

ASSEMBLY BILL NO. 81—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 20, 2014

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing programs of treatment for the abuse of alcohol or drugs. (BDR 40-488)

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 specialty court programs; revising provisions governing programs of treatment for the abuse of alcohol or drugs; defining the term “treatment provider”; replacing references to a facility for the treatment of alcohol or drugs with the term “treatment provider”; authorizing a court to allow a person to complete treatment for the abuse of alcohol or drugs under the supervision of a treatment provider in another jurisdiction in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that in certain circumstances, an alcoholic or a drug
2 addict who has been convicted of a crime is eligible to elect to be assigned by the
3 court to a program of treatment for the abuse of alcohol or drugs before he or she is
4 sentenced. (NRS 458.300) If the court finds that the person is eligible to make such
5 an election, the court is required to hold a hearing before it sentences the person to
6 determine whether the person should receive treatment under the supervision of a
7 state-approved facility for the treatment of alcohol or drugs. (NRS 458.310)
8 **Section 11** of this bill replaces the term “facility” for the purposes of chapter 458 of
9 NRS with the term “treatment provider” and defines “treatment provider” as a
10 person or a public or private agency, residential treatment center, facility for the
11 treatment of abuse of alcohol or drugs, or voluntary organization which is certified
12 by the Division of Public and Behavioral Health of the Department of Health
13 and Human Services. **Sections 12-19 and 21-24** of this bill replace references to
14 the term “facility” in chapter 458 of NRS with the term “treatment provider.”



15 **Section 10** of this bill provides that if a court places a person under the supervision
16 of a treatment provider to receive treatment, the court may, in certain
17 circumstances, authorize the person to complete any period of treatment remaining
18 under the supervision of a treatment provider in another jurisdiction. **Section 21**
19 revises the duties of the court when the court offers the election of a treatment
20 program to a person.

21 Existing law also allows certain offenders found guilty of driving under the
22 influence of alcohol or a prohibited substance to apply to the court to undergo a
23 program of treatment for alcoholism and drug abuse. (NRS 484C.320, 484C.330,
24 484C.340) **Sections 27-34** of this bill replace the term "treatment facility" for the
25 purposes of chapter 484C of NRS with the term "treatment provider." **Sections 28-**
26 **30** also revise the duties of the court upon determining that an application for
27 treatment should be granted.

28 Additionally, existing law generally sets forth provisions relating to medical
29 facilities and related entities. (Chapter 449 of NRS) **Section 35** of this bill repeals
30 the section that defines the term "facility for the treatment of abuse of alcohol or
31 drugs" for the purposes of chapter 449 of NRS, and **section 1** of this bill adds a new
32 definition of the term "treatment provider." **Sections 3-7** of this bill replace
33 references to the term "facility for the treatment of abuse of alcohol or drugs" in
34 chapter 449 of NRS with the term "treatment provider."

35 **Sections 8, 9, 25 and 26** of this bill generally replace references to facilities for
36 the treatment of abuse of alcohol or drugs in other chapters of NRS with the term
37 "treatment provider."

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

1 **Section 1.** Chapter 449 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *"Treatment provider" has the meaning ascribed to it in*
4 *NRS 458.010.*

5 **Sec. 2.** NRS 449.001 is hereby amended to read as follows:
6 449.001 As used in this chapter, unless the context otherwise
7 requires, the words and terms defined in NRS 449.0015 to
8 449.0195, inclusive, *and section 1 of this act* have the meanings
9 ascribed to them in those sections.

10 **Sec. 3.** NRS 449.0045 is hereby amended to read as follows:
11 449.0045 "Facility for the dependent" includes:

- 12 1. A ~~facility for the treatment of abuse of alcohol or drugs;~~
13 *treatment provider;*
- 14 2. A halfway house for recovering alcohol and drug abusers;
- 15 3. A facility for the care of adults during the day;
- 16 4. A residential facility for groups;
- 17 5. An agency to provide personal care services in the home;
- 18 6. A facility for transitional living for released offenders; and
- 19 7. A home for individual residential care.



