

Amendment No. 206

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| Assembly Amendment to Assembly Bill No. 427 | (BDR 43-373) |
| Proposed by: Assembly Committee on Judiciary | |
| Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes | |

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| Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 427 (§ 11). |
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| ASSEMBLY ACTION | Initial and Date | | SENATE ACTION | Initial and Date |
|---------------------------------------|-------------------------------|--|---------------------------------------|-------------------------------|
| Adopted <input type="checkbox"/> | Lost <input type="checkbox"/> | | Adopted <input type="checkbox"/> | Lost <input type="checkbox"/> |
| Concurred In <input type="checkbox"/> | Not <input type="checkbox"/> | | Concurred In <input type="checkbox"/> | Not <input type="checkbox"/> |
| Receded <input type="checkbox"/> | Not <input type="checkbox"/> | | Receded <input type="checkbox"/> | Not <input type="checkbox"/> |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MNM/BAW



Date: 4/19/2021

A.B. No. 427—Revises various provisions relating to driving under the influence of alcohol or a prohibited substance. (BDR 43-373)



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 ~~Motor Vehicles~~ **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.

Legislative Counsel’s Digest:

1 Existing law requires the Department of Motor Vehicles (hereinafter “Department”), after
2 receiving a record of a driver’s final conviction of certain offenses, to revoke the license,
3 permit or privilege of the driver for a period of 185 days, 1 year or 3 years, depending on the
4 offense committed. (NRS 483.460) **Section 5** of this bill additionally requires the Department

5 to make such a revocation for a period of either 3 or 5 years for offenses relating to driving
6 without or tampering with an ignition interlock device.

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

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

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

44 Existing law requires the Committee on Testing for Intoxication to adopt regulations
45 ~~{concerning the certification of and other matters}~~ relating to ignition interlock devices, ~~{and~~
46 ~~{to establish its own standards and procedures for evaluating the models of ignition interlock~~
47 ~~{devices.}~~ (NRS 484C.480) **Section 31** of this bill transfers such ~~{responsibilities}~~ **a**
48 **responsibility** to the Department of Public Safety, ~~{,}~~ **and requires that such regulations**
49 **provide for the certification of manufacturers and vendors of ignition interlock devices**
50 **to allow such manufacturers and vendors to conduct business in this State.**

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

55 Existing law requires that certain offenders be evaluated before being sentenced to
56 determine whether the offender has an alcohol or other substance use disorder and can be
57 successfully treated for the disorder, and requires the person conducting the evaluation to
58 forward the results of the evaluation to the Director of the Department of Corrections. (NRS
59 484C.300) **Section 17** of this bill provides that if the offender is assigned to any specialty
60 court or diversionary program, the person conducting the evaluation is instead required to
61 forward the results of the evaluation to the court having jurisdiction over the offender.

62 Existing law authorizes a person who is found guilty of a first or second violation within
63 7 years of driving under the influence of alcohol or a prohibited substance to apply to the

64 court to undergo a program of treatment for an alcohol or other substance use disorder for at
65 least 6 months or 1 year, respectively. The court is required to authorize the treatment if the
66 offender satisfies certain requirements, including if the offender has served or will serve a
67 term of imprisonment in jail of 1 day or 5 days, respectively. If the offender satisfactorily
68 completes the treatment, his or her sentence will be reduced to a term of imprisonment that is
69 no longer than the applicable 1-day or 5-day period. (NRS 484C.320, 484C.330) **Sections 18**
70 **and 19** of this bill, respectively, instead provide that such a term of imprisonment must be not
71 less than 1 day or 5 days, as applicable.

72 Existing law also authorizes a person who pleads guilty or nolo contendere to a third
73 violation within 7 years of driving under the influence of alcohol or a prohibited substance to
74 apply to the court to undergo a program of treatment for an alcohol or other substance use
75 disorder for a period of at least 3 years. If the court grants the application for treatment, the
76 court is required to advise the offender that the court may order him or her to be admitted to a
77 residential treatment facility or be provided with outpatient treatment in the community. (NRS
78 484C.340) **Section 20** of this bill removes such an option for outpatient treatment. **Section 20**
79 also requires that as a condition of participating in a program of treatment, the offender must
80 be placed under a system of active electronic monitoring and pay ~~for~~ to the extent of his or her
81 ability to pay any costs associated with his or her participation under the system of active
82 electronic monitoring. **Section 20** provides that a person who intentionally removes or
83 disables or attempts to remove or disable in an unlawful manner an electronic monitoring
84 device placed on an offender is guilty of a gross misdemeanor.

85 Existing law enacts the Nevada 24/7 Sobriety and Drug Monitoring Program Act, which
86 generally establishes a statewide sobriety and drug monitoring program that provides for the
87 frequent testing of persons assigned to the program to determine the presence of alcohol or a
88 prohibited substance in their system. (NRS 484C.372-484C.397) A court is authorized to
89 assign an offender to the program who is found guilty of a second or third violation within 7
90 years of driving under the influence of alcohol or a prohibited substance. (NRS 484C.394)
91 **Sections 23-26 and 45** of this bill make various changes to the program. **Section 23** ~~of this~~
92 ~~bill~~ requires a participant in the program to be subject to :(1) testing to determine the
93 presence of alcohol ~~for a prohibited substance~~ in his or her system ~~not less than two times~~
94 either at a designated testing location at least twice each day or by using any other method
95 approved under federal ~~Haw~~ regulations; and (2) if appropriate, random testing to
96 determine the presence of a prohibited substance in his or her system at least two times
97 each week using any method approved under federal regulations. **Section 23** also
98 provides that any person who uses alcohol or a prohibited substance while assigned to
99 the program or fails or refuses to undergo required testing must be subject to an
100 immediate sanction unless the approved testing method used does not allow for the
101 imposition of an immediate sanction, in which case the person must be subject to a
102 timely sanction. **Section 22.5** of this bill revises the definition of the term “timely
103 sanction.” **Section 23** additionally removes a provision allowing other testing methodologies
104 to be used in cases of economic hardship or when a participant is rewarded with less stringent
105 testing requirements. **Section 45** repeals certain provisions that have been included in or
106 are amended by section 23. **Section 24** of this bill authorizes a person who was arrested or
107 found guilty, as applicable, of a first, second or third violation within 7 years of driving under
108 the influence of alcohol or a prohibited substance to be assigned to the program as a condition
109 of pretrial release, a sentence, or suspension of sentence or probation. **Section 24** requires a
110 person who committed: (1) a first violation within 7 years of driving under the influence of
111 alcohol or a controlled substance to participate in the program for not less than 90 days; and
112 (2) a second or third violation within 7 years of driving under the influence of alcohol or a
113 prohibited substance to participate in the program for not less than 1 year or 18 months,
114 respectively, and receive an assessment of whether the person has an alcohol or other
115 substance use disorder and any appropriate treatment. If any such repeat offender successfully
116 completes the program, his or her sentence will be reduced, but the minimum mandatory term
117 of imprisonment the person serves must not be less than 5 or 10 days, respectively. **Section 26**
118 of this bill specifies that if rewards are given to participants in the program who meet certain
119 standards of compliance, such a reward cannot include undergoing less frequent testing than
120 that which is required.

121 Existing law generally provides that a person who commits a first violation within 7 years
122 of driving under the influence of alcohol or a prohibited substance must be sentenced to

123 imprisonment for not less than 2 days and not more than 6 months in jail, and a person who
124 commits a second violation within 7 years of driving under the influence of alcohol or a
125 prohibited substance must be sentenced to imprisonment in jail or residential confinement for
126 not less than 10 days and not more than 6 months. (NRS 484C.400) **Section 27** of this bill
127 authorizes a person who commits a first violation within 7 years of driving under the influence
128 of alcohol or a prohibited substance to be sentenced to residential confinement in lieu of being
129 sentenced to imprisonment in jail. **Section 27** also provides that a person who commits a third
130 violation within 7 years of driving under the influence of alcohol or a prohibited substance
131 may be ordered to attend a program of treatment for an alcohol or other substance use disorder
132 if the person has been evaluated and the results of the evaluation indicate that the person has
133 such a disorder and can be treated successfully for the condition.

