~ 10 years of
19 NRS 484C.110 has been permitted to enter a program of treatment
20 pursuant to NRS 484C.320, the Department shall reduce by one-half
21 the period during which the person is not eligible for a license,
22 permit or privilege to drive, but shall restore that reduction in time if
23 notified that the person was not accepted for or failed to complete
24 the treatment.

25 4. The Department shall revoke the license, permit or privilege
26 to drive of a person who is required to install a device pursuant to
27 NRS 484C.210 or 484C.460 but who operates a motor vehicle
28 without such a device:

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

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

33 5. A driver whose license, permit or privilege is revoked
34 pursuant to subsection 4 is not eligible for a restricted license during
35 the period set forth in paragraph (a) or (b) of that subsection,
36 whichever applies.

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

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



Sec. 3. NRS 484C.110 is hereby amended to read as follows:

484C.110 1. It is unlawful for any person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or
- (c) Is found by measurement within ~~2~~ 3 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath,

↳ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

- (a) Is under the influence of a controlled substance;
- (b) Is under the combined influence of intoxicating liquor and a controlled substance; or
- (c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle,

↳ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine	Blood
	Nanograms per milliliter	Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Methamphetamine	500	100
(h) Phencyclidine	25	10



4. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:

Prohibited substance	Blood Nanograms per milliliter
(a) Marijuana (delta-9-tetrahydrocannabinol)	2
(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)	5

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. A person who violates any provision of this section may be subject to any additional penalty set forth in NRS 484B.130 or 484B.135.

Sec. 4. NRS 484C.120 is hereby amended to read as follows:

484C.120 1. It is unlawful for any person who:

- (a) Is under the influence of intoxicating liquor;
 - (b) Has a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath; or
 - (c) Is found by measurement within ~~2~~ 3 hours after driving or being in actual physical control of a commercial motor vehicle to have a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath,
- ↳ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

- (a) Is under the influence of a controlled substance;
- (b) Is under the combined influence of intoxicating liquor and a controlled substance; or
- (c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely



1 driving or exercising actual physical control of a commercial motor
2 vehicle,
3 ➔ to drive or be in actual physical control of a commercial motor
4 vehicle on a highway or on premises to which the public has access.
5 The fact that any person charged with a violation of this subsection
6 is or has been entitled to use that drug under the laws of this State is
7 not a defense against any charge of violating this subsection.

8 3. It is unlawful for any person to drive or be in actual physical
9 control of a commercial motor vehicle on a highway or on premises
10 to which the public has access with an amount of any of the
11 following prohibited substances in his or her blood or urine that is
12 equal to or greater than:

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Prohibited substance	Urine	Blood
	Nanograms per milliliter	Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Methamphetamine	500	100
(h) Phencyclidine	25	10

4. It is unlawful for any person to drive or be in actual physical
control of a commercial motor vehicle on a highway or on premises
to which the public has access with an amount of any of the
following prohibited substances in his or her blood that is equal to
or greater than:

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Prohibited substance	Blood
	Nanograms per milliliter
(a) Marijuana (delta-9-tetrahydrocannabinol)	2
(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)	5

5. If consumption is proven by a preponderance of the
evidence, it is an affirmative defense under paragraph (c) of
subsection 1 that the defendant consumed a sufficient quantity of
alcohol after driving or being in actual physical control of the



1 commercial motor vehicle, and before his or her blood or breath was
2 tested, to cause the defendant to have a concentration of alcohol of
3 0.04 or more in his or her blood or breath. A defendant who intends
4 to offer this defense at a trial or preliminary hearing must, not less
5 than 14 days before the trial or hearing or at such other time as the
6 court may direct, file and serve on the prosecuting attorney a written
7 notice of that intent.

8 6. A person who violates any provision of this section may be
9 subject to any additional penalty set forth in NRS 484B.130 or
10 484B.135.

11 7. As used in this section:

12 (a) "Commercial motor vehicle" means a motor vehicle or
13 combination of motor vehicles used in commerce to transport
14 passengers or property if the motor vehicle:

15 (1) Has a gross combination weight rating of 26,001 or more
16 pounds which includes a towed unit with a gross vehicle weight
17 rating of more than 10,000 pounds;

18 (2) Has a gross vehicle weight rating of 26,001 or more
19 pounds;

20 (3) Is designed to transport 16 or more passengers, including
21 the driver; or

22 (4) Regardless of size, is used in the transportation of
23 materials which are considered to be hazardous for the purposes of
24 the federal Hazardous Materials Transportation Act, 49 U.S.C. §§
25 5101 et. seq., and for which the display of identifying placards is
26 required pursuant to 49 C.F.R. Part 172, Subpart F.

27 (b) The phrase "concentration of alcohol of 0.04 or more but
28 less than 0.08 in his or her blood or breath" means 0.04 gram or
29 more but less than 0.08 gram of alcohol per 100 milliliters of the
30 blood of a person or per 210 liters of his or her breath.

31 **Sec. 5.** NRS 484C.130 is hereby amended to read as follows:

32 484C.130 1. A person commits vehicular homicide if the
33 person:

34 (a) Drives or is in actual physical control of a vehicle on or off
35 the highways of this State and:

36 (1) Is under the influence of intoxicating liquor;

37 (2) Has a concentration of alcohol of 0.08 or more in his or
38 her blood or breath;

39 (3) Is found by measurement within ~~2~~ 3 hours after driving
40 or being in actual physical control of a vehicle to have a
41 concentration of alcohol of 0.08 or more in his or her blood or
42 breath;

43 (4) Is under the influence of a controlled substance or is
44 under the combined influence of intoxicating liquor and a controlled
45 substance;



1 (5) Inhales, ingests, applies or otherwise uses any chemical,
2 poison or organic solvent, or any compound or combination of any
3 of these, to a degree which renders the person incapable of safely
4 driving or exercising actual physical control of a vehicle; or