1 **Sec. 4.** NRS 449.0055 is hereby amended to read as follows:

2 449.0055 1. "Facility for transitional living for released
3 offenders" means a residence that provides housing and a living
4 environment for persons who have been released from prison and
5 who require assistance with reintegration into the community, other
6 than such a residence that is operated or maintained by a state or
7 local government or an agency thereof. The term does not include a
8 halfway house for recovering alcohol and drug abusers or a ~~facility~~
9 ~~for the treatment of abuse of alcohol or drugs.] treatment provider.~~

10 2. As used in this section, "person who has been released from
11 prison" means:

12 (a) A parolee.

13 (b) A person who is participating in:

14 (1) A judicial program pursuant to NRS 209.4886 or
15 213.625; or

16 (2) A correctional program pursuant to NRS 209.4888 or
17 213.632.

18 (c) A person who is supervised by the Division of Parole and
19 Probation of the Department of Public Safety through residential
20 confinement pursuant to NRS 213.371 to 213.410, inclusive.

21 (d) A person who has been released from prison by expiration of
22 his or her term of sentence.

23 **Sec. 5.** NRS 449.089 is hereby amended to read as follows:

24 449.089 1. Each license issued pursuant to NRS 449.030 to
25 449.2428, inclusive, expires on December 31 following its issuance
26 and is renewable for 1 year upon reapplication and payment of all
27 fees required pursuant to NRS 449.050 unless the Division finds,
28 after an investigation, that the facility has not:

29 (a) Satisfactorily complied with the provisions of NRS 449.030
30 to 449.2428, inclusive, or the standards and regulations adopted by
31 the Board;

32 (b) Obtained the approval of the Director of the Department of
33 Health and Human Services before undertaking a project, if such
34 approval is required by NRS 439A.100; or

35 (c) Conformed to all applicable local zoning regulations.

36 2. Each reapplication for an agency to provide personal care
37 services in the home, an agency to provide nursing in the home, a
38 facility for intermediate care, a facility for skilled nursing, a hospital
39 described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts
40 payment through Medicare, a residential facility for groups, a
41 program of hospice care, a home for individual residential care, a
42 facility for the care of adults during the day, a facility for hospice
43 care, a nursing pool, the distinct part of a hospital which meets the
44 requirements of a skilled nursing facility or nursing facility pursuant
45 to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing-bed



1 services as described in 42 C.F.R. § ~~[482.66]~~ 482.58 or, if
2 residential services are provided to children, a medical facility or
3 ~~[facility for the treatment of abuse of alcohol or drugs]~~ *treatment*
4 *provider* must include, without limitation, a statement that the
5 facility, hospital, agency, program, ~~[or]~~ home *or treatment provider*
6 is in compliance with the provisions of NRS 449.119 to 449.125,
7 inclusive, and 449.174.

8 3. Each reapplication for an agency to provide personal care
9 services in the home, a facility for intermediate care, a facility for
10 skilled nursing, a facility for the care of adults during the day, a
11 residential facility for groups or a home for individual residential
12 care must include, without limitation, a statement that the holder of
13 the license to operate, and the administrator or other person in
14 charge and employees of, the facility, agency or home are in
15 compliance with the provisions of NRS 449.093.

16 **Sec. 6.** NRS 449.119 is hereby amended to read as follows:

17 449.119 As used in NRS 449.119 to 449.125, inclusive,
18 “facility, hospital, agency, program or home” means an agency to
19 provide personal care services in the home, an agency to provide
20 nursing in the home, a facility for intermediate care, a facility for
21 skilled nursing, a hospital described in 42 U.S.C. §
22 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a
23 residential facility for groups, a program of hospice care, a home for
24 individual residential care, a facility for the care of adults during the
25 day, a facility for hospice care, a nursing pool, the distinct part of a
26 hospital which meets the requirements of a skilled nursing facility or
27 nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that
28 provides swing-bed services as described in 42 C.F.R. § ~~[482.66]~~
29 482.58 or, if residential services are provided to children, a medical
30 facility or ~~[facility for the treatment of abuse of alcohol or drugs.]~~
31 *treatment provider*.

32 **Sec. 7.** NRS 449.121 is hereby amended to read as follows:

33 449.121 1. Except as otherwise provided in subsection 2, the
34 provisions of NRS 449.119 to 449.125, inclusive, and 449.174 do
35 not apply to any ~~[facility for the treatment of abuse of alcohol or~~
36 ~~drugs.] treatment provider~~.