134 Existing law authorizes a court to establish a program for the treatment of veterans and
135 members of the military to which certain eligible defendants may be assigned. (NRS
136 176A.280) If the defendant was charged with a violation of certain provisions of law,
137 including driving under the influence of alcohol or a prohibited substance, the court is
138 authorized to conditionally dismiss the charges against the defendant upon his or her
139 fulfillment of the terms and conditions of the program. (NRS 176A.290) Not sooner than 7
140 years after the charges are conditionally dismissed, the records relating to the case can be
141 sealed by court order. (NRS 176A.295) **Section 37** of this bill additionally authorizes the court
142 to set aside the judgment of conviction against such a defendant, if applicable, and provides
143 that any judgment of conviction that is set aside is a conviction for certain purposes, including
144 for the purpose of additional penalties imposed for second or subsequent convictions. **Section**
145 **38** of this bill authorizes the records relating to the case to be sealed by court order not sooner
146 than 7 years after the judgment of conviction is set aside.

147 Existing law also authorizes a court to establish a program for the treatment of alcohol or
148 other substance use disorders and a program for the treatment of mental illness or intellectual
149 disabilities to which certain eligible defendants may be assigned. (NRS 176A.230, 176A.250)
150 **Sections 33-36** of this bill establish provisions that mirror the provisions in **sections 37 and**
151 **38** and authorize: (1) a court to conditionally dismiss the charges or set aside the judgment of
152 conviction against a defendant who was charged with a violation of certain provisions of law,
153 including driving under the influence of alcohol or a prohibited substance, upon the
154 defendant's fulfillment of the terms and conditions of the respective program; and (2) the
155 records relating to such a case to be sealed by court order not sooner than 7 years after the
156 charges are conditionally dismissed or the judgment of conviction is set aside. **Sections 33**
157 **and 35** of this bill also specify that any charge that is conditionally dismissed or judgment of
158 conviction that is set aside is a conviction for the purpose of additional penalties imposed for
159 second or subsequent convictions.

160 **Section 39** of this bill provides that the provisions of law which prohibit a person who
161 was convicted of a violation of driving under the influence of alcohol or a prohibited
162 substance that is punishable as a felony from being able to petition the court to seal the
163 records relating to such a conviction must not be construed to preclude certain persons from
164 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 thereto the
2 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, inclusive, and*
4 *sections 3 and 4 of this act, unless the context otherwise requires, the words and*
5 *terms defined in sections 3 and 4 of this act have the meanings ascribed to them*
6 *in those sections.*

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

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

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

2 483.460 1. Except as otherwise provided by specific statute, the Department
3 shall revoke the license, permit or privilege of any driver upon receiving a record of
4 his or her conviction of any of the following offenses, when that conviction has
5 become final, and the driver is not eligible for a license, permit or privilege to drive
6 for the period indicated:

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

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

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

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

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

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

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

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

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

26 (1) *A first violation of driving without an ignition interlock device or*
27 *tampering with an ignition interlock device pursuant to subsection 2 of NRS*
28 *484C.470 and the driver is not eligible for a restricted license or an ignition*
29 *interlock privilege during any of that period.*

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

31 ~~(2)~~ (3) A third or subsequent violation within 7 years of NRS 484C.110
32 or 484C.120.

33 ~~(3)~~ (4) A violation of NRS 484C.110 or 484C.120 resulting in a felony
34 conviction pursuant to NRS 484C.400 or 484C.410.

35 ~~(4)~~ (5) A violation of NRS 484C.430 or a homicide resulting from
36 driving or being in actual physical control of a vehicle while under the influence of
37 intoxicating liquor or a controlled substance or resulting from any other conduct
38 prohibited by NRS 484C.110, 484C.130 or 484C.430.

39 ➤ The period during which such a driver is not eligible for a license, permit or
40 privilege to drive must be set aside during any period of imprisonment and the
41 period of revocation must resume when the Department is notified pursuant to NRS
42 209.517 or 213.12185 that the person has completed the period of imprisonment or
43 that the person has been placed on residential confinement or parole.

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

45 ~~— (1) Any other manslaughter, including vehicular manslaughter as described~~
46 ~~in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the~~
47 ~~commission of which a motor vehicle is used, including the unlawful taking of a~~
48 ~~motor vehicle.~~

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

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

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

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

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

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

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

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

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

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

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

~~5. A driver whose license, permit or privilege is revoked 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;

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

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

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

15 **Sec. 7.** NRS 483.490 is hereby amended to read as follows:

16 483.490 1. Except as otherwise provided in this section, after a driver's
17 license has been suspended or revoked ~~for an offense other than a violation of NRS~~
18 ~~484C.110,~~ and one-half of the period during which the driver is not eligible for a
19 license has expired, the Department may, unless the statute authorizing the
20 suspension *or revocation* prohibits the issuance of a restricted license, issue a
21 restricted driver's license to an applicant permitting the applicant to drive a motor
22 vehicle:

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

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

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

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

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

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

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

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

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

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

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

52 ~~— 4.] If the driver's license of a person assigned to a program established~~
53 ~~pursuant to NRS 484C.392 is suspended or revoked, the Department may ~~after~~~~

1 ~~verifying the proof of compliance submitted pursuant to subsection 3, if~~
2 ~~applicable,]~~ issue a restricted driver's license to ~~[such]~~ an applicant that is valid
3 while he or she is ~~[a participant]~~ **participating in and complying with the**
4 **requirements of** the program and that permits the applicant to drive a motor
5 vehicle:

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

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

9 (c) To and from court appearances;

10 (d) To and from counseling; or

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

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

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

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

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

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

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

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

26 ~~[7-]~~ **5.** A driver who violates a condition of a restricted license issued
27 pursuant to subsection 1 or ~~[4 or by another jurisdiction]~~ **2** is guilty of a
28 misdemeanor and, if the license of the driver was suspended or revoked for:

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

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

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

36 **↳** the driver shall be punished in the manner provided pursuant to subsection 2 of
37 NRS 483.560.

38 ~~[8-]~~ **6.** The periods of suspensions and revocations required pursuant to this
39 chapter and NRS 484C.210 must run consecutively, except as otherwise provided
40 in NRS 483.465 and 483.475, when the suspensions must run concurrently.

41 ~~[9-]~~ **7.** Whenever the Department suspends or revokes a license, the period of
42 suspension, or of ineligibility for a license after the revocation, begins upon the
43 effective date of the revocation or suspension as contained in the notice thereof.

44 **8.** *Any person for whom a court provides an exception relating to the*
45 *installation of an ignition interlock device pursuant to subsection 4 of NRS*
46 *484C.210 or subsection 2 of NRS 484C.460 is eligible for a restricted driver's*
47 *license under this section while the person is participating in and complying with*
48 *the requirements of a program established pursuant to NRS 484C.392.*

49 **9.** *If the Department receives a copy of an order requiring a person to*
50 *install an ignition interlock device in a motor vehicle pursuant to NRS 484C.460,*
51 *the Department shall issue an ignition interlock privilege to the person after he or*
52 *she submits proof of compliance with the order. A person who is required to*
53 *install an ignition interlock device pursuant to NRS 484C.210 or 484C.460 shall*

1 *install the device not later than 14 days after the date on which the order was*
2 *issued. A driver who violates any condition of an ignition interlock privilege*
3 *issued pursuant to this subsection is guilty of a misdemeanor and shall be*
4 *punished in the same manner provided in subsection 2 of NRS 483.560 for*
5 *driving a vehicle while a driver's license is cancelled, revoked or suspended.*

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

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

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

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

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

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

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

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

21 *2. The Director may contract for the provision of services necessary for the*
22 *Program.*

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

26 *4. The Account must be funded through the fees established by regulation*
27 *pursuant to subsection 7. The money in the Account may only be used to pay the*
28 *expenses of the Program, including, without limitation:*

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

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

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

34 *(d) Treatment assistance;*

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

36 *(f) Outreach programs.*

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

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

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

44 *(a) The certification of ~~[-a vendor]~~ manufacturers and vendors of ignition*
45 *interlock devices;*

46 *(b) The annual recertification of ~~[-a vendor]~~ manufacturers and vendors of*
47 *ignition interlock devices;*

48 *(c) The reinstatement of the certification of ~~[-a vendor]~~ manufacturers and*
49 *vendors of ignition interlock devices;*

50 *(d) The installation of an ignition interlock device by ~~[-a vendor]~~*
51 *manufacturers and vendors of ignition interlock devices; and*

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

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

2 484C.010 As used in this chapter, unless the context otherwise requires, the
3 words and terms defined in NRS 484C.020 to 484C.105, inclusive, *and sections 9*
4 *and 10 of this act* have the meanings ascribed to them in those sections.

