Assembly Bill No. 427–Committee on Judiciary

CHAPTER.....

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

Legislative Counsel's Digest:

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

Existing law establishes the circumstances in which the Department is authorized to issue a restricted driver's license to a person whose license has been suspended or revoked, which enables the person to drive to and from certain places for certain purposes. (NRS 483.490) Existing law also requires a court to order certain persons to install for a certain period, depending on the offense committed, an ignition interlock device in any motor vehicle that the person operates as a condition to obtaining such a restricted license. (NRS 484C.210, 484C.460) **Section 28** of this bill requires a court to order certain persons to install an ignition interlock device for a period of 185 days, 1 year or 3 years, depending on the offense committed, which aligns such periods with the periods of the revocation of

person's license, permit or privilege to drive under **section 5**. **Section 7** of this bill requires the Department to issue an ignition interlock privilege in lieu of a restricted driver's license to such persons who have been ordered by the court to install an ignition interlock device after such persons provide proof of compliance with the order. **Section 7** also provides that any person for whom a court has provided an exception relating to the installation of an ignition interlock device is eligible for a restricted driver's license while participating in and complying with the requirements of the statewide sobriety and drug monitoring program. **Section 14** of this bill requires a court to give day-for-day credit to certain persons who install an ignition interlock device before the court orders the installation if such persons provide proof satisfactory to the court that the ignition interlock device was installed.

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

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

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

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

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

Existing law authorizes a person who is found guilty of a first or second violation within 7 years of driving under the influence of alcohol or a prohibited substance to apply to the court to undergo a program of treatment for an alcohol or

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

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

Existing law enacts the Nevada 24/7 Sobriety and Drug Monitoring Program Act, which generally establishes a statewide sobriety and drug monitoring program that provides for the frequent testing of persons assigned to the program to determine the presence of alcohol or a prohibited substance in their system. (NRS 484C.372-484C.397) A court is authorized to assign an offender to the program who is found guilty of a second or third violation within 7 years of driving under the influence of alcohol or a prohibited substance. (NRS 484C.394) **Sections 23-26 and 45** of this bill make various changes to the program. **Section 23** requires a participant in the program to be subject to: (1) testing to determine the presence of alcohol in his or her system either at a designated testing location at least twice each day or by using any other method approved under federal regulations; and (2) if appropriate, random testing to determine the presence of a prohibited substance in his or her system at least two times each week using any method approved under federal regulations. **Section 23** also provides that any person who uses alcohol or a prohibited substance while assigned to the program or fails or refuses to undergo required testing must be subject to an immediate sanction unless the approved testing method used does not allow for the imposition of an immediate sanction, in which case the person must be subject to a timely sanction. **Section 22.5** of this bill revises the definition of the term "timely sanction." **Section 23** additionally removes a provision allowing other testing methodologies to be used in cases of economic hardship or when a participant is rewarded with less stringent testing requirements. **Section 45** repeals certain provisions that have been included in or are amended by **section 23**. **Section 24** of this bill authorizes a person who was arrested or found guilty, as applicable, of a first, second or third violation within 7 years of driving under the influence of alcohol or a prohibited substance to be assigned to the program as a condition of pretrial release, a sentence, or suspension of sentence or probation. **Section 24** requires a person who committed: (1) a first violation within 7 years of driving under the influence of alcohol or a controlled substance to participate in the program for not less than 90 days; and (2) a second or third violation within 7 years of driving under the influence of alcohol or a prohibited substance to participate in the program for not less than 1 year or 18

months, respectively, and receive an assessment of whether the person has an alcohol or other substance use disorder and any appropriate treatment. If any such repeat offender successfully completes the program, his or her sentence will be reduced, but the minimum mandatory term of imprisonment the person serves must not be less than 5 or 10 days, respectively. **Section 26** of this bill specifies that if rewards are given to participants in the program who meet certain standards of compliance, such a reward cannot include undergoing less frequent testing than that which is required.

