
ASSEMBLY BILL NO. 102—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE HEALTH DIVISION)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing problem gambling.
(BDR 40-329)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to public health; authorizing a court to establish a program of treatment for problem gambling and to assign a person to the program; authorizing a problem gambler to elect to be assigned to such a program under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a court to assign a person who commits certain crimes
2 to an appropriate program of treatment for the abuse of alcohol or drugs established
3 by the court or to an appropriate facility for the treatment of abuse of alcohol or
4 drugs which is certified by the Health Division of the Department of Health and
5 Human Services. (NRS 453.580) **Section 6** of this bill authorizes a court to
6 establish a program for the treatment of problem gambling. Existing law creates the
7 Advisory Committee on Problem Gambling and provides a grant of money or a
8 contract for services to certain programs for the prevention and treatment of
9 problem gambling. (Chapter 458A of NRS) **Sections 7-12** of this bill provide that a
10 problem gambler who has been convicted of certain crimes is eligible to be
11 assigned by a court to a program of treatment and provide eligibility requirements
12 and conditions that must be completed for such treatment.



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

1 **Section 1.** Chapter 458A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 12, inclusive,
3 of this act.

4 **Sec. 2.** *“Certified counselor” has the meaning ascribed to it*
5 *in NRS 641C.050.*

6 **Sec. 3.** *“Certified intern” has the meaning ascribed to it in*
7 *NRS 641C.060.*

8 **Sec. 4.** *“Problem gambler” means a person who suffers from*
9 *problem gambling.*

10 **Sec. 5.** *“Problem gambling” has the meaning ascribed to it*
11 *in NRS 641C.110.*

12 **Sec. 6. 1.** *A court may establish a program for the*
13 *treatment of problem gambling to which it may assign a person*
14 *pursuant to section 7 of this act. The assignment must include the*
15 *terms and conditions for successful completion of the program*
16 *and provide for progress reports at intervals set by the court to*
17 *ensure that the person is making satisfactory progress toward*
18 *completion of the program.*

19 **2.** *A program established pursuant to this section must be*
20 *administered by a certified counselor or certified intern and must*
21 *include, without limitation:*

22 **(a)** *Information and encouragement for the participant to*
23 *cease problem gambling through educational, counseling and*
24 *support sessions;*

25 **(b)** *The opportunity for the participant to understand the*
26 *medical, psychological, social and financial implications of*
27 *problem gambling; and*

28 **(c)** *Appropriate referral to community, health, substance*
29 *abuse, religious and social service agencies for additional*
30 *resources and related services, as needed.*

31 **3.** *Before the court assigns a person to a program for the*
32 *treatment of problem gambling, the person must agree to pay the*
33 *cost of the program to which he is assigned, to the extent of his*
34 *financial resources. If the person does not have the financial*
35 *resources to pay all the related costs, the court shall, to the extent*
36 *practicable, arrange for the person to be assigned to a program*
37 *that receives a sufficient amount of federal or state funding to*
38 *offset the remainder of the costs.*

39 **Sec. 7.** *Subject to the provisions of sections 2 to 12, inclusive,*
40 *of this act, a problem gambler who has been convicted of a crime*
41 *is eligible to elect to be assigned by the court to a program for the*
42 *treatment of problem gambling before he is sentenced unless:*



1 **1. The crime is:**

2 (a) *A crime against the person punishable as a felony or gross*
3 *misdemeanor as provided in chapter 200 of NRS;*

4 (b) *A crime against a child as defined in NRS 179D.0357;*

5 (c) *A sexual offense as defined in NRS 179D.097; or*

6 (d) *An act which constitutes domestic violence as set forth in*
7 *NRS 33.018;*

8 **2. The problem gambler has a record of two or more**
9 **convictions of a crime described in subsection 1 or a similar crime**
10 **in violation of the laws of another state, or of three or more**
11 **convictions of any felony;**

12 **3. Other criminal proceedings alleging commission of a**
13 **felony are pending against the problem gambler; or**

14 **4. The problem gambler is on probation or parole and the**
15 **appropriate probation or parole authority does not consent to the**
16 **election.**

17 **Sec. 8. 1. If the court has reason to believe that a person**
18 **who has been convicted of a crime is a problem gambler, or the**
19 **person states that he is a problem gambler, and the court finds**
20 **that he is eligible to make the election as provided in section 7 of**
21 **this act, the court shall hold a hearing before it sentences the**
22 **person to determine whether or not he should receive treatment**
23 **under the supervision of a certified counselor or certified intern.**
24 **The district attorney may present the court with any evidence**
25 **concerning the advisability of permitting the person to make the**
26 **election.**

27 **2. At the hearing, the court shall advise the person that**
28 **sentencing will be postponed if he elects to submit to treatment**
29 **and is accepted into a program for the treatment of problem**
30 **gambling. In offering the election, the court shall advise him that:**

31 (a) *The court may impose any conditions upon the election of*
32 *treatment that could be imposed as conditions of probation;*

33 (b) *If he elects to submit to treatment and is accepted, he may*
34 *be placed under the supervision of the certified counselor or*
35 *certified intern for a period of not less than 1 year and not more*
36 *than 3 years;*

37 (c) *During treatment, he may be confined in an institution or,*
38 *at the discretion of the certified counselor or certified intern,*
39 *released for treatment or supervised care in the community; and*

40 (d) *If he satisfactorily completes treatment and satisfies the*
41 *conditions upon the election of treatment, as determined by the*
42 *court, the conviction will be set aside, but if he does not*
43 *satisfactorily complete treatment and satisfy the conditions, he*
44 *may be sentenced and the sentence executed.*