5 (6) Has a prohibited substance in his or her blood or urine, as
6 applicable, in an amount that is equal to or greater than the amount
7 set forth in subsection 3 or 4 of NRS 484C.110; *and*

8 (b) Proximately causes the death of another person while driving
9 or in actual physical control of a vehicle on or off the highways of
10 this State. ~~[- and~~

11 ~~—(c) Has previously been convicted of at least three offenses.]~~

12 2. If consumption is proven by a preponderance of the
13 evidence, it is an affirmative defense under subparagraph (3) of
14 paragraph (a) of subsection 1 that the defendant consumed a
15 sufficient quantity of alcohol after driving or being in actual
16 physical control of the vehicle, and before his or her blood or breath
17 was tested, to cause the defendant to have a concentration of alcohol
18 of 0.08 or more in his or her blood or breath. A defendant who
19 intends to offer this defense at a trial or preliminary hearing must,
20 not less than 14 days before the trial or hearing or at such other time
21 as the court may direct, file and serve on the prosecuting attorney a
22 written notice of that intent.

23 ~~[3.—As used in this section, “offense” means:~~

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

25 ~~—(b) A homicide resulting from driving or being in actual~~
26 ~~physical control of a vehicle while under the influence of~~
27 ~~intoxicating liquor or a controlled substance or resulting from any~~
28 ~~other conduct prohibited by this section or NRS 484C.110 or~~
29 ~~484C.430; or~~

30 ~~—(c) A violation of a law of any other jurisdiction that prohibits~~
31 ~~the same or similar conduct as set forth in paragraph (a) or (b).]~~

32 **Sec. 6.** NRS 484C.400 is hereby amended to read as follows:

33 484C.400 1. Unless a greater penalty is provided pursuant to
34 NRS 484C.430 or 484C.440, and except as otherwise provided in
35 NRS 484C.410, a person who violates the provisions of NRS
36 484C.110 or 484C.120:

37 (a) For the first offense within ~~7~~ **10** years, is guilty of a
38 misdemeanor. Unless the person is allowed to undergo treatment as
39 provided in NRS 484C.320, the court shall:

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



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

3 (2) Unless the sentence is reduced pursuant to NRS
4 484C.320, sentence the person to imprisonment for not less than ~~[2]~~
5 **30** days nor more than 6 months in jail, or to perform not less than
6 48 hours, but not more than 96 hours, of community service while
7 dressed in distinctive garb that identifies the person as having
8 violated the provisions of NRS 484C.110 or 484C.120;

9 (3) Fine the person not less than ~~[\$400]~~ **\$600** nor more than
10 \$1,000; and

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

15 (b) For a second offense within ~~[7]~~ **10** years, is guilty of a *gross*
16 misdemeanor. Unless the sentence is reduced pursuant to NRS
17 484C.330, the court shall:

18 (1) Sentence the person to:

19 (I) Imprisonment for not less than ~~[10 days]~~ **6 months** nor
20 more than ~~[6 months]~~ **364 days** in jail; or

21 (II) Residential confinement for not less than ~~[10 days]~~ **6**
22 **months** nor more than ~~[6 months]~~ **364 days**, in the manner provided
23 in ~~[NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078,]~~ **sections 14**
24 **to 18, inclusive [;], of this act;**

25 (2) Fine the person not less than \$750 nor more than \$1,000,
26 or order the person to perform an equivalent number of hours of
27 community service while dressed in distinctive garb that identifies
28 the person as having violated the provisions of NRS 484C.110 or
29 484C.120; and

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

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

36 (c) Except as otherwise provided in NRS 484C.340, for a third
37 offense within ~~[7]~~ **10** years, is guilty of a category B felony and
38 shall be punished by imprisonment in the state prison for a
39 minimum term of not less than 1 year and a maximum term of not
40 more than 6 years, and shall be further punished by a fine of not less
41 than \$2,000 nor more than \$5,000. An offender who is imprisoned
42 pursuant to the provisions of this paragraph must, insofar as
43 practicable, be segregated from offenders whose crimes were violent
44 and, insofar as practicable, be assigned to an institution or facility of
45 minimum security.



1 2. An offense that occurred within ~~7~~ 10 years immediately
2 preceding the date of the principal offense or after the principal
3 offense constitutes a prior offense for the purposes of this section:

4 (a) When evidenced by a conviction; or

5 (b) If the offense is conditionally dismissed pursuant to NRS
6 176A.290 or dismissed in connection with successful completion of
7 a diversionary program or specialty court program,

8 ↪ without regard to the sequence of the offenses and convictions.

9 The facts concerning a prior offense must be alleged in the
10 complaint, indictment or information, must not be read to the jury or
11 proved at trial but must be proved at the time of sentencing and, if
12 the principal offense is alleged to be a *gross misdemeanor or*
13 *felony*, must also be shown at the preliminary examination or
14 presented to the grand jury.

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

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

31 5. If the defendant was transporting a person who is less than
32 15 years of age in the motor vehicle at the time of the violation, the
33 court shall consider that fact as an aggravating factor in determining
34 the sentence of the defendant.

35 6. For the purpose of determining whether one offense occurs
36 within ~~7~~ 10 years of another offense, any period of time between
37 the two offenses during which, for any such offense, the offender is
38 imprisoned, serving a term of residential confinement, placed under
39 the supervision of a treatment provider, on parole or on probation
40 must be excluded.

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

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

44 (b) A homicide resulting from driving or being in actual
45 physical control of a vehicle while under the influence of



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

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

6 **Sec. 7.** NRS 484C.410 is hereby amended to read as follows:

7 484C.410 1. Unless a greater penalty is provided in NRS
8 484C.440, a person who has previously been convicted of:

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

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

13 (c) A homicide resulting from driving or being in actual physical
14 control of a vehicle while under the influence of intoxicating liquor
15 or a controlled substance or resulting from any other conduct
16 prohibited by NRS 484C.110, 484C.130 or 484C.430;

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

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

23 ↪ and who violates the provisions of NRS 484C.110 or 484C.120 is
24 guilty of a category B felony and shall be punished by imprisonment
25 in the state prison for a minimum term of not less than 2 years and a
26 maximum term of not more than 15 years, and shall be further
27 punished by a fine of not less than \$2,000 nor more than \$5,000. An
28 offender so imprisoned must, insofar as practicable, be segregated
29 from offenders whose crimes were violent and, insofar as
30 practicable, be assigned to an institution or facility of minimum
31 security.