37 2. A ~~[facility for the treatment of abuse of alcohol or drugs]~~
38 *treatment provider* must comply with the requirements of NRS
39 449.119 to 449.125, inclusive, and 449.174 if the ~~[facility for the~~
40 ~~treatment of abuse of alcohol or drugs]~~ *treatment provider* provides
41 residential services to children.

42 **Sec. 8.** NRS 453.336 is hereby amended to read as follows:

43 453.336 1. Except as otherwise provided in subsection 5, a
44 person shall not knowingly or intentionally possess a controlled
45 substance, unless the substance was obtained directly from, or



1 pursuant to, a prescription or order of a physician, physician
2 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
3 podiatric physician, optometrist, advanced practice registered nurse
4 or veterinarian while acting in the course of his or her professional
5 practice, or except as otherwise authorized by the provisions of NRS
6 453.005 to 453.552, inclusive.

7 2. Except as otherwise provided in subsections 3 and 4 and in
8 NRS 453.3363, and unless a greater penalty is provided in NRS
9 212.160, 453.3385, 453.339 or 453.3395, a person who violates this
10 section shall be punished:

11 (a) For the first or second offense, if the controlled substance is
12 listed in schedule I, II, III or IV, for a category E felony as provided
13 in NRS 193.130.

14 (b) For a third or subsequent offense, if the controlled substance
15 is listed in schedule I, II, III or IV, or if the offender has previously
16 been convicted two or more times in the aggregate of any violation
17 of the law of the United States or of any state, territory or district
18 relating to a controlled substance, for a category D felony as
19 provided in NRS 193.130, and may be further punished by a fine of
20 not more than \$20,000.

21 (c) For the first offense, if the controlled substance is listed in
22 schedule V, for a category E felony as provided in NRS 193.130.

23 (d) For a second or subsequent offense, if the controlled
24 substance is listed in schedule V, for a category D felony as
25 provided in NRS 193.130.

26 3. Unless a greater penalty is provided in NRS 212.160,
27 453.337 or 453.3385, a person who is convicted of the possession of
28 flunitrazepam or gamma-hydroxybutyrate, or any substance for
29 which flunitrazepam or gamma-hydroxybutyrate is an immediate
30 precursor, is guilty of a category B felony and shall be punished by
31 imprisonment in the state prison for a minimum term of not less
32 than 1 year and a maximum term of not more than 6 years.

33 4. Unless a greater penalty is provided pursuant to NRS
34 212.160, a person who is convicted of the possession of 1 ounce or
35 less of marijuana:

36 (a) For the first offense, is guilty of a misdemeanor and shall be:

37 (1) Punished by a fine of not more than \$600; or

38 (2) Examined by an approved ~~facility for the treatment of~~
39 ~~abuse of drugs~~ *treatment provider* to determine whether the person
40 is a drug addict and is likely to be rehabilitated through treatment
41 and, if the examination reveals that the person is a drug addict and is
42 likely to be rehabilitated through treatment, assigned to a program of
43 treatment and rehabilitation pursuant to NRS 453.580. *As used in*
44 *this subparagraph, "treatment provider" has the meaning ascribed*
45 *to it in NRS 458.010.*



1 (b) For the second offense, is guilty of a misdemeanor and shall
2 be:

3 (1) Punished by a fine of not more than \$1,000; or

4 (2) Assigned to a program of treatment and rehabilitation
5 pursuant to NRS 453.580.

6 (c) For the third offense, is guilty of a gross misdemeanor and
7 shall be punished as provided in NRS 193.140.

8 (d) For a fourth or subsequent offense, is guilty of a category E
9 felony and shall be punished as provided in NRS 193.130.

10 5. It is not a violation of this section if a person possesses a
11 trace amount of a controlled substance and that trace amount is in or
12 on a hypodermic device obtained from a sterile hypodermic device
13 program pursuant to NRS 439.985 to 439.994, inclusive.

14 6. As used in this section:

15 (a) "Controlled substance" includes flunitrazepam, gamma-
16 hydroxybutyrate and each substance for which flunitrazepam or
17 gamma-hydroxybutyrate is an immediate precursor.