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

6 484C.150 1. Any person who drives or is in actual physical control of a
7 vehicle on a highway or on premises to which the public has access shall be
8 deemed to have given his or her consent to a preliminary test of his or her breath to
9 determine the concentration of alcohol in his or her breath when the test is
10 administered at the request of a police officer at the scene of a vehicle crash or
11 where the police officer stops a vehicle, if the officer has reasonable grounds to
12 believe that the person to be tested was:

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

15 (b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120,
16 484C.130 or 484C.430.

17 2. If the person fails to submit to the test, the officer shall ~~f~~

18 ~~— (a) Seize the license or permit of the person to drive as provided in NRS~~
19 ~~484C.220; and~~

20 ~~— (b) If, if~~ reasonable grounds otherwise exist, arrest the person and take him or
21 her to a convenient place for the administration of a reasonably available
22 evidentiary test under NRS 484C.160.

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

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

26 484C.210 1. If a person fails to submit to an evidentiary test as requested by
27 a police officer pursuant to NRS 484C.160, the license, permit or privilege to drive
28 of the person must be revoked as provided in NRS 484C.220, and the person is not
29 eligible for a license, permit or privilege to drive for a period of:

30 (a) One year; or

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

34 2. If the result of a test given under NRS 484C.150 or 484C.160 shows that a
35 person had a concentration of alcohol of 0.08 or more in his or her blood or breath
36 or a detectable amount of a controlled substance or prohibited substance in his or
37 her blood or urine for which he or she did not have a valid prescription, as defined
38 in NRS 453.128, or hold a valid registry identification card, as defined in NRS
39 678C.080, at the time of the test, the license, permit or privilege of the person to
40 drive must be revoked as provided in NRS 484C.220 and the person is not eligible
41 for a license, permit or privilege for a period of ~~90~~ 185 days.

42 3. ~~Except as otherwise provided in subsection 1, at~~ *At* any time while a
43 person is not eligible for a license, permit or privilege to drive following a
44 revocation under subsection 1 or 2, ~~which was based on the person having a~~
45 ~~concentration of alcohol of 0.08 or more in his or her blood or breath,~~ the person
46 shall install, at his or her own expense, ~~fa~~ *an ignition interlock* device in any
47 motor vehicle which the person operates as a condition to obtaining ~~fa-restricted~~
48 ~~license~~ *an ignition interlock privilege* pursuant to NRS 483.490.

49 4. *The Department may provide for an exception to the requirements of*
50 *subsection 3 and issue a restricted license pursuant to subsection 1 of NRS*
51 *483.490 if the Department determines that the person is not a repeat intoxicated*
52 *driver, as 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 for analysis by*
2 *an ignition interlock device, as certified in writing by a physician or an advanced*
3 *practice registered nurse of the person; or*

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

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

12 ~~5.~~ 6. If an order to install ~~an~~ *an ignition interlock* device pursuant to NRS
13 62E.640 or 484C.460 follows the installation of ~~an~~ *an ignition interlock* device
14 pursuant to subsection 3, the court ~~may~~ *shall* give the person day-for-day credit
15 for any period during which the person ~~installed a~~ *can provide proof satisfactory*
16 *to the court that he or she had an ignition interlock device installed* as a condition
17 to obtaining ~~a restricted license.~~ *an ignition interlock privilege.*

18 ~~6.~~ 7. Periods of ineligibility for a license, permit or privilege to drive which
19 are imposed pursuant to this section must run consecutively.

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

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

23 484C.220 1. As agent for the Department, the officer who requested that a
24 test be given pursuant to NRS 484C.150 or 484C.160 or who obtained the result of
25 a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an
26 order of revocation of the license, permit or privilege to drive on a person who
27 failed to submit to a test requested by the police officer pursuant to NRS ~~484C.150~~
28 ~~or~~ 484C.160 or who has a concentration of alcohol of 0.08 or more in his or her
29 blood or breath or has a detectable amount of a controlled substance or prohibited
30 substance in his or her blood or urine for which he or she did not have a valid
31 prescription, as defined in NRS 453.128, or hold a valid registry identification card,
32 as defined in NRS 678C.080, if that person is present, and shall seize the license or
33 permit to drive of the person. The officer shall then, unless the information is
34 expressly set forth in the order of revocation, advise the person of his or her right to
35 administrative and judicial review of the revocation pursuant to NRS 484C.230
36 and, except as otherwise provided in this subsection, that the person has a right to
37 request a temporary license. The officer shall also, unless the information is
38 expressly set forth in the order of revocation, advise the person that he or she is
39 required to install ~~an~~ *an ignition interlock* device pursuant to NRS 484C.210. If
40 the person currently is driving with a temporary license that was issued pursuant to
41 this section or NRS 484C.230, the person is not entitled to request an additional
42 temporary license pursuant to this section or NRS 484C.230, and the order of
43 revocation issued by the officer must revoke the temporary license that was
44 previously issued. If the person is entitled to request a temporary license, the officer
45 shall issue the person a temporary license on a form approved by the Department if
46 the person requests one, which is effective for only 7 days including the date of
47 issuance. The officer shall immediately transmit the person's license or permit to
48 the Department along with the written certificate required by subsection 2.

49 2. When a police officer has served an order of revocation of a driver's
50 license, permit or privilege on a person pursuant to subsection 1, or later receives
51 the result of an evidentiary test which indicates that a person, not then present, had
52 a concentration of alcohol of 0.08 or more in his or her blood or breath or had a
53 detectable amount of a controlled substance or prohibited substance in his or her

1 blood or urine for which he or she did not have a valid prescription, as defined in
2 NRS 453.128, or hold a valid registry identification card, as defined in NRS
3 678C.080, the officer shall immediately prepare and transmit to the Department,
4 together with the seized license or permit and a copy of the result of the test, if any,
5 a written certificate that the officer had reasonable grounds to believe that the
6 person had been driving or in actual physical control of a vehicle:

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

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

15 ➤ The certificate must also indicate whether the officer served an order of
16 revocation on the person and whether the officer issued the person a temporary
17 license.

18 3. The Department, upon receipt of such a certificate for which an order of
19 revocation has not been served, after examining the certificate and copy of the
20 result of the chemical test, if any, and finding that revocation is proper, shall issue
21 an order revoking the person's license, permit or privilege to drive by mailing the
22 order to the person at the person's last known address. The order must indicate the
23 grounds for the revocation and the period during which the person is not eligible for
24 a license, permit or privilege to drive and state that the person has a right to
25 administrative and judicial review of the revocation and to have a temporary
26 license. The order must also ~~indicate that~~ *state whether* the person is required to
27 install ~~an~~ *an ignition interlock* device pursuant to NRS 484C.210. The order of
28 revocation becomes effective 5 days after mailing.

29 4. Notice of an order of revocation and notice of the affirmation of a prior
30 order of revocation or the cancellation of a temporary license provided in NRS
31 484C.230 is sufficient if it is mailed to the person's last known address as shown by
32 any application for a license. The date of mailing may be proved by the certificate
33 of any officer or employee of the Department, specifying the time of mailing the
34 notice. The notice is presumed to have been received upon the expiration of 5 days
35 after it is deposited, postage prepaid, in the United States mail.