32 2. An offense which is listed in paragraphs (a) to (e), inclusive,
33 of subsection 1 that occurred on any date preceding the date of the
34 principal offense or after the principal offense constitutes a prior
35 offense for the purposes of this section when evidenced by a
36 conviction, without regard for the sequence of the offenses and
37 convictions. The facts concerning a prior offense must be alleged in
38 the complaint, indictment or information, must not be read to the
39 jury or proved at trial but must be proved at the time of sentencing
40 and, if the principal offense is alleged to be a *gross misdemeanor or*
41 *felony*, must also be shown at the preliminary examination or
42 presented to the grand jury.

43 3. A term of confinement imposed pursuant to the provisions
44 of this section may be served intermittently at the discretion of the
45 judge or justice of the peace, except that a person who is convicted



1 of a second or subsequent offense within ~~7~~ 10 years must be
2 confined for at least one segment of not less than 48 consecutive
3 hours. This discretion must be exercised after considering all the
4 circumstances surrounding the offense, and the family and
5 employment of the offender, but any sentence of 30 days or less
6 must be served within 6 months after the date of conviction or, if the
7 offender was sentenced pursuant to NRS 484C.320 or 484C.330 and
8 the suspension of offender's sentence was revoked, within 6 months
9 after the date of revocation. Any time for which the offender is
10 confined must consist of not less than 24 consecutive hours.

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

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

18 6. For the purpose of determining whether one offense occurs
19 within ~~7~~ 10 years of another offense, any period of time between
20 the two offenses during which, for any such offense, the offender is
21 imprisoned, serving a term of residential confinement, placed under
22 the supervision of a treatment provider, on parole or on probation
23 must be excluded.

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

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

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

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

34 **Sec. 8.** NRS 484C.430 is hereby amended to read as follows:

35 484C.430 1. Unless a greater penalty is provided pursuant to
36 NRS 484C.440, a person who:

37 (a) Is under the influence of intoxicating liquor;

38 (b) Has a concentration of alcohol of 0.08 or more in his or her
39 blood or breath;

40 (c) Is found by measurement within ~~2~~ 3 hours after driving or
41 being in actual physical control of a vehicle to have a concentration
42 of alcohol of 0.08 or more in his or her blood or breath;

43 (d) Is under the influence of a controlled substance or is under
44 the combined influence of intoxicating liquor and a controlled
45 substance;



1 (e) Inhales, ingests, applies or otherwise uses any chemical,
2 poison or organic solvent, or any compound or combination of any
3 of these, to a degree which renders the person incapable of safely
4 driving or exercising actual physical control of a vehicle; or

5 (f) Has a prohibited substance in his or her blood or urine, as
6 applicable, in an amount that is equal to or greater than the amount
7 set forth in subsection 3 or 4 of NRS 484C.110,

8 ↪ and does any act or neglects any duty imposed by law while
9 driving or in actual physical control of any vehicle on or off the
10 highways of this State, if the act or neglect of duty proximately
11 causes ~~{the death of, or}~~ substantial bodily harm to ~~{;} another~~
12 person, is guilty of a category B felony and shall be punished by
13 imprisonment in the state prison for a minimum term of not less
14 than 2 years and a maximum term of not more than 20 years and
15 must be further punished by a fine of not less than \$2,000 nor more
16 than \$5,000. A person so imprisoned must, insofar as practicable, be
17 segregated from offenders whose crimes were violent and, insofar as
18 practicable, be assigned to an institution or facility of minimum
19 security.

20 2. A prosecuting attorney shall not dismiss a charge of
21 violating the provisions of subsection 1 in exchange for a plea of
22 guilty, guilty but mentally ill or nolo contendere to a lesser charge or
23 for any other reason unless the attorney knows or it is obvious that
24 the charge is not supported by probable cause or cannot be proved at
25 the time of trial. A sentence imposed pursuant to subsection 1 may
26 not be suspended nor may probation be granted.

27 3. Except as otherwise provided in subsection 4, if
28 consumption is proven by a preponderance of the evidence, it is an
29 affirmative defense under paragraph (c) of subsection 1 that the
30 defendant consumed a sufficient quantity of alcohol after driving or
31 being in actual physical control of the vehicle, and before his or her
32 blood or breath was tested, to cause the defendant to have a
33 concentration of alcohol of 0.08 or more in his or her blood
34 or breath. A defendant who intends to offer this defense at a trial or
35 preliminary hearing must, not less than 14 days before the trial or
36 hearing or at such other time as the court may direct, file and serve
37 on the prosecuting attorney a written notice of that intent.

38 4. If the defendant is also charged with violating the provisions
39 of NRS 484E.010, 484E.020 or 484E.030, the defendant may not
40 offer the affirmative defense set forth in subsection 3.

41 5. If the defendant was transporting a person who is less than
42 15 years of age in the motor vehicle at the time of the violation, the
43 court shall consider that fact as an aggravating factor in determining
44 the sentence of the defendant.



1 **Sec. 9.** NRS 484C.520 is hereby amended to read as follows:

2 484C.520 1. If a person is convicted of a second or
3 subsequent violation of NRS 484C.110, 484C.120 or 484C.430
4 within ~~7~~ 10 years or a violation of NRS 484C.130, the court shall
5 issue an order directing the Department to suspend the registration
6 of each motor vehicle that is registered to or owned by the person
7 for 5 days.