18 (b) "Sterile hypodermic device program" has the meaning
19 ascribed to it in NRS ~~439.943.~~ **439.986.**

20 **Sec. 9.** NRS 453.580 is hereby amended to read as follows:

21 453.580 1. A court may establish an appropriate treatment
22 program to which it may assign a person pursuant to subsection 4 of
23 NRS 453.336, NRS 453.3363 or 458.300, or it may assign such a
24 person to an appropriate ~~[facility for the treatment of abuse of
25 alcohol or drugs which is certified by the Division of Public and
26 Behavioral Health of the Department.]~~ **treatment provider.** The
27 assignment must include the terms and conditions for successful
28 completion of the program and provide for progress reports at
29 intervals set by the court to ensure that the person is making
30 satisfactory progress toward completion of the program.

31 2. A program to which a court assigns a person pursuant to
32 subsection 1 must include:

33 (a) Information and encouragement for the participant to cease
34 abusing alcohol or using controlled substances through educational,
35 counseling and support sessions developed with the cooperation of
36 various community, health, substance abuse, religious, social service
37 and youth organizations;

38 (b) The opportunity for the participant to understand the
39 medical, psychological and social implications of substance abuse;
40 and

41 (c) Alternate courses within the program based on the different
42 substances abused and the addictions of participants.

43 3. If the offense with which the person was charged involved
44 the use or possession of a controlled substance, in addition to the
45 program or as a part of the program, the court must also require



1 frequent urinalysis to determine that the person is not using a
2 controlled substance. The court shall specify how frequent such
3 examinations must be and how many must be successfully
4 completed, independently of other requisites for successful
5 completion of the program.

6 4. Before the court assigns a person to a program pursuant to
7 this section, the person must agree to pay the cost of the program to
8 which the person is assigned and the cost of any additional
9 supervision required pursuant to subsection 3, to the extent of the
10 financial resources of the person. If the person does not have the
11 financial resources to pay all of the related costs, the court shall, to
12 the extent practicable, arrange for the person to be assigned to a
13 program ~~[at a facility]~~ *with a treatment provider* that receives a
14 sufficient amount of federal or state funding to offset the remainder
15 of the costs.

16 5. *As used in this section, "treatment provider" has the*
17 *meaning ascribed to it in NRS 458.010.*

18 **Sec. 10.** Chapter 458 of NRS is hereby amended by adding
19 thereto a new section to read as follows:

20 1. *If a court places a person under the supervision of a*
21 *treatment provider to receive treatment for the abuse of alcohol or*
22 *drugs pursuant to NRS 458.290 to 458.350, inclusive, the court*
23 *may authorize the person to complete any period of treatment*
24 *remaining under the supervision of a treatment provider in*
25 *another jurisdiction if the court determines that:*

26 (a) *The person is eligible to receive treatment under a program*
27 *of treatment in the other jurisdiction; and*

28 (b) *The program of treatment in the other jurisdiction is*
29 *substantially similar to the program of treatment to which the*
30 *person is assigned in this State.*

31 2. *As used in this section, "treatment provider in another*
32 *jurisdiction" means a person or a public or private agency,*
33 *residential treatment center, facility for the treatment of abuse of*
34 *alcohol or drugs, or voluntary organization which is certified by*
35 *an agency in another jurisdiction that is similar to the Division.*

36 **Sec. 11.** NRS 458.010 is hereby amended to read as follows:

37 458.010 As used in NRS 458.010 to 458.350, inclusive, *and*
38 *section 10 of this act*, unless the context requires otherwise:

39 1. "Administrator" means the Administrator of the Division.

40 2. "Alcohol and drug abuse program" means a project
41 concerned with education, prevention and treatment directed toward
42 achieving the mental and physical restoration of alcohol and drug
43 abusers.

44 3. "Alcohol and drug abuser" means a person whose
45 consumption of alcohol or other drugs, or any combination thereof,



1 interferes with or adversely affects the ability of the person to
2 function socially or economically.

3 4. "Alcoholic" means any person who habitually uses alcoholic
4 beverages to the extent that the person endangers the health, safety
5 or welfare of himself or herself or any other person or group of
6 persons.

7 5. "Civil protective custody" means a custodial placement of a
8 person to protect the health or safety of the person. Civil protective
9 custody does not have any criminal implication.