1 **Sec. 9. 1.** *If the court, after a hearing, determines that a*
2 *person is entitled to accept the treatment offered pursuant to*
3 *section 7 of this act, the court shall order a certified counselor or*
4 *certified intern to conduct an examination of the person to*
5 *determine whether he is a problem gambler and is likely to be*
6 *rehabilitated through treatment. The certified counselor or*
7 *certified intern shall report to the court the results of the*
8 *examination and recommend whether the person should be placed*
9 *under supervision for treatment.*

10 2. *If the court, acting on the report or other relevant*
11 *information, determines that the person is not a problem gambler,*
12 *is not likely to be rehabilitated through treatment or is otherwise*
13 *not a good candidate for treatment, he may be sentenced and the*
14 *sentence executed.*

15 3. *If the court determines that the person is a problem*
16 *gambler, is likely to be rehabilitated through treatment and is a*
17 *good candidate for treatment, the court may:*

18 (a) *Impose any conditions upon the election of treatment that*
19 *may be imposed as conditions of probation;*

20 (b) *Defer sentencing until such time, if any, as sentencing is*
21 *authorized pursuant to section 10 of this act; and*

22 (c) *Place the person under the supervision of a certified*
23 *counselor or certified intern for not less than 1 year and not more*
24 *than 3 years.*

25 ↳ *The court may require such progress reports on the treatment*
26 *of the person as it deems necessary.*

27 4. *A person who is placed under the supervision of a certified*
28 *counselor or certified intern shall pay the cost of the program of*
29 *treatment to which he is assigned and the cost of any additional*
30 *supervision that may be required, to the extent of his financial*
31 *resources. The court may issue a judgment in favor of the court or*
32 *the certified counselor or certified intern for the costs of the*
33 *treatment and supervision which remain unpaid at the conclusion*
34 *of the treatment. The judgment constitutes a lien in like manner as*
35 *a judgment for money rendered in a civil action, but in no event*
36 *may the amount of the judgment include any amount of the debt*
37 *which was extinguished by the successful completion of*
38 *community service pursuant to subsection 5.*

39 5. *If the person who is placed under the supervision of a*
40 *certified counselor or certified intern does not have the financial*
41 *resources to pay all of the related costs:*

42 (a) *The court shall, to the extent practicable, arrange for the*
43 *person to be assigned to a program that receives a sufficient*
44 *amount of federal or state funding to offset the remainder of the*
45 *costs; and*



1 ***(b) The court may order the person to perform supervised***
2 ***community service in lieu of paying the remainder of the costs***
3 ***relating to his treatment and supervision. The community service***
4 ***must be performed for and under the supervising authority of a***
5 ***county, city, town or other political subdivision or agency of this***
6 ***State or a charitable organization that renders service to the***
7 ***community or its residents. The court may require the person to***
8 ***deposit with the court a reasonable sum of money to pay for the***
9 ***cost of policies of insurance against liability for personal injury***
10 ***and damage to property or for industrial insurance, or both,***
11 ***during those periods in which the person performs the community***
12 ***service, unless, if the insurance is industrial insurance, it is***
13 ***provided by the authority for which he performs the community***
14 ***service.***

15 ***6. No person may be placed under the supervision of a***
16 ***certified counselor or certified intern pursuant to this section***
17 ***unless the certified counselor or certified intern accepts him for***
18 ***treatment.***

19 ***Sec. 10. 1. Whenever a person is placed under the***
20 ***supervision of a certified counselor or certified intern, his***
21 ***sentencing must be deferred and, except as otherwise provided in***
22 ***subsection 4, his conviction must be set aside if the certified***
23 ***counselor or certified intern certifies to the court that he has***
24 ***satisfactorily completed the program of treatment and the court***
25 ***approves the certification and determines that the conditions upon***
26 ***the election of treatment have been satisfied.***

27 ***2. If, upon the expiration of the treatment period, the certified***
28 ***counselor or certified intern has not certified that the person has***
29 ***completed his program of treatment, the court shall sentence him.***
30 ***If he has satisfied the conditions upon the election of treatment***
31 ***and the court believes that he will complete his treatment***
32 ***voluntarily, the court may set the conviction aside.***

33 ***3. If, before the treatment period expires, the certified***
34 ***counselor or certified intern determines that the person is not***
35 ***likely to benefit from further treatment, the certified counselor or***
36 ***certified intern shall so advise the court. The court shall then:***

37 ***(a) Arrange for the transfer of the person to a more suitable***
38 ***program, if any; or***

39 ***(b) Terminate the supervision and conduct a hearing to***
40 ***determine whether the person should be sentenced.***

41 ***↳ If a person is sentenced pursuant to this section, any time spent***
42 ***in institutional care must be deducted from any sentence imposed.***

43 ***4. Regardless of whether the person successfully completes***
44 ***treatment, the court shall not set aside the conviction of a person***



1 *who has a record of two or more convictions of any felony for two*
2 *or more separate incidents.*

3 **Sec. 11.** *The determination of problem gambling and civil*
4 *commitment pursuant to sections 2 to 12, inclusive, of this act*
5 *shall not be deemed a criminal conviction.*

6 **Sec. 12.** *The provisions of sections 2 to 12, inclusive, of this*
7 *act do not require this State or any of its political subdivisions to*
8 *establish or finance any program for the treatment of problem*
9 *gambling.*

10 **Sec. 13.** NRS 458A.010 is hereby amended to read as follows:
11 458A.010 As used in this chapter, unless the context otherwise
12 requires, the words and terms defined in NRS 458A.020 to
13 458A.050, inclusive, *and sections 2 to 5, inclusive, of this act* have
14 the meanings ascribed to them in those sections.