8 2. If a court issues an order directing the Department to
9 suspend the registration of a motor vehicle pursuant to subsection 1,
10 the court shall forward a copy of the order to the Department within
11 5 days after issuing the order. The order must include, without
12 limitation, information concerning each motor vehicle that is
13 registered to or owned by the person, including, without limitation,
14 the registration number of the motor vehicle, if such information is
15 available.

16 3. A court shall provide for limited exceptions to the provisions
17 of subsection 1 on an individual basis to avoid undue hardship to a
18 person other than the person to whom that provision applies. Such
19 an exception must be provided if the court determines that:

20 (a) A member of the immediate family of the person whose
21 registration is suspended needs to use the motor vehicle:

22 (1) To travel to or from work or in the course and scope of
23 his or her employment;

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

27 (3) To transport the person or another member of the
28 person's immediate family to or from school; or

29 (b) An alternative means of transportation is not available to a
30 member of the immediate family of the person whose registration is
31 suspended.

32 **Sec. 10.** NRS 488.410 is hereby amended to read as follows:

33 488.410 1. It is unlawful for any person who:

34 (a) Is under the influence of intoxicating liquor;

35 (b) Has a concentration of alcohol of 0.08 or more in his or her
36 blood or breath; or

37 (c) Is found by measurement within ~~2~~ 3 hours after operating
38 or being in actual physical control of a vessel to have a
39 concentration of alcohol of 0.08 or more in his or her blood or
40 breath,

41 ↳ to operate or be in actual physical control of a vessel under power
42 or sail on the waters of this State.

43 2. It is unlawful for any person who:

44 (a) Is under the influence of a controlled substance;



1 (b) Is under the combined influence of intoxicating liquor and a
2 controlled substance; or

3 (c) Inhales, ingests, applies or otherwise uses any chemical,
4 poison or organic solvent, or any compound or combination of any
5 of these, to a degree which renders the person incapable of safely
6 operating or exercising actual physical control of a vessel under
7 power or sail,

8 ↪ to operate or be in actual physical control of a vessel under power
9 or sail on the waters of this State.

10 3. It is unlawful for any person to operate or be in actual
11 physical control of a vessel under power or sail on the waters of this
12 State with an amount of any of the following prohibited substances
13 in his or her blood or urine that is equal to or greater than:

14		Urine	Blood
15		Nanograms per	Nanograms per
16	Prohibited substance	milliliter	milliliter
17			
18			
19	(a) Amphetamine	500	100
20	(b) Cocaine	150	50
21	(c) Cocaine metabolite	150	50
22	(d) Heroin	2,000	50
23	(e) Heroin metabolite:		
24	(1) Morphine	2,000	50
25	(2) 6-monoacetyl morphine	10	10
26	(f) Lysergic acid diethylamide	25	10
27	(g) Methamphetamine	500	100
28	(h) Phencyclidine	25	10
29			

30 4. It is unlawful for any person to operate or be in actual
31 physical control of a vessel under power or sail on the waters of this
32 State with an amount of any of the following prohibited substances
33 in his or her blood that is equal to or greater than:

34		Blood
35		Nanograms per
36	Prohibited substance	milliliter
37		
38		
39	(a) Marijuana (delta-9-tetrahydrocannabinol)	2
40	(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)	5
41		

42 5. If consumption is proven by a preponderance of the
43 evidence, it is an affirmative defense under paragraph (c) of
44 subsection 1 that the defendant consumed a sufficient quantity of
45 alcohol after operating or being in actual physical control of the



1 vessel, and before his or her blood was tested, to cause the
2 defendant to have a concentration of 0.08 or more of alcohol in his
3 or her blood or breath. A defendant who intends to offer this defense
4 at a trial or preliminary hearing must, not less than 14 days before
5 the trial or hearing or at such other time as the court may direct, file
6 and serve on the prosecuting attorney a written notice of that intent.

7 6. Except as otherwise provided in NRS 488.427, a person who
8 violates the provisions of this section is guilty of a misdemeanor.

9 **Sec. 11.** NRS 488.420 is hereby amended to read as follows:

10 488.420 1. Unless a greater penalty is provided pursuant to
11 NRS 488.425, a person who:

12 (a) Is under the influence of intoxicating liquor;

13 (b) Has a concentration of alcohol of 0.08 or more in his or her
14 blood or breath;

15 (c) Is found by measurement within ~~2~~ 3 hours after operating
16 or being in actual physical control of a vessel under power or sail to
17 have a concentration of alcohol of 0.08 or more in his or her blood
18 or breath;

19 (d) Is under the influence of a controlled substance or is under
20 the combined influence of intoxicating liquor and a controlled
21 substance;

22 (e) Inhales, ingests, applies or otherwise uses any chemical,
23 poison or organic solvent, or any compound or combination of any
24 of these, to a degree which renders the person incapable of safely
25 operating or being in actual physical control of a vessel under power
26 or sail; or

27 (f) Has a prohibited substance in his or her blood or urine, as
28 applicable, in an amount that is equal to or greater than the amount
29 set forth in subsection 3 or 4 of NRS 488.410,

30 ➤ and does any act or neglects any duty imposed by law while
31 operating or being in actual physical control of any vessel under
32 power or sail, if the act or neglect of duty proximately causes ~~the~~
33 ~~death of, or~~ substantial bodily harm to ~~h~~ another person, is guilty
34 of a category B felony and shall be punished by imprisonment in the
35 state prison for a minimum term of not less than 2 years and a
36 maximum term of not more than 20 years and shall be further
37 punished by a fine of not less than \$2,000 nor more than \$5,000. A
38 person so imprisoned must, insofar as practicable, be segregated
39 from offenders whose crimes were violent and, insofar as
40 practicable, be assigned to an institution or facility of minimum
41 security.

42 2. A prosecuting attorney shall not dismiss a charge of
43 violating the provisions of subsection 1 in exchange for a plea of
44 guilty, guilty but mentally ill or nolo contendere to a lesser charge or
45 for any other reason unless the prosecuting attorney knows or it is



1 obvious that the charge is not supported by probable cause or cannot
2 be proved at the time of trial. A sentence imposed pursuant to
3 subsection 1 must not be suspended, and probation must not be
4 granted.