10 6. "Detoxification technician" means a person who is certified
11 by the Division to provide screening for the safe withdrawal from
12 alcohol and other drugs.

13 7. "Division" means the Division of Public and Behavioral
14 Health of the Department of Health and Human Services.

15 8. ~~["Facility"]~~ *"Treatment provider"* means a ~~[physical~~
16 ~~structure used for the education, prevention and treatment, including~~
17 ~~mental and physical restoration, of alcohol and drug abusers.]~~
18 *person or a public or private agency, residential treatment center,*
19 *facility for the treatment of abuse of alcohol or drugs, or voluntary*
20 *organization which is certified by the Division.*

21 **Sec. 12.** NRS 458.025 is hereby amended to read as follows:

22 458.025 The Division:

23 1. Shall formulate and operate a comprehensive state plan for
24 alcohol and drug abuse programs which must include:

25 (a) A survey of the need for prevention and treatment of alcohol
26 and drug abuse, including a survey of the ~~[facilities]~~ *treatment*
27 *providers* needed to provide services and a plan for the development
28 and distribution of services and programs throughout this State.

29 (b) A plan for programs to educate the public in the problems of
30 the abuse of alcohol and other drugs.

31 (c) A survey of the need for persons who have professional
32 training in fields of health and other persons involved in the
33 prevention of alcohol and drug abuse and in the treatment and
34 recovery of alcohol and drug abusers, and a plan to provide the
35 necessary treatment.

36 ➤ In developing and revising the state plan, the Division shall
37 consider, without limitation, the amount of money available from
38 the Federal Government for alcohol and drug abuse programs and
39 the conditions attached to the acceptance of that money, and the
40 limitations of legislative appropriations for alcohol and drug abuse
41 programs.

42 2. Shall coordinate the efforts to carry out the state plan and
43 coordinate all state and federal financial support of alcohol and drug
44 abuse programs in this State.



1 3. Must be consulted in the planning of projects and advised of
2 all applications for grants from within this State which are
3 concerned with alcohol and drug abuse programs, and shall review
4 the applications and advise the applicants concerning the
5 applications.

6 4. Shall certify or deny certification of detoxification
7 technicians or any ~~facilities~~ *treatment providers* or programs on
8 the basis of the standards established by the Division pursuant to
9 this section, and publish a list of certified detoxification technicians,
10 ~~facilities~~ *treatment providers* and programs. Any detoxification
11 technicians, ~~facilities~~ *treatment providers* or programs which are
12 not certified are ineligible to receive state and federal money for
13 alcohol and drug abuse programs. The Division shall adopt
14 regulations. The regulations:

15 (a) Must prescribe the requirements for continuing education for
16 persons certified as detoxification technicians; ~~and~~

17 (b) May prescribe the fees for the certification of detoxification
18 technicians, ~~facilities~~ *treatment providers* or programs. A fee
19 prescribed pursuant to this paragraph must be calculated to produce
20 the revenue estimated to cover the costs related to the certifications,
21 but in no case may a fee for a certificate exceed the actual cost to the
22 Division of issuing the certificate ~~and~~; *and*

23 (c) *May not exclude treatment providers that provide treatment*
24 *through volunteers.*

25 5. Upon request from a ~~facility~~ *treatment provider* which is
26 self-supported, may certify the ~~facility~~ *treatment provider*, its
27 programs and detoxification technicians and add them to the list
28 described in subsection 4.

29 **Sec. 13.** NRS 458.080 is hereby amended to read as follows:

30 458.080 The Division may, by contracting with organized
31 groups, render partial financial assistance ~~in the operation of~~
32 ~~facilities~~ *for treatment providers* established by these groups. Each
33 such contract must contain a provision allowing for an audit of all
34 accounts, books and other financial records of the organization with
35 which the agency contracts.

36 **Sec. 14.** NRS 458.097 is hereby amended to read as follows:

37 458.097 1. Money received by the Division pursuant to NRS
38 369.174 must be used to increase services for the prevention of
39 alcohol and drug abuse and alcoholism and for the detoxification
40 and rehabilitation of alcohol and drug abusers. In allocating the
41 money for the increase of services, the Division shall give priority
42 to:

43 (a) The areas where there exists a shortage of services for the
44 treatment of alcoholism and alcohol abuse. The Division shall
45 determine the areas of shortage on the basis of data available from



1 state and local agencies, data contained in the comprehensive state
2 plan for alcohol and drug abuse programs, and other appropriate
3 data.