36 ~~[5.— As used in this section, “device” has the meaning ascribed to it in NRS~~
37 ~~484C.450.]~~

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

39 484C.230 1. At any time while a person is not eligible for a license, permit
40 or privilege to drive following an order of revocation issued pursuant to NRS
41 484C.220, the person may request in writing a hearing by the Department to review
42 the order of revocation, but the person is only entitled to one hearing. The hearing
43 must be conducted as soon as is practicable at any location, if the hearing officer
44 permits each party and witness to attend the hearing by telephone, videoconference
45 or other electronic means. The Director or agent of the Director may issue
46 subpoenas for the attendance of witnesses and the production of relevant books and
47 papers and may require a reexamination of the requester. Unless the person is
48 ineligible for a temporary license pursuant to NRS 484C.220, the Department shall
49 issue an additional temporary license for a period which is sufficient to complete
50 the administrative review. A person who is issued a temporary license is not subject
51 to and is exempt *during the period of the administrative review* from the
52 requirement to install ~~an~~ *an ignition interlock* device pursuant to NRS 484C.210.

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

1 (a) Failed to submit to a required test provided for in NRS ~~[484C.150 or]~~
2 484C.160; or

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

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

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

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

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

26 ~~[6. As used in this section, "device" has the meaning ascribed to it in NRS~~
27 ~~484C.450.]~~

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

29 484C.300 1. Before sentencing an offender for a violation of NRS
30 484C.110 or 484C.120 that is punishable as a felony pursuant to NRS 484C.400 or
31 484C.410, other than an offender who has been evaluated pursuant to NRS
32 484C.340, or a violation of NRS 484C.130 or 484C.430, the court shall require that
33 the offender be evaluated to determine whether the offender has an alcohol or other
34 substance use disorder and whether the offender can be treated successfully for the
35 condition.

36 2. The evaluation must be conducted by:

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

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

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

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

46 3. The alcohol and drug counselor, clinical alcohol and drug counselor,
47 physician, advanced practice registered nurse or psychologist who conducts the
48 evaluation shall immediately forward the results of the evaluation to the Director of
49 the Department of Corrections ~~[]~~ *or, if the offender is assigned to any specialty*
50 *court or diversionary program, to the court having jurisdiction over the offender.*

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

52 484C.320 1. An offender who is found guilty of a violation of NRS
53 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1

1 of NRS 484C.400, other than an offender who is found to have a concentration of
2 alcohol of 0.18 or more in his or her blood or breath, may, at that time or any time
3 before the offender is sentenced, apply to the court to undergo a program of
4 treatment for an alcohol or other substance use disorder for at least 6 months. The
5 court shall authorize that treatment if:

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

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

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

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

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

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

19 2. A prosecuting attorney may, within 10 days after receiving notice of an
20 application for treatment pursuant to this section, request a hearing on the question
21 of whether the offender is eligible to undergo a program of treatment for an alcohol
22 or other substance use disorder. The court shall order a hearing on the application
23 upon the request of the prosecuting attorney or may order a hearing on its own
24 motion. The hearing must be limited to the question of whether the offender is
25 eligible to undergo such a program of treatment.

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

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

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

32 (b) Suspend the sentence of the offender for not more than 3 years upon the
33 condition that the offender be accepted for treatment by a treatment provider that is
34 approved by the court, that the offender complete the treatment satisfactorily and
35 that the offender comply with any other condition ordered by the court. If the court
36 has a specialty court program for the supervision and monitoring of the person, the
37 treatment provider must comply with the requirements of the specialty court,
38 including, without limitation, any requirement to submit progress reports to the
39 specialty court.

40 (c) Advise the offender that:

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

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

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

49 (4) If the offender completes the treatment satisfactorily, the offender's
50 sentence will be reduced to a term of imprisonment which is ~~no longer~~ *not less*
51 *than* ~~[that provided for the offense in paragraph (c) of subsection 1]~~ *1 day* and a fine
52 of not more than the minimum fine provided for the offense in NRS 484C.400, but

1 the conviction must remain on the record of criminal history of the offender ~~H~~ *for*
2 *the period prescribed by law.*

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

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

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

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

13 **Sec. 19.** NRS 484C.330 is hereby amended to read as follows:

14 484C.330 1. An offender who is found guilty of a violation of NRS
15 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1
16 of NRS 484C.400 may, at that time or any time before the offender is sentenced,
17 apply to the court to undergo a program of treatment for an alcohol or other
18 substance use disorder for at least 1 year. The court shall authorize that treatment if:

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

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

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

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

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

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

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

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

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

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

43 (b) Suspend the sentence of the offender for not more than 3 years upon the
44 condition that the offender be accepted for treatment by a treatment provider that is
45 approved by the court, that the offender complete the treatment satisfactorily and
46 that the offender comply with any other condition ordered by the court. If the court
47 has a specialty court program for the supervision and monitoring of the person, the
48 treatment provider must comply with the requirements of the specialty court,
49 including, without limitation, any requirement to submit progress reports to the
50 specialty court.

51 (c) Advise the offender that:

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

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

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

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

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

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

18 (b) May immediately revoke the suspension of sentence for a violation of a
19 condition of the suspension.

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

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

24 484C.340 1. An offender who enters a plea of guilty or nolo contendere to a
25 violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph
26 (c) of subsection 1 of NRS 484C.400 may, at the time the offender enters a plea,
27 apply to the court to undergo a program of treatment for an alcohol or other
28 substance use disorder for at least 3 years. The court may authorize that treatment
29 if:

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

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

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

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

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

41 ➤ An alcohol and drug counselor, a clinical alcohol and drug counselor, a
42 physician or an advanced practice registered nurse who diagnoses an offender as a
43 person with an alcohol or other substance use disorder shall make a report and
44 recommendation to the court concerning the length and type of treatment required
45 for the offender.

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

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

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

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

6 (b) Order the offender to complete a program of treatment for an alcohol or
 7 other substance use disorder with a treatment provider approved by the court. If the
 8 court has a specialty court program for the supervision and monitoring of the
 9 person, the treatment provider must comply with the requirements of the specialty
 10 court, including, without limitation, any requirement to submit progress reports to
 11 the specialty court.

12 (c) Advise the offender that:

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

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

17 (3) The court will enter a judgment of conviction for a violation of
 18 paragraph (c) of subsection 1 of NRS 484C.400 if a treatment provider fails to
 19 accept the offender for a program of treatment for an alcohol or other substance use
 20 disorder or if the offender fails to complete the program of treatment satisfactorily.
 21 Any sentence of imprisonment may be reduced by a time equal to that which the
 22 offender served before beginning treatment.

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

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

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

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

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

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

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

38 (b) *Be placed under a system of active electronic monitoring, through the*
 39 *Division, that is capable of identifying the offender's location and producing,*
 40 *upon request, reports or records of the offender's presence near or within, or*
 41 *departure from, a specified geographic location and pay any costs associated with*
 42 *the offender's participation under the system of active electronic monitoring ; ~~f~~*
 43 *to the extent of his or her ability to pay;*

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

46 ~~(e)~~ (d) Not drive any vehicle unless it is equipped with ~~(a)~~ *an ignition*
 47 *interlock* device;

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

50 ~~(e)~~ (f) Agree to any other conditions that the court deems necessary.

51 7. An offender may not apply to the court to undergo a program of treatment
 52 for an alcohol or other substance use disorder pursuant to this section if the offender

1 has previously applied to receive treatment pursuant to this section or if the
2 offender has previously been convicted of:

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

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

5 (c) A homicide resulting from driving or being in actual physical control of a
6 vehicle while under the influence of intoxicating liquor or a controlled substance or
7 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
8 484C.430;

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

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

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

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

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

17 (b) *Report any incidental damage or defacement of the electronic monitoring*
18 *device to the Division within 2 hours after the occurrence of the damage or*
19 *defacement.*

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

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

29 10. As used in this section, ~~["device" has the meaning ascribed to it in NRS~~
30 ~~484C.450.]~~ "Division" means the Division of Parole and Probation of the
31 Department of Public Safety.