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

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

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

Section 39 of this bill provides that the provisions of law which prohibit a person who was convicted of a violation of driving under the influence of alcohol or a prohibited substance that is punishable as a felony from being able to petition the court to seal the records relating to such a conviction must not be construed to preclude certain persons from petitioning the court for the sealing of records.

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

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

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

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

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

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

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

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

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

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

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

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle crash resulting in the death or bodily injury of 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, and sections 2, 3 and 4 of this act, 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.

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

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

(1) ***A first violation 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) A violation of subsection 9 of NRS 484B.653.

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

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

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

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

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

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

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

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

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

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

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

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

restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) To and from court appearances;

(d) To and from counseling; or

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

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

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

(b) If applicable, to and from school.

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

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

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

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

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

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

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

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

➥ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

~~[8.]~~ ***6.*** The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively,

except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

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

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

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

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

Sec. 9. ***"Ignition interlock 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.

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

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

(a) Establish the Ignition Interlock Program; and

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

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

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

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

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

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

(c) An on-site audit program;

(d) Treatment assistance;

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

(f) Outreach programs.

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

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

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

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

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

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

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

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

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

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

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

484C.150 1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration

of alcohol in his or her breath when the test is administered at the request of a police officer at the scene of a vehicle crash or where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was:

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

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

2. If the person fails to submit to the test, the officer shall ~~[:~~

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

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

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

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

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

(a) One year; or

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

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

3. ~~[Except as otherwise provided in subsection 1, at]~~ ***At*** any time while a person is not eligible for a license, permit or privilege to drive following a revocation under subsection 1 or 2 ***,*** ~~[which was based on the person having a concentration of alcohol of 0.08 or more in his or her blood or breath,]~~ the person shall install, at his or her own expense, ~~[a]~~ ***an ignition interlock*** device in any motor

vehicle which the person operates as a condition to obtaining ~~[a restricted license]~~ ***an ignition interlock privilege*** pursuant to NRS 483.490.

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

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

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

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

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

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

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

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

484C.220 1. As agent for the Department, the officer who requested that a test be given pursuant to NRS 484C.150 or 484C.160 or who obtained the result of a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who failed to submit to a test requested by the police officer pursuant to NRS ~~[484C.150 or]~~ 484C.160 or who has a concentration of alcohol of 0.08 or more in his or her blood or

breath or has a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 678C.080, if that person is present, and shall seize the license or permit to drive of the person. The officer shall then, unless the information is expressly set forth in the order of revocation, advise the person of his or her right to administrative and judicial review of the revocation pursuant to NRS 484C.230 and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. The officer shall also, unless the information is expressly set forth in the order of revocation, advise the person that he or she is required to install ~~[a]~~ ***an ignition interlock*** device pursuant to NRS 484C.210. If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484C.230, the person is not entitled to request an additional temporary license pursuant to this section or NRS 484C.230, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

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

(a) With a concentration of alcohol of 0.08 or more in his or her blood or breath or with a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in

NRS 453.128, or hold a valid registry identification card, as defined in NRS 678C.080, as determined by a chemical test; or

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

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

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

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

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

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

484C.230 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484C.220, the person may request in writing a hearing by the Department to review the order of revocation, but the person is only entitled to one hearing. The hearing must be conducted as soon as is practicable at any location, if the hearing officer permits each party and witness to attend the hearing by telephone, videoconference or other electronic means. The Director or agent of the Director may issue subpoenas for the attendance of

witnesses and the production of relevant books and papers and may require a reexamination of the requester. Unless the person is ineligible for a temporary license pursuant to NRS 484C.220, the Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review. A person who is issued a temporary license is not subject to and is exempt ***during the period of the administrative review*** from the requirement to install ~~[a]~~ ***an ignition interlock*** device pursuant to NRS 484C.210.

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

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

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

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

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

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

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

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

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

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

2. The evaluation must be conducted by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Advise the offender that:

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

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

(3) If the offender fails to complete the program of treatment satisfactorily, the offender shall serve the sentence imposed by the

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The offender has served or will serve a term of imprisonment in jail of ***not less than*** 5 days and, if required pursuant to

NRS 484C.400, has performed or will perform not less than one-half of the hours of community service.