5 3. If consumption is proven by a preponderance of the
6 evidence, it is an affirmative defense under paragraph (c) of
7 subsection 1 that the defendant consumed a sufficient quantity of
8 alcohol after operating or being in actual physical control of the
9 vessel under power or sail, and before his or her blood was tested, to
10 cause the defendant to have a concentration of alcohol of 0.08 or
11 more in his or her blood or breath. A defendant who intends to offer
12 this defense at a trial or preliminary hearing must, not less than 14
13 days before the trial or hearing or at such other time as the court
14 may direct, file and serve on the prosecuting attorney a written
15 notice of that intent.

16 4. If a person less than 15 years of age was in the vessel at the
17 time of the defendant's violation, the court shall consider that fact as
18 an aggravating factor in determining the sentence of the defendant.

19 **Sec. 12.** NRS 488.425 is hereby amended to read as follows:

20 488.425 1. A person commits homicide by vessel if the
21 person:

22 (a) Operates or is in actual physical control of a vessel under
23 power or sail on the waters of this State and:

24 (1) Is under the influence of intoxicating liquor;

25 (2) Has a concentration of alcohol of 0.08 or more in his or
26 her blood or breath;

27 (3) Is found by measurement within ~~2~~ 3 hours after
28 operating or being in actual physical control of a vessel under power
29 or sail to have a concentration of alcohol of 0.08 or more in his or
30 her blood or breath;

31 (4) Is under the influence of a controlled substance or is
32 under the combined influence of intoxicating liquor and a controlled
33 substance;

34 (5) Inhales, ingests, applies or otherwise uses any chemical,
35 poison or organic solvent, or any compound or combination of any
36 of these, to a degree which renders the person incapable of safely
37 operating or exercising actual physical control of a vessel under
38 power or sail; or

39 (6) Has a prohibited substance in his or her blood or urine, as
40 applicable, in an amount that is equal to or greater than the amount
41 set forth in subsection 3 or 4 of NRS 488.410; *and*

42 (b) Proximately causes the death of another person while
43 operating or in actual physical control of a vessel under power or
44 sail. ~~;~~ *and*

45 ~~—(c) Has previously been convicted of at least three offenses.—~~



1 2. A person who commits homicide by vessel is guilty of a
2 category A felony and shall be punished by imprisonment in the
3 state prison:

4 (a) For life with the possibility of parole, with eligibility for
5 parole beginning when a minimum of 10 years has been served; or

6 (b) For a definite term of 25 years, with eligibility for parole
7 beginning when a minimum of 10 years has been served.

8 3. A person imprisoned pursuant to subsection 2 must, insofar
9 as practicable, be segregated from offenders whose crimes were
10 violent and, insofar as practicable, be assigned to an institution or
11 facility of minimum security.

12 4. A prosecuting attorney shall not dismiss a charge of
13 homicide by vessel in exchange for a plea of guilty, guilty but
14 mentally ill or nolo contendere to a lesser charge or for any other
15 reason unless the prosecuting attorney knows or it is obvious that
16 the charge is not supported by probable cause or cannot be proved at
17 the time of trial. A sentence imposed pursuant to subsection 2 may
18 not be suspended nor may probation be granted.

19 5. If consumption is proven by a preponderance of the
20 evidence, it is an affirmative defense under subparagraph (3) of
21 paragraph (a) of subsection 1 that the defendant consumed a
22 sufficient quantity of alcohol after operating or being in actual
23 physical control of the vessel, and before his or her blood or breath
24 was tested, to cause the defendant to have a concentration of alcohol
25 of 0.08 or more in his or her blood or breath. A defendant who
26 intends to offer this defense at a trial or preliminary hearing must,
27 not less than 14 days before the trial or hearing or at such other time
28 as the court may direct, file and serve on the prosecuting attorney a
29 written notice of that intent.

30 6. If the defendant was transporting a person who is less than
31 15 years of age in the vessel at the time of the violation, the court
32 shall consider that fact as an aggravating factor in determining the
33 sentence of the defendant.

34 ~~[7. As used in this section, "offense" means:~~

35 ~~—(a) A violation of NRS 488.410 or 488.420;~~

36 ~~—(b) A homicide resulting from operating or being in actual
37 physical control of a vessel while under the influence of intoxicating
38 liquor or a controlled substance or resulting from any other conduct
39 prohibited by this section or NRS 488.410 or 488.420; or~~

40 ~~—(c) A violation of a law of any other jurisdiction that prohibits
41 the same or similar conduct as set forth in paragraph (a) or (b).]~~



1 **Sec. 13.** Chapter 3 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 14 to 18, inclusive, of this
3 act.

4 **Sec. 14.** *As used in sections 14 to 18, inclusive, of this act*
5 *“residential confinement” means the confinement of a person*
6 *convicted of a gross misdemeanor to the place of residence of the*
7 *person under the terms and conditions established by the*
8 *sentencing court.*

9 **Sec. 15.** *1. If a county in which a district court is situated*
10 *has a department of alternative sentencing, the chief of that*
11 *department shall administer a program of supervision for persons*
12 *who are sentenced to a term of residential confinement pursuant*
13 *to section 16 of this act.*

14 *2. If a county in which the district court is situated does not*
15 *have a department of alternative sentencing and:*

16 *(a) Any city located within a county in which the district court*
17 *is situated has a department of alternative sentencing:*

18 *(1) The chief of the department of alternative sentencing of*
19 *the city may administer the program of supervision for a person*
20 *who is sentenced to a term of residential confinement pursuant to*
21 *section 16 of this act; or*

22 *(2) If the chief of the department of alternative sentencing*
23 *of the city does not wish to administer the program of supervision,*
24 *the district court may contract with a qualified person to*
25 *administer such a program of supervision.*