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

33 484C.360 1. When a program of treatment is ordered pursuant to NRS
34 484C.340 or ~~paragraph (a) or (b) of~~ subsection 1 of NRS 484C.400, the court
35 shall place the offender under the clinical supervision of a treatment provider for
36 treatment in accordance with the report submitted to the court pursuant to NRS
37 484C.340 or subsection 3, 4, 5 or 6 of NRS 484C.350, as appropriate. The court
38 shall:

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

41 (b) Release the offender for treatment in the community,
42 ↪ for the period of supervision ordered by the court.

43 2. The court shall:

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

46 (b) Order the offender, to the extent of his or her financial resources, to pay
47 any charges for treatment pursuant to this section. If the offender does not have the
48 financial resources to pay all those charges, the court shall, to the extent possible,
49 arrange for the offender to obtain the treatment from a treatment provider that
50 receives a sufficient amount of federal or state money to offset the remainder of the
51 charges.

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

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

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

8 **➤** after the treatment provider has certified that the offender has successfully
9 completed a program of treatment ordered pursuant to NRS 484C.340 or ~~paragraph~~
10 ~~(a) or (b) of~~ subsection 1 of NRS 484C.400.

11 **Sec. 22.** ~~[NRS 484C.374 is hereby amended to read as follows:
12 484C.374 As used in NRS 484C.372 to 484C.397, inclusive, unless the
13 context otherwise requires, the words and terms defined in NRS 484C.376 to
14 484C.390,] 484C.388, inclusive, have the meanings ascribed to them in those
15 sections.] (Deleted by amendment.)~~

16 **Sec. 22.5.** NRS 484C.390 is hereby amended to read as follows:
17 484C.390 "Timely sanction" means a sanction that is able to be applied as
18 soon as possible ~~[, but not later than 14 days,]~~ after the results of testing indicate the
19 presence of alcohol or a prohibited substance in a program participant's system.

20 **Sec. 23.** NRS 484C.392 is hereby amended to read as follows:
21 484C.392 1. There is hereby established a statewide sobriety and drug
22 monitoring program in which any political subdivision in this State may elect to
23 participate.

24 2. The ~~[core components of the]~~ program established pursuant to subsection
25 I must [include the use of a primary testing methodology that tests for the presence
26 of alcohol or a prohibited substance in a program participant's system, best
27 facilitates the ability to apply immediate sanctions for noncompliance and is
28 available at an affordable cost. In cases of economic hardship or when a program
29 participant is rewarded with less stringent testing requirements, testing
30 methodologies with timely sanctions for noncompliance may be utilized.] meet the
31 federal definition of "24-7 sobriety program" in 23 C.F.R. § 1300.23(b).

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

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

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

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

40 ~~— 4. The core components of] Any [participant in] person who is assigned to~~
41 ~~the program [that generally require] must [be] ;~~

42 (a) Abstain from alcohol and prohibited substances while assigned to the
43 program; and

44 (b) Be subject to [testing] ;

45 (I) Testing to determine the presence of alcohol [for a prohibited
46 substance] in [a person's] his or her system [not less than two times] ;

47 (I) At least twice each day [and random,] at a testing location
48 established by a designated law enforcement agency pursuant to NRS 484C.393;
49 or

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

52 (2) If appropriate, random testing to determine the presence of a
53 prohibited substance in [a person's] his or her system [not less than] at least two

1 ~~times each week [must not be altered or modified. Location.]~~, using any approved
 2 ~~method set forth in the federal definition of “24-7 sobriety program” in 23 C.F.R.~~
 3 ~~§ 1300.23(b).~~

4 4. Must be subject to lawful and consistent sanctions for using alcohol or a
 5 prohibited substance while assigned to the program or for failing or refusing to
 6 undergo required testing, including, without limitation, incarceration. Any such
 7 sanction must be an immediate sanction or, if the approved testing method being
 8 used pursuant to paragraph (b) of subsection 3 does not allow for the imposition
 9 of an immediate sanction, a timely sanction.

10 5. Is eligible for a restricted driver’s license pursuant to subsection 2 of
 11 NRS 483.490 while participating in and complying with the requirements of the
 12 program if the driver’s license of the person is suspended or revoked.

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

14 484C.394 1. A court may, *as a condition of pretrial release, a sentence, a*
 15 *suspension of sentence or probation*, assign an offender who is *arrested for or*
 16 *found guilty of*, *as applicable*, a violation of NRS 484C.110 or 484C.120 that is
 17 punishable pursuant to paragraph (a), (b) or (c) of subsection 1 of NRS 484C.400 to
 18 the program established pursuant to NRS 484C.392 . ~~[for a specified period~~
 19 ~~determined by the court.]~~

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

23 (a) *Shall immediately sentence the offender in accordance with NRS*
 24 *484C.400 and enter judgment accordingly.*

25 (b) *Shall suspend the sentence of the offender upon the condition that the*
 26 *offender participate in the program for not less than 90 days.*

27 (c) *Shall advise the offender that:*

28 (1) *If the offender fails to participate in the program for the period*
 29 *determined by the court or fails to comply with the requirements of the program,*
 30 *the court will require the offender to serve the sentence imposed by the court. The*
 31 *sentence of imprisonment must be reduced by a time equal to that which the*
 32 *offender served before participating in the program.*

33 (2) *If the offender participates in the program for the period determined*
 34 *by the court and complies with the requirements of the program, the sentencing*
 35 *conditions, including, without limitation, the mandatory period of imprisonment*
 36 *or community service, will be reduced, but the conviction must remain on the*
 37 *record of criminal history of the offender for the period prescribed by law.*

38 (3) *The offender is eligible for a restricted driver’s license pursuant to*
 39 *subsection 2 of NRS 483.490 while participating in and complying with the*
 40 *requirements of the program.*

41 (d) *May immediately revoke the suspension of sentence for a violation of a*
 42 *condition of suspension.*

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

46 (a) Shall immediately sentence the offender *in accordance with NRS*
 47 *484C.400* and enter judgment accordingly.

48 (b) Shall suspend the sentence of the offender upon the condition that the
 49 offender participate in the program for ~~[a specified period determined by the court.]~~
 50 *not less than 1 year and require that the offender receive an assessment of*
 51 *whether the offender has an alcohol or other substance use disorder and any*
 52 *appropriate treatment.*

53 (c) Shall advise the offender that:

1 (1) If the offender fails to participate in the program for the period
2 determined by the court or fails to comply with the requirements of the program,
3 the court ~~{may}~~ **will** require the offender to serve the sentence imposed by the court.
4 ~~{Any}~~ **The** sentence of imprisonment must be reduced by a time equal to that which
5 the offender served before participating in the program.