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

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

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

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

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

(c) Advise the offender that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Advise the offender that:

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

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

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

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

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

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

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

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

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

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

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

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

~~[(c)]~~ ***(d)*** Not drive any vehicle unless it is equipped with ~~[a]~~ ***an ignition interlock*** device;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Release the offender for treatment in the community,

➥ for the period of supervision ordered by the court.

2. The court shall:

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

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

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

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

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

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

Sec. 22. (Deleted by amendment.)

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

484C.390 "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.

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

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

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

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

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

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

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

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

(a) Must abstain from alcohol and prohibited substances while assigned to the program.

(b) Must be subject to:

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

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

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

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

(c) Must be subject to 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, incarceration. Any such sanction must be an immediate sanction or, if the approved testing method being used pursuant to paragraph (b) does not allow for the imposition of an immediate sanction, a timely sanction.

(d) 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 if the driver's license of the person is suspended or revoked.

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

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

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

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

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

(c) Shall advise the offender that:

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

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

(3) 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.

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

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

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

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

(c) Shall advise the offender that:

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

(2) ~~[If]~~ ***Except as otherwise provided in subparagraph (2) of paragraph (c) of subsection 4, if*** the offender participates in the

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

(3) The offender 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.***

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

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

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

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

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

(c) Shall advise the offender that:

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

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

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

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

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

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

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

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

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

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

7. Require a program participant to sign an agreement:

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

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

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

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

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

484C.400 1. Unless a greater penalty is provided pursuant to NRS 484C.430 or 484C.440, and except as otherwise provided in

NRS ***484C.394 or*** 484C.410, a person who violates the provisions of NRS 484C.110 or 484C.120:

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

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

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

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

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

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

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

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

(1) Sentence the person to:

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

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

(2) Fine the person not less than $750 nor more than $1,000, or order the person to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies

the person as having violated the provisions of NRS 484C.110 or 484C.120; and

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

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

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

(1) Shall:

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

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

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

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

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

(a) When evidenced by a conviction; or

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

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

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

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

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

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

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

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

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

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

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

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

obtaining an ignition interlock privilege pursuant to NRS 483.490 to reinstate the driving privilege of the person:

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

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

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

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

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

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

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

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

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

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

(a) The court shall immediately prepare and transmit a copy of its order to the Director. The order must include a statement that ~~[a]~~ ***an ignition interlock*** device is required and the specific period for

which it is required. The Director shall cause this information to be incorporated into the records of the Department and noted ~~[as a restriction]~~ on the person's ~~[driver's license.]~~ ***ignition interlock privilege.***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. A person required to install ~~[a]~~ ***an ignition interlock*** device pursuant to NRS 484C.210 or 484C.460 shall not operate a motor

vehicle without ~~[a]~~ ***an ignition interlock*** device or tamper with the ***ignition interlock*** device.

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

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

(b) Shall be:

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

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

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

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

484C.475 Any person who provides a sample of breath for ~~[a]~~ ***an ignition interlock*** device, with the intent to start a motor vehicle of another and for the purpose of allowing a person required to install ~~[a]~~ ***an ignition interlock*** device pursuant to NRS 484C.210 or 484C.460 to avoid providing a sample of his or her breath, is guilty of a misdemeanor.

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

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

(a) Provide for the certification of ~~[each model of those]~~ ***manufacturers and vendors of ignition interlock*** devices ~~[, described by manufacturer and model, which it approves as designed and manufactured to be accurate and reliable to test a person's breath to determine the concentration of alcohol in the person's breath and, 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, prevent the motor vehicle in which it is installed from starting.]~~ ***to allow such manufacturers and vendors to conduct business in this State.***

(b) Prescribe the form and content of records respecting the calibration of ***ignition interlock*** devices, which must be kept by the manufacturer of the ***ignition interlock*** device or its agent, and other records respecting the installation, removal, inspection, maintenance

and operation of the ***ignition interlock*** devices which it finds should be kept by the manufacturer or its agent.