26 *(b) No city located within a county in which the district court is*
27 *situated has a department of alternative sentencing, the district*
28 *court may contract with a qualified person to administer such a*
29 *program of supervision.*

30 **Sec. 16.** *1. A district court may sentence a person convicted*
31 *of a gross misdemeanor pursuant to NRS 484C.400 to a term of*
32 *residential confinement. In making this determination, the judge*
33 *shall consider the criminal record of the convicted person.*

34 *2. In sentencing a convicted person to a term of residential*
35 *confinement, the judge shall:*

36 *(a) Require the convicted person to be confined to his or her*
37 *residence during the time the convicted person is away from his or*
38 *her employment, public service or other activity authorized by the*
39 *judge.*

40 *(b) Require intensive supervision of the convicted person,*
41 *including, without limitation, electronic surveillance and*
42 *unannounced visits to his or her residence or other locations*
43 *where the convicted person is expected to be to determine whether*
44 *the convicted person is complying with the terms of his or her*
45 *sentence.*



1 3. *In sentencing a convicted person to a term of residential*
2 *confinement, the judge may, when the circumstances warrant,*
3 *require the convicted person to submit to:*

4 (a) *A search and seizure by the chief of a department of*
5 *alternative sentencing, an assistant alternative sentencing officer*
6 *or any other law enforcement officer at any time of the day or*
7 *night without a search warrant; and*

8 (b) *Periodic tests to determine whether the offender is using a*
9 *controlled substance or consuming alcohol.*

10 4. *An electronic device must be used to supervise a convicted*
11 *person sentenced to a term of residential confinement pursuant to*
12 *this section. The device may be capable of using the Global*
13 *Positioning System, but must be minimally intrusive and limited in*
14 *capability to recording or transmitting information concerning the*
15 *location of the person, including, without limitation, the*
16 *transmission of still visual images which do not concern the*
17 *activities of the person, and producing, upon request, reports or*
18 *records of the presence of the person near or within a crime scene*
19 *or prohibited area or his or her departure from a specified*
20 *geographic location. A device which is capable of recording or*
21 *transmitting:*

22 (a) *Oral or wire communications or any auditory sound; or*

23 (b) *Information concerning the activities of the person,*

24 ↪ *must not be used.*

25 5. *A term of residential confinement, together with the term*
26 *of any minimum sentence required by statute, may not exceed the*
27 *maximum sentence which otherwise could have been imposed for*
28 *the offense.*

29 6. *The district court judge may issue a warrant for the arrest*
30 *of a convicted person who violates or fails to fulfill a condition of*
31 *residential confinement.*

32 **Sec. 17.** 1. *In sentencing a person to a term of residential*
33 *confinement pursuant to section 16 of this act, a judge may*
34 *establish the terms and conditions of the confinement.*

35 2. *The judge may, at any time, modify the terms and*
36 *conditions of the residential confinement.*

37 3. *The judge shall cause a copy of his or her order to be*
38 *delivered to the convicted person and the local law enforcement*
39 *agency.*

40 **Sec. 18.** *If it is determined that a convicted person sentenced*
41 *to a term of residential confinement pursuant to section 16 of this*
42 *act violated any term or condition of the person's residential*
43 *confinement, the sentence may be rescinded, modified or*
44 *continued. If the sentence is rescinded, another punishment*
45 *authorized by law must be imposed.*



1 **Sec. 19.** NRS 4.3762 is hereby amended to read as follows:

2 4.3762 1. Except as otherwise provided in subsection ~~[7.]~~ 6,
3 in lieu of imposing any punishment other than a minimum sentence
4 required by statute, a justice of the peace may sentence a person
5 convicted of a misdemeanor to a term of residential confinement. In
6 making this determination, the justice of the peace shall consider the
7 criminal record of the convicted person and the seriousness of the
8 crime committed.

9 2. In sentencing a convicted person to a term of residential
10 confinement, the justice of the peace shall:

11 (a) Require the convicted person to be confined to his or her
12 residence during the time the convicted person is away from his or
13 her employment, public service or other activity authorized by the
14 justice of the peace; and

15 (b) Require intensive supervision of the convicted person,
16 including, without limitation, electronic surveillance and
17 unannounced visits to his or her residence or other locations where
18 the convicted person is expected to be to determine whether the
19 convicted person is complying with the terms of his or her sentence.

20 3. In sentencing a convicted person to a term of residential
21 confinement, the justice of the peace may, when the circumstances
22 warrant, require the convicted person to submit to:

23 (a) A search and seizure by the chief of a department of
24 alternative sentencing, an assistant alternative sentencing officer or
25 any other law enforcement officer at any time of the day or night
26 without a search warrant; and

27 (b) Periodic tests to determine whether the offender is using a
28 controlled substance or consuming alcohol.

29 4. ~~[Except as otherwise provided in subsection 5, an]~~ **An**
30 electronic device may be used to supervise a convicted person
31 sentenced to a term of residential confinement. The device may be
32 capable of using the Global Positioning System, but must be
33 minimally intrusive and limited in capability to recording or
34 transmitting information concerning the location of the person,
35 including, but not limited to, the transmission of still visual images
36 which do not concern the activities of the person, and producing,
37 upon request, reports or records of the person's presence near or
38 within a crime scene or prohibited area or his or her departure from
39 a specified geographic location. A device which is capable of
40 recording or transmitting:

41 (a) Oral or wire communications or any auditory sound; or

42 (b) Information concerning the activities of the person,

43 ↪ must not be used.

44 5. ~~[An electronic device must be used in the manner set forth in~~
45 ~~subsection 4 to supervise a person who is sentenced pursuant to~~



~~paragraph (b) of subsection 1 of NRS 484C.400 for a second violation within 7 years of driving under the influence of intoxicating liquor or a controlled substance.~~

~~6.]~~ A term of residential confinement, together with the term of any minimum sentence required by statute, may not exceed the maximum sentence which otherwise could have been imposed for the offense.