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

15 (3) The offender is eligible for a restricted driver's license pursuant to
16 subsection ~~{}~~ **2** of NRS 483.490 ~~{}~~ **while participating in and complying with the**
17 **requirements of the program.**

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

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

22 ~~{}~~ **4.** If the court assigns an offender to the program who is found guilty of a
23 violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph
24 (c) of subsection 1 of NRS 484C.400, the court:

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

28 (b) Shall order the offender to participate in the program ~~{}~~ **for not less than**
29 **18 months and require that the offender receive an assessment of whether the**
30 **offender has an alcohol or other substance use disorder and any appropriate**
31 **treatment.**

32 (c) Shall advise the offender that:

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

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

45 (3) The provisions of NRS 483.460 requiring the revocation of the license,
46 permit or privilege of the offender to drive do not apply and the offender is eligible
47 for a restricted driver's license pursuant to subsection ~~{}~~ **2** of NRS 483.490 ~~{}~~
48 **while participating in and complying with the requirements of the program.**

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

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

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

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

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

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

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

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

Sec. 25. ~~[NRS 484C.395 is hereby amended to read as follows:~~

~~484C.395 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 or a prohibited substance 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.392 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.] 3. 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.] 4. Is eligible for a restricted driver's license pursuant to subsection [4.] 2 of NRS 483.490 while participating in and complying with the requirements of the program if the driver's license of the person is suspended or revoked.] **(Deleted by amendment.)**~~

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

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

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

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

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

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

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

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

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

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

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

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

28 8. Require that program participants who meet certain standards of
29 compliance be given positive feedback and rewarded when appropriate ~~[Such]~~ ,
30 **except that such** a reward ~~[may]~~ **cannot** include ~~[, without limitation,]~~ undergoing
31 less frequent testing ~~[]~~ **than that which is required pursuant to subsection ~~[4] 3 of~~**
32 **NRS 484C.392.**

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

34 484C.400 1. Unless a greater penalty is provided pursuant to NRS
35 484C.430 or 484C.440, and except as otherwise provided in NRS ~~484C.394 or~~
36 484C.410, a person who violates the provisions of NRS 484C.110 or 484C.120:

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

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

45 (2) Unless the sentence is reduced pursuant to NRS 484C.320 ~~[, sentence] :~~
46 **(I) Sentence** the person to imprisonment for not less than 2 days nor
47 more than 6 months in jail ~~[]~~ **or residential confinement for not less than 2 days**
48 **nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766,**
49 **inclusive, or 5.0755 to 5.078, inclusive;** or

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

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

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

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

8 (1) Sentence the person to:

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

11 (II) Residential confinement for not less than 10 days nor more than 6
12 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to
13 5.078, inclusive;

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

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

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

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

26 (1) **Shall:**

27 (I) **Sentence the person to** imprisonment in the state prison for a
28 minimum term of not less than 1 year and a maximum term of not more than 6
29 years ~~[, and shall be further punished by a fine of]~~ ; **and**

30 (II) **Fine the person** not less than \$2,000 nor more than \$5,000 ~~[-]~~ ;
31 **and**

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

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

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

44 (a) When evidenced by a conviction; or

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

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

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

12 4. Jail sentences simultaneously imposed pursuant to this section and NRS
13 482.456, 483.560, 484C.410 or 485.330 must run consecutively.

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

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

22 7. As used in this section, unless the context otherwise requires, "offense"
23 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 physical control of a
26 vehicle while under the influence of intoxicating liquor or a controlled substance or
27 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
28 484C.430; or

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

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

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

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

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

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

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

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

1 ~~[(3)]~~ (2) A violation of NRS 484C.130 or 484C.430 . ~~;~~
2 ~~→ to install, at his or her own expense and for a period of not less than 12 months~~
3 ~~or more than 36 months, a device in any motor vehicle which the person operates as~~
4 ~~a condition to obtaining a restricted license pursuant to NRS 483.490 or as a~~
5 ~~condition of reinstatement of the driving privilege of the person.]~~

6 2. A court may ~~[, in the interests of justice,]~~ provide for an exception to the
7 provisions of subsection 1 for a person who is convicted of a violation of NRS
8 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS
9 484C.400, if the court determines that:

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

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

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

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

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

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

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

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

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

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

3 6. The running of the period during which a person is required to have ~~an~~ **an**
4 **ignition interlock** device installed pursuant to this section commences when the
5 Department issues ~~a restricted license~~ **an ignition interlock privilege** to the person
6 ~~for reinstates the driving privilege of the person~~ and is tolled whenever and for as
7 long as the person is, with regard to a violation of NRS 484C.110, 484C.120,
8 484C.130 or 484C.430, imprisoned, serving a term of residential confinement,
9 placed under the supervision of a treatment provider, on parole or on probation.

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

11 484C.470 1. The court may extend the order of a person who is required to
12 install ~~an~~ **an ignition interlock** device pursuant to NRS 484C.210 or 484C.460,
13 ~~not~~ ~~to exceed~~ one-half of the period during which the person is required to have
14 ~~an~~ **an ignition interlock** device installed, if the court receives from the Director of
15 the Department of Public Safety or the manufacturer of the **ignition interlock**
16 device or its agent a report that 4 consecutive months prior to the date of release
17 any of the following incidents occurred:

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

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

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

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

32 (e) Any attempt by the person to operate a motor vehicle without ~~an~~ **an**
33 **ignition interlock** device or tamper with the **ignition interlock** device.

34 2. A person required to install ~~an~~ **an ignition interlock** device pursuant to
35 NRS 484C.210 or 484C.460 shall not operate a motor vehicle without ~~an~~ **an**
36 **ignition interlock** device or tamper with the **ignition interlock** device.

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

38 (a) Must have his or her driving privilege revoked in the manner set forth in
39 **paragraph (c) or (d) of** subsection ~~4~~ **1** of NRS 483.460 ~~and~~, **as applicable**; and

40 (b) Shall be:

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

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

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

51 **Sec. 30.** NRS 484C.475 is hereby amended to read as follows:

52 484C.475 Any person who provides a sample of breath for ~~an~~ **an ignition**
53 **interlock** device, with the intent to start a motor vehicle of another and for the

1 purpose of allowing a person required to install ~~[a]~~ **an ignition interlock** device
2 pursuant to NRS 484C.210 or 484C.460 to avoid providing a sample of his or her
3 breath, is guilty of a misdemeanor.

4 **Sec. 31.** NRS 484C.480 is hereby amended to read as follows:

5 484C.480 1. The ~~[Committee on Testing for Intoxication]~~ **Department of**
6 **Public Safety** shall adopt regulations which:

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

15 (b) Prescribe the form and content of records respecting the calibration of
16 **ignition interlock** devices, which must be kept by the manufacturer of the **ignition**
17 **interlock** device or its agent, and other records respecting the installation, removal,
18 inspection, maintenance and operation of the **ignition interlock** devices which it
19 finds should be kept by the manufacturer or its agent.

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

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

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

29 (2) Receives supplemental nutritional assistance, as defined in NRS
30 422A.072, was determined indigent pursuant to NRS 171.188 or has an income
31 which is at or below 149 percent of the federally designated level signifying
32 poverty, to 75 percent of the fee.

33 2. The ~~[Committee]~~ **Department of Public Safety** shall establish its own
34 standards and procedures for evaluating the models of the **ignition interlock**
35 devices and obtain evaluations of those models from the Director or the
36 manufacturer of the **ignition interlock** device or its agent.

37 3. If a model of ~~[a]~~ **an ignition interlock** device has been certified by the
38 ~~[Committee]~~ **Department of Public Safety** to be accurate and reliable pursuant to
39 subsection 1, it is presumed that, as designed and manufactured, each **ignition**
40 **interlock** device of that model is accurate and reliable to test a person's breath to
41 determine the concentration of alcohol in the person's breath and, if the results of
42 the test indicate that the person has a concentration of alcohol of 0.02 or more in his
43 or her breath, will prevent the motor vehicle in which it is installed from starting.

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

45 62E.640 1. If a child is adjudicated delinquent for an unlawful act in
46 violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, the juvenile court
47 shall, if the child possesses a driver's license:

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

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

1 2. The Department of Motor Vehicles shall order the child to submit to the
2 tests and other requirements which are adopted by regulation pursuant to subsection
3 1 of NRS 483.495 as a condition of reinstatement of the driver's license of the
4 child.

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

9 4. The juvenile court may:

10 (a) Authorize the Department of Motor Vehicles to issue ~~fa-restricted-driver's~~
11 ~~license~~ *an ignition interlock privilege* pursuant to NRS 483.490 to a child whose
12 driver's license is revoked pursuant to this section; and

13 (b) Order the child to install, at his or her own expense, or at the expense of the
14 parent or guardian of the child, ~~fa~~ *an ignition interlock* device in any motor
15 vehicle the child operates as a condition to obtaining ~~fa-restricted-license~~ *an*
16 *ignition interlock privilege* pursuant to NRS 483.490.