4 (b) The needs of counties to provide:

5 (1) Civil protective custody, pursuant to NRS 458.270, for
6 persons who are found in public places while under the influence of
7 alcohol; and

8 (2) Secure detoxification units or ~~other~~ appropriate
9 ~~facilities~~ *treatment providers* for persons who are arrested or taken
10 into custody while under the influence of a controlled substance.

11 (c) Alcohol and drug abuse programs that are primarily directed
12 toward the prevention of such abuse.

13 2. As used in this section, "secure detoxification unit" has the
14 meaning ascribed to it in NRS 458.175.

15 **Sec. 15.** NRS 458.125 is hereby amended to read as follows:

16 458.125 1. The Division shall prepare requests for proposals
17 for the provision by ~~facilities~~ *treatment providers* of:

18 (a) Residential treatment of adolescents who engage in
19 substance abuse;

20 (b) Outpatient treatment of adolescents who engage in substance
21 abuse;

22 (c) Comprehensive evaluations of adolescents with problems
23 relating to substance abuse or mental illness, or both; and

24 (d) Transitional housing for adolescents who engage in
25 substance abuse.

26 2. Upon accepting a proposal submitted in accordance with this
27 section, the Division may advance not more than 8 percent of the
28 amount of the proposal to the ~~facility~~ *treatment provider* that
29 submitted the proposal to help defray the costs of starting the
30 provision of the services, including, without limitation, the cost of
31 beds, equipment and rental space for expansion.

32 3. The Division shall establish such requirements for the
33 requests for proposals as it determines necessary.

34 4. The Division shall hire, to the extent of legislative
35 authorization, such staff as it determines necessary to carry out the
36 provisions of this section and NRS 458.131.

37 **Sec. 16.** NRS 458.131 is hereby amended to read as follows:

38 458.131 The Division shall, on or before September 1 of each
39 odd-numbered year, submit to the Director of the Department of
40 Health and Human Services a report covering the biennium ending
41 on June 30 of that year. The report must include:

42 1. The name of each ~~facility~~ *treatment provider* that received
43 money pursuant to NRS 458.125 during the biennium, and the
44 amount of money that each ~~facility~~ *treatment provider* received
45 for each type of service provided;



1 2. If a ~~facility~~ *treatment provider* received money pursuant to
2 NRS 458.125 during the biennium to help defray the costs of
3 starting the provision of services, the name of the ~~facility~~
4 *treatment provider*, the amount of money received and an
5 accounting of how the money was used;

6 3. The number of adolescents who received any of the services
7 described in NRS 458.125 from those ~~facilities~~ *treatment*
8 *providers* during the biennium, and the number of adolescents who
9 were receiving those services as of the end of the biennium; and

10 4. As of the end of the biennium:

11 (a) The number of adolescents on waiting lists to receive the
12 services described in NRS 458.125; and

13 (b) An estimate of the number of other adolescents in this State
14 who are in need of the services described in NRS 458.125.

15 **Sec. 17.** NRS 458.175 is hereby amended to read as follows:

16 458.175 1. If a peace officer arrests or takes into custody a
17 person who is found in any public place unlawfully under the
18 influence of a controlled substance and in such a condition that the
19 person is unable to exercise care for his or her health or safety or
20 the health or safety of other persons, the peace officer may deliver
21 the person to a licensed ~~facility~~ *treatment provider* for the
22 treatment of persons who abuse controlled substances or other
23 appropriate ~~facility~~ *treatment provider* for observation and care.

24 2. A person who is unlawfully under the influence of a
25 controlled substance who is arrested or taken into custody by a
26 peace officer must immediately be taken to a secure detoxification
27 unit or other appropriate medical facility if the person's condition
28 appears to require emergency medical treatment. Upon release from
29 the detoxification unit or medical facility, the person must
30 immediately be remanded to the custody of the apprehending peace
31 officer and the criminal proceedings proceed as prescribed by law.