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

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

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

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

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

3. If a model of ~~[a]~~ ***an ignition interlock*** device has been certified by the ~~[Committee]~~ ***Department of Public Safety*** to be accurate and reliable pursuant to subsection 1, it is presumed that, as designed and manufactured, each ***ignition interlock*** device of that model is accurate and reliable to test a person's breath to determine the concentration of alcohol in the person's breath and, 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, will prevent the motor vehicle in which it is installed from starting.

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

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

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

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

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

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

4. The juvenile court may:

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

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

5. As used in this section ~~[, "device"]~~ ***:***

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

(b) "Ignition interlock privilege" has the meaning ascribed to it in section 10 of this act.

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

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

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

(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to

NRS 176A.230 if the court determines that the defendant is eligible for participation in such a program.

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

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

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

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

(b) Pursuant to a substance use assessment.

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

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

5. Upon violation of a term or condition:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to

NRS 176A.250, if the court determines that the defendant is eligible for participation in such a program.

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

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

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

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

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

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

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

5. Upon violation of a term or condition:

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

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

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

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

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

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

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

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

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

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

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

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

176A.265 1. ~~[~~After~~]~~ ***Except as otherwise provided in subsection 2, after*** a defendant is discharged from probation or a case is dismissed pursuant to NRS 176A.260, the court shall order sealed all documents, papers and exhibits in the defendant's record,

minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

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

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

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

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

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

(1) Without entering a judgment of conviction and with the consent of the defendant, suspend or defer further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program

established pursuant to NRS 176A.280 if the court determines that the defendant is eligible for participation in such a program; or

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

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

2. Upon violation of a term or condition:

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

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

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

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

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

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

(a) The district court:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

179.245 1. Except as otherwise provided in subsection 6 and NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259, 201.354 and 453.3365, a person may petition the court in which the

person was convicted for the sealing of all records relating to a conviction of:

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

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

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

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

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

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

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

2. A petition filed pursuant to subsection 1 must:

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

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

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the

petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

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

(1) Date of birth of the petitioner;

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

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

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

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

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

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

(a) A crime against a child;

(b) A sexual offense;

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

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

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

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

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

(h) A violation of NRS 488.420 or 488.425.

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

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

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

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

~~[8.]~~ ***9.*** As used in this section:

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

(b) "Sexual offense" means:

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

(2) Sexual assault pursuant to NRS 200.366.

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

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

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of

a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

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

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

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

(9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

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

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

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

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

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

3. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for

misconduct, to inspect and to copy from a record sealed pursuant to this section.

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

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

6. As used in this section:

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

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

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

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

(c) "Program for reentry" means:

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

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

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

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

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

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

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

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

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed

pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 12 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

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

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

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

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

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

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

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

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

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

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

➥ and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15

years, and shall be further punished by a fine of not less than $2,000, but not more than $5,000.

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

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

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

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

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

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

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

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

7. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the

principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

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

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

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

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

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

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

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

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

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

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

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

13. As used in this section:

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

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

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

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

209.427 1. If the results of an evaluation conducted pursuant to NRS 484C.300 or 488.430 indicate that an offender has an alcohol or other substance use disorder and that the offender can be treated successfully for his or her condition, the Director shall, except as otherwise provided in this section ~~[,]~~ ***and unless a court has already assigned the offender to a program of treatment pursuant to subparagraph (2) of paragraph (c) of subsection 1 of***

NRS 484C.400, assign the offender to the program of treatment established pursuant to NRS 209.425. Such an assignment must be, to the extent that the period reasonably can be predicted, for the year, or as much thereof as practicable, immediately preceding the date the offender is due to be released from prison, either on parole or at the expiration of the offender's term.

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

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

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

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

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

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

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

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

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

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

Sec. 44. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period

prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

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

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

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