~~[7.]~~ 6. The justice of the peace shall not sentence a person convicted of committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement in lieu of imprisonment unless the justice of the peace makes a finding that the person is not likely to pose a threat to the victim of the battery.

~~[8.]~~ 7. The justice of the peace may issue a warrant for the arrest of a convicted person who violates or fails to fulfill a condition of residential confinement.

Sec. 20. NRS 5.076 is hereby amended to read as follows:

5.076 1. Except as otherwise provided in subsection ~~[7.]~~ 6, in lieu of imposing any punishment other than a minimum sentence required by statute, a municipal judge may sentence a person convicted of a misdemeanor to a term of residential confinement. In making this determination, the municipal judge shall consider the criminal record of the convicted person and the seriousness of the crime committed.

2. In sentencing a convicted person to a term of residential confinement, the municipal judge shall:

(a) Require the convicted person to be confined to his or her residence during the time the convicted person is away from his or her employment, public service or other activity authorized by the municipal judge; and

(b) Require intensive supervision of the convicted person, including, without limitation, electronic surveillance and unannounced visits to his or her residence or other locations where the convicted person is expected to be in order to determine whether the convicted person is complying with the terms of his or her sentence.

3. In sentencing a convicted person to a term of residential confinement, the municipal judge may, when the circumstances warrant, require the convicted person to submit to:

(a) A search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(b) Periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.



1 4. ~~[Except as otherwise provided in subsection 5, an]~~ *An*
2 electronic device may be used to supervise a convicted person
3 sentenced to a term of residential confinement. The device may be
4 capable of using the Global Positioning System, but must be
5 minimally intrusive and limited in capability to recording or
6 transmitting information concerning the location of the person,
7 including, but not limited to, the transmission of still visual images
8 which do not concern the activities of the person, and producing,
9 upon request, reports or records of the person's presence near or
10 within a crime scene or prohibited area or his or her departure from
11 a specified geographic location. A device which is capable of
12 recording or transmitting:

- 13 (a) Oral or wire communications or any auditory sound; or
 - 14 (b) Information concerning the activities of the person,
- 15 ➔ must not be used.

16 5. ~~[An electronic device must be used in the manner set forth in~~
17 ~~subsection 4 to supervise a person who is sentenced pursuant to~~
18 ~~paragraph (b) of subsection 1 of NRS 484C.400 for a second~~
19 ~~violation within 7 years of driving under the influence of~~
20 ~~intoxicating liquor or a controlled substance.~~

21 ~~—6.]~~ A term of residential confinement, together with the term of
22 any minimum sentence required by statute, may not exceed the
23 maximum sentence which otherwise could have been imposed for
24 the offense.

25 ~~[7.]~~ 6. The municipal judge shall not sentence a person
26 convicted of committing a battery which constitutes domestic
27 violence pursuant to NRS 33.018 to a term of residential
28 confinement in lieu of imprisonment unless the municipal judge
29 makes a finding that the person is not likely to pose a threat to the
30 victim of the battery.

31 ~~[8.]~~ 7. The municipal judge may issue a warrant for the arrest
32 of a convicted person who violates or fails to fulfill a condition of
33 residential confinement.

34 **Sec. 21.** NRS 62E.620 is hereby amended to read as follows:

35 62E.620 1. The juvenile court shall order a delinquent child
36 to undergo an evaluation to determine whether the child is an abuser
37 of alcohol or other drugs if the child committed:

- 38 (a) An unlawful act in violation of NRS 484C.110, 484C.120,
- 39 484C.130 or 484C.430;
- 40 (b) The unlawful act of using, possessing, selling or distributing
- 41 a controlled substance; or
- 42 (c) The unlawful act of purchasing, consuming or possessing an
- 43 alcoholic beverage in violation of NRS 202.020.

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



1 (a) A clinical alcohol and drug abuse counselor who is licensed,
2 an alcohol and drug abuse counselor who is licensed or certified, or
3 an alcohol and drug abuse counselor intern or a clinical alcohol and
4 drug abuse counselor intern who is certified, pursuant to chapter
5 641C of NRS, to make that classification; or

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

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

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

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

16 (c) Is in good standing with the regulatory agency in the other
17 state.

18 4. The evaluation of the child may be conducted at an
19 evaluation center.

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

24 6. The juvenile court shall:

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

28 (b) Require the treatment provider to submit monthly reports on
29 the treatment of the child pursuant to this section.

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

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

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

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



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

4 (b) Engages in any other conduct prohibited by NRS 484C.110,
5 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
6 488.410, 488.420 or 488.425 or a law of any other jurisdiction that
7 prohibits the same or similar conduct.

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

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

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

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

22 (a) The juvenile court;

23 (b) The child;

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

25 (d) The parents or guardian of the child;

26 (e) The district attorney; and

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

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

34 **Sec. 22.** NRS 176A.295 is hereby amended to read as follows:

35 176A.295 1. Except as otherwise provided in subsection 2,
36 after a defendant is discharged from probation pursuant to NRS
37 176A.290, the justice court, municipal court or district court, as
38 applicable, shall order sealed all documents, papers and exhibits in
39 the defendant's record, minute book entries and entries on dockets,
40 and other documents relating to the case in the custody of such other
41 agencies and officers as are named in the court's order if the
42 defendant fulfills the terms and conditions imposed by the court and
43 the Division. The justice court, municipal court or district court, as
44 applicable, shall order those records sealed without a hearing unless



1 the Division petitions the court, for good cause shown, not to seal
2 the records and requests a hearing thereon.

3 2. If the defendant is charged with a violation of NRS 200.485,
4 484C.110 or 484C.120 and the charges are conditionally dismissed
5 as provided in subsection 5 of NRS 176A.290, not sooner than ~~7~~
6 **10** years after such a conditional dismissal and upon the filing of a
7 petition by the defendant, the justice court, municipal court or
8 district court, as applicable, shall order that all documents, papers
9 and exhibits in the defendant's record, minute book entries and
10 entries on dockets, and other documents relating to the case in the
11 custody of such other agencies and officers as are named in the
12 court's order be sealed. The justice court, municipal court or district
13 court, as applicable, shall order those records sealed without a
14 hearing unless the Division petitions the court, for good cause
15 shown, not to seal the records and requests a hearing thereon.