32 3. Every peace officer and other public employee or agency
33 acting pursuant to this section is performing a discretionary function
34 or duty.

35 4. As used in this section, "secure detoxification unit" includes,
36 without limitation, a detoxification unit in which the staff of the
37 detoxification unit ensures the security of the detoxification unit.

38 **Sec. 18.** NRS 458.270 is hereby amended to read as follows:

39 458.270 1. Except as otherwise provided in subsection 7, a
40 person who is found in any public place under the influence of
41 alcohol, in such a condition that the person is unable to exercise care
42 for his or her health or safety or the health or safety of other persons,
43 must be placed under civil protective custody by a peace officer.



1 2. A peace officer may use upon such a person the kind and
2 degree of force which would be lawful if the peace officer were
3 effecting an arrest for a misdemeanor with a warrant.

4 3. If a licensed ~~[facility]~~ *treatment provider* for the treatment
5 of persons who abuse alcohol exists in the community where the
6 person is found, the person must be delivered to the ~~[facility]~~
7 *treatment provider* for observation and care. If no such ~~[facility]~~
8 *treatment provider* exists in the community, the person so found
9 may be placed in a county or city jail or detention facility for shelter
10 or supervision for his or her health and safety until he or she is no
11 longer under the influence of alcohol. The person may not be
12 required against his or her will to remain *with a treatment provider*
13 *or* in a ~~[licensed facility,]~~ jail or detention facility longer than 48
14 hours.

15 4. An intoxicated person taken into custody by a peace officer
16 for a public offense must immediately be taken to a secure
17 detoxification unit or other appropriate medical facility if the
18 condition of the person appears to require emergency medical
19 treatment. Upon release from the detoxification unit or medical
20 facility, the person must immediately be remanded to the custody of
21 the apprehending peace officer and the criminal proceedings
22 proceed as prescribed by law.

23 5. The placement of a person found under the influence of
24 alcohol in civil protective custody must be:

25 (a) Recorded at the ~~[facility,]~~ *location of the treatment provider*
26 *or at the* jail or detention facility to which the person is delivered;
27 and

28 (b) Communicated at the earliest practical time to the person's
29 family or next of kin if they can be located.

30 6. Every peace officer and other public employee or agency
31 acting pursuant to this section is performing a discretionary function
32 or duty.

33 7. The provisions of this section do not apply to a person who
34 is apprehended or arrested for:

35 (a) A civil or administrative violation for which intoxication is
36 an element of the violation pursuant to the provisions of a specific
37 statute or regulation;

38 (b) A criminal offense for which intoxication is an element of
39 the offense pursuant to the provisions of a specific statute or
40 regulation;

41 (c) A homicide resulting from driving, operating or being in
42 actual physical control of a vehicle or a vessel under power or sail
43 while under the influence of intoxicating liquor or a controlled
44 substance or resulting from any other conduct prohibited by



1 NRS 484C.110, 484C.130, 484C.430, subsection 2 of NRS 488.400,
2 NRS 488.410, 488.420 or 488.425; and

3 (d) Any offense or violation which is similar to an offense or
4 violation described in paragraph (a), (b) or (c) and which is set forth
5 in an ordinance or resolution of a county, city or town.

6 **Sec. 19.** NRS 458.280 is hereby amended to read as follows:

7 458.280 1. Except as otherwise provided in subsection 2,
8 NRS 439.538, 442.300 to 442.330, inclusive, and 449.705 and
9 chapter 629 of NRS, the registration and other records of a treatment
10 ~~facility~~ *provider* are confidential and must not be disclosed to any
11 person not connected with the treatment ~~facility~~ *provider* without
12 the consent of the patient.

13 2. The provisions of subsection 1 do not restrict the use of a
14 patient's records for the purpose of research into the causes and
15 treatment of alcoholism if such information is:

16 (a) Not published in a way that discloses the patient's name or
17 other identifying information; or

18 (b) Disclosed pursuant to NRS 439.538.