17 5. As used in this section ~~fa~~ *“device”*:

18 (a) *“Ignition interlock device”* has the meaning ascribed to it in ~~NRS~~
19 ~~484C.450~~ *section 9 of this act.*

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

22 **Sec. 33.** NRS 176A.240 is hereby amended to read as follows:

23 176A.240 1. Except as otherwise provided in subparagraph (1) of paragraph
24 (a) of subsection 3 of NRS 176.211, if a defendant who suffers from a substance
25 use disorder or any co-occurring disorder tenders a plea of guilty, guilty but
26 mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of,
27 any offense for which the suspension of sentence or the granting of probation is not
28 prohibited by statute, the court may:

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

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

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

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

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

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

45 (b) Pursuant to a substance use assessment.

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

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

52 5. Upon violation of a term or condition:

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

3 (b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS
4 193.130, the court may order the defendant to the custody of the Department of
5 Corrections if the offense is punishable by imprisonment in the state prison.

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

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

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

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

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

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

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

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

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

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

47 176A.245 1. ~~After~~ *Except as otherwise provided in subsection 2, after*
48 defendant is discharged from probation or a case is dismissed pursuant to NRS
49 176A.240, the court shall order sealed all documents, papers and exhibits in the
50 defendant's record, minute book entries and entries on dockets, and other
51 documents relating to the case in the custody of such other agencies and officers as
52 are named in the court's order if the defendant fulfills the terms and conditions
53 imposed by the court and the Division. The court shall order those records sealed

1 without a hearing unless the Division petitions the court, for good cause shown, not
2 to seal the records and requests a hearing thereon.

3 **2. *If the defendant is charged with a violation of NRS 200.485, 484C.110 or***
4 ***484C.210 and the charges are conditionally dismissed or the judgment of***
5 ***conviction is set aside as provided in NRS 176A.240, not sooner than 7 years after***
6 ***the charges are conditionally dismissed or the judgment of conviction is set aside***
7 ***and upon the filing of a petition by the defendant, the justice court, municipal***
8 ***court or district court, as applicable, shall order that all documents, papers and***
9 ***exhibits in the defendant's record, minute book entries and entries on dockets,***
10 ***and other documents relating to the case in the custody of such other agencies***
11 ***and officers as are named in the court's order be sealed. The justice court,***
12 ***municipal court or district court, as applicable, shall order those records sealed***
13 ***without a hearing unless the Division petitions the court, for good cause shown,***
14 ***not to seal the records and requests a hearing thereon.***

15 **3.** If the court orders sealed the record of a defendant who is discharged from
16 probation, ~~for~~ whose case is dismissed, ***whose charges were conditionally***
17 ***dismissed or whose judgment of conviction was set aside*** pursuant to NRS
18 176A.240, the court shall send a copy of the order to each agency or officer named
19 in the order. Each such agency or officer shall notify the court in writing of its
20 compliance with the order.

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

22 176A.260 1. Except as otherwise provided in subparagraph (1) of paragraph
23 (a) of subsection 3 of NRS 176.211, if a defendant who suffers from mental illness
24 or is intellectually disabled tenders a plea of guilty, guilty but mentally ill or nolo
25 contendere to, or is found guilty or guilty but mentally ill of, any offense for which
26 the suspension of sentence or the granting of probation is not prohibited by statute,
27 the court may:

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

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

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

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

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

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

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

46 **3.** A counselor or physician who diagnoses a defendant as having a mental
47 illness or intellectual disability shall submit a report and recommendation to the
48 court concerning the length and type of treatment required for the defendant within
49 the maximum probation terms applicable to the offense for which the defendant is
50 convicted.

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

1 5. Upon violation of a term or condition:

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

4 (b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS
5 193.130, the court may order the defendant to the custody of the Department of
6 Corrections if the offense is punishable by imprisonment in the state prison.

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

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

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

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

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

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

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

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

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

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

48 176A.265 1. ~~After~~ *Except as otherwise provided in subsection 2, after*
49 a defendant is discharged from probation or a case is dismissed pursuant to NRS
50 176A.260, the court shall order sealed all documents, papers and exhibits in the
51 defendant's record, minute book entries and entries on dockets, and other
52 documents relating to the case in the custody of such other agencies and officers as
53 are named in the court's order if the defendant fulfills the terms and conditions

1 imposed by the court and the Division. The court shall order those records sealed
2 without a hearing unless the Division petitions the court, for good cause shown, not
3 to seal the records and requests a hearing thereon.

4 2. *If the defendant is charged with a violation of NRS 200.485, 484C.110 or*
5 *484C.120 and the charges are conditionally dismissed or the judgment of*
6 *conviction is set aside as provided in NRS 176A.260, not sooner than 7 years after*
7 *the charges are conditionally dismissed or the judgment of conviction is set aside*
8 *and upon the filing of a petition by the defendant, the justice court, municipal*
9 *court or district court, as applicable, shall order that all documents, papers and*
10 *exhibits in the defendant's record, minute book entries and entries on dockets,*
11 *and other documents relating to the case in the custody of such other agencies*
12 *and officers as are named in the court's order be sealed. The justice court,*
13 *municipal court or district court, as applicable, shall order those records sealed*
14 *without a hearing unless the Division petitions the court, for good cause shown,*
15 *not to seal the records and requests a hearing thereon.*

16 3. If the court orders sealed the record of a defendant who is discharged from
17 probation, ~~to~~ whose case is dismissed, *whose charges were conditionally*
18 *dismissed or whose judgment of conviction was set aside* pursuant to NRS
19 176A.260, the court shall send a copy of the order to each agency or officer named
20 in the order. Each such agency or officer shall notify the court in writing of its
21 compliance with the order.

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

23 176A.290 1. Except as otherwise provided in subparagraph (1) of paragraph
24 (a) of subsection 3 of NRS 176.211 and NRS 176A.287, if a defendant described in
25 NRS 176A.280 tenders a plea of guilty, guilty but mentally ill or nolo contendere
26 to, or is found guilty or guilty but mentally ill of:

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

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

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

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

45 2. Upon violation of a term or condition:

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

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

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

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

6 (c) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS
7 193.130, the district court may order the defendant to the custody of the
8 Department of Corrections if the offense is punishable by imprisonment in the state
9 prison.

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

12 (a) The district court:

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

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

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

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

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

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

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

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

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

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

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

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

24 3. If the justice court, municipal court or district court, as applicable, orders
25 sealed the record of a defendant who is discharged from probation, whose case is
26 dismissed, ~~[or]~~ whose charges were conditionally dismissed *or whose judgment of*
27 *conviction was set aside* pursuant to NRS 176A.290, the court shall send a copy of
28 the order to each agency or officer named in the order. Each such agency or officer
29 shall notify the justice court, municipal court or district court, as applicable, in
30 writing of its compliance with the order.

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

32 179.245 1. Except as otherwise provided in subsection 6 and NRS 176.211,
33 176A.245, 176A.265, 176A.295, 179.247, 179.259, 201.354 and 453.3365, a
34 person may petition the court in which the person was convicted for the sealing of
35 all records relating to a conviction of:

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

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

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

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

47 (e) A violation of NRS 422.540 to 422.570, inclusive, a violation of NRS
48 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic
49 violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of
50 release from actual custody or from the date when the person is no longer under a
51 suspended sentence, whichever occurs later;

52 (f) Except as otherwise provided in paragraph (e), if the offense is punished as
53 a misdemeanor, a battery pursuant to NRS 200.481, harassment pursuant to NRS

1 200.571, stalking pursuant to NRS 200.575 or a violation of a temporary or
2 extended order for protection, after 2 years from the date of release from actual
3 custody or from the date when the person is no longer under a suspended sentence,
4 whichever occurs later; or

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

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

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

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

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

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

21 (1) Date of birth of the petitioner;

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

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

25 3. Upon receiving a petition pursuant to this section, the court shall notify the
26 law enforcement agency that arrested the petitioner for the crime and the
27 prosecuting attorney, including, without limitation, the Attorney General, who
28 prosecuted the petitioner for the crime. The prosecuting attorney and any person
29 having relevant evidence may testify and present evidence at any hearing on the
30 petition.