16 3. If the justice court, municipal court or district court, as
17 applicable, orders sealed the record of a defendant discharged or
18 whose charges were conditionally dismissed pursuant to NRS
19 176A.290, the court shall send a copy of the order to each agency or
20 officer named in the order. Each such agency or officer shall notify
21 the justice court, municipal court or district court, as applicable, in
22 writing of its compliance with the order.

23 **Sec. 23.** NRS 179.245 is hereby amended to read as follows:

24 179.245 1. Except as otherwise provided in subsection 6 and
25 NRS 176A.265, 176A.295, 179.247, 179.259, 201.354, 453.3365
26 and 458.330, a person may petition the court in which the person
27 was convicted for the sealing of all records relating to a conviction
28 of:

29 (a) A category A felony, a crime of violence pursuant to NRS
30 200.408 or burglary pursuant to NRS 205.060 after 10 years from
31 the date of release from actual custody or discharge from parole or
32 probation, whichever occurs later;

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

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

40 (d) Except as otherwise provided in paragraph (e) ~~and (f)~~,
41 any gross misdemeanor after 2 years from the date of release from
42 actual custody or discharge from probation, whichever occurs later;

43 (e) A violation of NRS 422.540 to 422.570, inclusive, ~~a~~
44 ~~violation of NRS 484C.110 or 484C.120 other than a felony,~~ or a
45 battery which constitutes domestic violence pursuant to NRS 33.018



1 other than a felony, after 7 years from the date of release from actual
2 custody or from the date when the person is no longer under a
3 suspended sentence, whichever occurs later;

4 (f) *A violation of NRS 484C.110 or 484C.120 other than a*
5 *felony, after 10 years from the date of release from actual custody*
6 *or from the date when the person is no longer under a suspended*
7 *sentence, whichever occurs later;*

8 (g) Except as otherwise provided in paragraph (e) ~~(f)~~ and (f), if
9 the offense is punished as a misdemeanor, a battery pursuant to NRS
10 200.481, harassment pursuant to NRS 200.571, stalking pursuant to
11 NRS 200.575 or a violation of a temporary or extended order for
12 protection, after 2 years from the date of release from actual custody
13 or from the date when the person is no longer under a suspended
14 sentence, whichever occurs later; or

15 ~~(g)~~ (h) Any other misdemeanor after 1 year from the date of
16 release from actual custody or from the date when the person is no
17 longer under a suspended sentence, whichever occurs later.

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

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

22 (b) If the petition references NRS 453.3365 or 458.330, include
23 a certificate of acknowledgment or the disposition of the
24 proceedings for the records to be sealed from all agencies of
25 criminal justice which maintain such records;

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

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

33 (1) Date of birth of the petitioner;

34 (2) Specific conviction to which the records to be sealed
35 pertain; and

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

38 3. Upon receiving a petition pursuant to this section, the court
39 shall notify the law enforcement agency that arrested the petitioner
40 for the crime and the prosecuting attorney, including, without
41 limitation, the Attorney General, who prosecuted the petitioner for
42 the crime. The prosecuting attorney and any person having relevant
43 evidence may testify and present evidence at any hearing on the
44 petition.



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

8 5. If the court finds that, in the period prescribed in subsection
9 1, the petitioner has not been charged with any offense for which the
10 charges are pending or convicted of any offense, except for minor
11 moving or standing traffic violations, the court may order sealed all
12 records of the conviction which are in the custody of any agency of
13 criminal justice or any public or private agency, company, official
14 or other custodian of records in the State of Nevada, and may also
15 order all such records of the petitioner returned to the file of the
16 court where the proceeding was commenced from, including,
17 without limitation, the Federal Bureau of Investigation and all other
18 agencies of criminal justice which maintain such records and which
19 are reasonably known by either the petitioner or the court to have
20 possession of such records.

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

23 (a) A crime against a child;

24 (b) A sexual offense;

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

28 (d) A violation of NRS 484C.430;

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

33 (f) A violation of NRS 488.410 that is punishable as a felony
34 pursuant to NRS 488.427; or

35 (g) A violation of NRS 488.420 or 488.425.

36 7. If the court grants a petition for the sealing of records
37 pursuant to this section, upon the request of the person whose
38 records are sealed, the court may order sealed all records of the civil
39 proceeding in which the records were sealed.

40 8. As used in this section:

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

43 (b) "Sexual offense" means:

44 (1) Murder of the first degree committed in the perpetration
45 or attempted perpetration of sexual assault or of sexual abuse or



1 sexual molestation of a child less than 14 years of age pursuant to
2 paragraph (b) of subsection 1 of NRS 200.030.

3 (2) Sexual assault pursuant to NRS 200.366.

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

6 (4) Battery with intent to commit sexual assault pursuant to
7 NRS 200.400.

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

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

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

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

20 (9) Incest pursuant to NRS 201.180.

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

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

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

26 (13) Sexual penetration of a dead human body pursuant to
27 NRS 201.450.

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

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

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

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

36 **Sec. 24.** NRS 211A.070 is hereby amended to read as follows:

37 211A.070 "Probationer" means a person who has been
38 convicted of ~~fel~~:

39 **1. A** misdemeanor, who:

40 ~~fel~~ **(a)** Has had his or her sentence suspended pursuant to NRS
41 4.373 or 5.055, and is serving that suspended sentence; or

42 ~~fel~~ **(b)** Has been sentenced to a term of residential confinement
43 pursuant to NRS 4.3762 or 5.076, and is serving that term of
44 residential confinement ~~fel~~; **or**



1 ***2. A gross misdemeanor, who has been sentenced to a term of***
2 ***residential confinement pursuant to section 16 of this act, and is***
3 ***servng that term of residential confinement.***