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

37 5. If the court finds that, in the period prescribed in subsection 1, the
38 petitioner has not been charged with any offense for which the charges are pending
39 or convicted of any offense, except for minor moving or standing traffic violations,
40 the court may order sealed all records of the conviction which are in the custody of
41 any agency of criminal justice or any public or private agency, company, official or
42 other custodian of records in the State of Nevada, and may also order all such
43 records of the petitioner returned to the file of the court where the proceeding was
44 commenced from, including, without limitation, the Federal Bureau of Investigation
45 and all other agencies of criminal justice which maintain such records and which
46 are reasonably known by either the petitioner or the court to have possession of
47 such records.

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

50 (a) A crime against a child;

51 (b) A sexual offense;

52 (c) Invasion of the home with a deadly weapon pursuant to NRS 205.067;

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

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

4 (f) A homicide resulting from driving or being in actual physical control of a
5 vehicle while under the influence of intoxicating liquor or a controlled substance or
6 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
7 484C.430;

8 (g) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS
9 488.427; or

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

11 **7. The provisions of paragraph (e) of subsection 1 and paragraph (d) of**
12 **subsection 6 must not be construed to preclude a person from being able to**
13 **petition the court to seal records relating to a conviction for a violation of NRS**
14 **484C.110 or 484C.120 pursuant to this section if the person was found guilty of a**
15 **violation of NRS 484C.110 or 484C.120 that is punishable pursuant to:**

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

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

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

24 ~~8.~~ **9. As used in this section:**

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

26 (b) "Sexual offense" means:

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

30 (2) Sexual assault pursuant to NRS 200.366.

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

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

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

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

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

43 (8) An offense involving pornography and a minor pursuant to NRS
44 200.710 to 200.730, inclusive.

45 (9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

3 (16) Luring a child or a person with mental illness pursuant to NRS
4 201.560, if punishable as a felony.

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

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

7 179.259 1. Except as otherwise provided in subsections 3, 4 and 5, 4 years
8 after an eligible person completes a program for reentry, the court may order sealed
9 all documents, papers and exhibits in the eligible person's record, minute book
10 entries and 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 court's order. The
12 court may order those records sealed without a hearing unless the Division of
13 Parole and Probation of the Department of Public Safety petitions the court, for
14 good cause shown, not to seal the records and requests a hearing thereon.

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

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

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

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

27 6. As used in this section:

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

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

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

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

37 (c) "Program for reentry" means:

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

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

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

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

46 200.485 1. Unless a greater penalty is provided pursuant to subsections 2 to
47 5, inclusive, or NRS 200.481, a person convicted of a battery which constitutes
48 domestic violence pursuant to NRS 33.018:

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

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

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

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

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

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

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

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

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

25 2. Unless a greater penalty is provided pursuant to subsection 3 or NRS
26 200.481, a person convicted of a battery which constitutes domestic violence
27 pursuant to NRS 33.018, if the battery is committed by strangulation as described in
28 NRS 200.481, is guilty of a category C felony and shall be punished as provided in
29 NRS 193.130.

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

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

33 (b) A battery which constitutes domestic violence pursuant to NRS 33.018, if
34 the battery is committed with the use of a deadly weapon as described in NRS
35 200.481; or

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

38 ➤ and who commits a battery which constitutes domestic violence pursuant to NRS
39 33.018 is guilty of a category B felony and shall be punished by imprisonment in
40 the state prison for a minimum term of not less than 2 years and a maximum term
41 of not more than 15 years, and shall be further punished by a fine of not less than
42 \$2,000, but not more than \$5,000.

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

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

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

52 5. Unless a greater penalty is provided pursuant to NRS 200.481, a person
53 convicted of a battery which constitutes domestic violence pursuant to NRS 33.018,

1 if the battery causes substantial bodily harm, is guilty of a category B felony and
2 shall be punished by imprisonment in the state prison of a minimum term of not
3 less than 1 year and a maximum term of not more than 6 years, and may be further
4 punished by a fine of not less than \$1,000, but not more than \$5,000.

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

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

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

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

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

22 (a) When evidenced by a conviction; or

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

27 ↪ without regard to the sequence of the offenses and convictions. An offense
28 which is listed in paragraph (a), (b) or (c) of subsection 3 that occurred on any date
29 preceding the date of the principal offense or after the principal offense constitutes
30 a prior offense for the purposes of this section when evidenced by a conviction,
31 without regard to the sequence of the offenses and convictions. The facts
32 concerning a prior offense must be alleged in the complaint, indictment or
33 information, must not be read to the jury or proved at trial but must be proved at the
34 time of sentencing and, if the principal offense is alleged to be a felony, must also
35 be shown at the preliminary examination or presented to the grand jury.

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

40 9. If it appears from information presented to the court that a child under the
41 age of 18 years may need counseling as a result of the commission of a battery
42 which constitutes domestic violence pursuant to NRS 33.018, the court may refer
43 the child to an agency which provides child welfare services. If the court refers a
44 child to an agency which provides child welfare services, the court shall require the
45 person convicted of a battery which constitutes domestic violence pursuant to NRS
46 33.018 to reimburse the agency for the costs of any services provided, to the extent
47 of the convicted person's ability to pay.

48 10. If a person is charged with committing a battery which constitutes
49 domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss
50 such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo
51 contendere to a lesser charge or for any other reason unless the prosecuting attorney
52 knows, or it is obvious, that the charge is not supported by probable cause or cannot
53 be proved at the time of trial. Except as otherwise provided in this subsection, a

1 court shall not grant probation to or suspend the sentence of such a person. A court
2 may grant probation to or suspend the sentence of such a person:

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

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

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

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

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

15 12. A person who violates any provision included in a judgment of conviction
16 or admonishment of rights issued pursuant to this section concerning the surrender,
17 sale, transfer, ownership, possession, custody or control of a firearm is guilty of a
18 category B felony and shall be punished by imprisonment in the state prison for a
19 minimum term of not less than 1 year and a maximum term of not more than 6
20 years, and may be further punished by a fine of not more than \$5,000. The court
21 must include in the judgment of conviction or admonishment of rights a statement
22 that a violation of such a provision in the judgment or admonishment is a category
23 B felony and shall be punished by imprisonment in the state prison for a minimum
24 term of not less than 1 year and a maximum term of not more than 6 years, and may
25 be further punished by a fine of not more than \$5,000.

26 13. As used in this section:

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

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

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

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

35 209.427 1. If the results of an evaluation conducted pursuant to NRS
36 484C.300 or 488.430 indicate that an offender has an alcohol or other substance use
37 disorder and that the offender can be treated successfully for his or her condition,
38 the Director shall, except as otherwise provided in this section ~~and~~ *and unless a*
39 *court has already assigned the offender to a program of treatment pursuant to*
40 *subparagraph (2) of paragraph (c) of subsection 1 of NRS 484C.400,* assign the
41 offender to the program of treatment established pursuant to NRS 209.425. Such an
42 assignment must be, to the extent that the period reasonably can be predicted, for
43 the year, or as much thereof as practicable, immediately preceding the date the
44 offender is due to be released from prison, either on parole or at the expiration of
45 the offender's term.

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

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

51 (b) The likelihood that the offender will complete the entire program of
52 treatment.

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

4 4. The Director is not required to assign an offender to the program of
5 treatment if the offender is not eligible for assignment to an institution or facility of
6 minimum security pursuant to the provisions of NRS 209.481 and the regulations
7 adopted pursuant thereto.

8 5. The Director may withdraw the offender from the program of treatment at
9 any time if the Director determines that the offender:

10 (a) Is not responding satisfactorily to the program; or

11 (b) Has failed or refused to comply with any term or condition of the program.

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

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

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

25 **Sec. 45.** NRS ~~[484C.390]~~ **484C.395** and 484C.450 are hereby repealed.

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

TEXT OF REPEALED SECTIONS

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

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.