19 **Sec. 20.** NRS 458.300 is hereby amended to read as follows:

20 458.300 Subject to the provisions of NRS 458.290 to 458.350,
21 inclusive, *and section 10 of this act*, an alcoholic or a drug addict
22 who has been convicted of a crime is eligible to elect to be assigned
23 by the court to a program of treatment for the abuse of alcohol or
24 drugs pursuant to NRS 453.580 before he or she is sentenced unless:

25 1. The crime is:

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

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

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

30 (d) An act which constitutes domestic violence as set forth in
31 NRS 33.018;

32 2. The crime is that of trafficking of a controlled substance;

33 3. The crime is a violation of NRS 484C.110, 484C.120,
34 484C.130 or 484C.430;

35 4. The alcoholic or drug addict has a record of two or more
36 convictions of a crime described in subsection 1 or 2, a similar
37 crime in violation of the laws of another state, or of three or more
38 convictions of any felony;

39 5. Other criminal proceedings alleging commission of a felony
40 are pending against the alcoholic or drug addict;

41 6. The alcoholic or drug addict is on probation or parole and
42 the appropriate parole or probation authority does not consent to the
43 election; or



1 7. The alcoholic or drug addict elected and was admitted,
2 pursuant to NRS 458.290 to 458.350, inclusive, *and section 10 of*
3 *this act* to a program of treatment not more than twice within the
4 preceding 5 years.

5 **Sec. 21.** NRS 458.310 is hereby amended to read as follows:

6 458.310 1. If the court has reason to believe that a person
7 who has been convicted of a crime is an alcoholic or drug addict, or
8 the person states that he or she is an alcoholic or drug addict, and the
9 court finds that the person is eligible to make the election provided
10 for in NRS 458.300, the court shall hold a hearing before it
11 sentences the person to determine whether or not the person should
12 receive treatment under the supervision of a state-approved ~~[facility~~
13 ~~for the treatment of abuse of alcohol or drugs.]~~ *treatment provider.*
14 The district attorney may present the court with any evidence
15 concerning the advisability of permitting the person to make the
16 election.

17 2. At the hearing the court shall advise the person that
18 sentencing will be postponed if he or she elects to submit to
19 treatment and is accepted for treatment by a state-approved
20 ~~[facility.]~~ *treatment provider.* In offering the election, the court shall
21 advise the person that:

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

24 (b) If the person elects to submit to treatment and is accepted, he
25 or she may be placed under the supervision of the ~~[facility]~~
26 *treatment provider* for a period of not less than 1 year nor more than
27 3 years;

28 (c) ~~[During treatment the person may be confined in an~~
29 ~~institution or, at] At~~ the discretion of the ~~[facility, released for]~~
30 *treatment provider, the person may be confined in a residential*
31 *treatment facility or may be provided with outpatient* ~~[or~~
32 ~~supervised care]~~ in the community; and

33 (d) If the person satisfactorily completes treatment and satisfies
34 the conditions upon the election of treatment, as determined by the
35 court, the conviction will be set aside, but if the person does not
36 satisfactorily complete the treatment and satisfy the conditions, he
37 or she may be sentenced and the sentence executed.

38 **Sec. 22.** NRS 458.320 is hereby amended to read as follows:

39 458.320 1. If the court, after a hearing, determines that a
40 person is entitled to accept the treatment offered pursuant to NRS
41 458.310, the court shall order an approved ~~[facility for the treatment~~
42 ~~of abuse of alcohol or drugs]~~ *treatment provider* to conduct an
43 examination of the person to determine whether the person is an
44 alcoholic or drug addict and is likely to be rehabilitated through
45 treatment. The ~~[facility]~~ *treatment provider* shall report to the court



1 the results of the examination and recommend whether the person
2 should be placed under supervision for treatment.

3 2. If the court, acting on the report or other relevant
4 information, determines that the person is not an alcoholic or drug
5 addict, is not likely to be rehabilitated through treatment or is
6 otherwise not a good candidate for treatment, the person may be
7 sentenced and the sentence executed.

8 3. If the court determines that the person is an alcoholic or drug
9 addict, is likely to be rehabilitated through treatment and is a good
10 candidate for treatment, the court may:

11 (a) Impose any conditions to the election of treatment that could
12 be imposed as conditions of probation;

13 (b) Defer sentencing until such time, if any, as sentencing is
14 authorized pursuant to NRS 458.330; and

15 (c) Place the person under the supervision of an approved
16 ~~[facility]~~ *treatment provider* for treatment for not less than 1 year
17 nor more than 3 years.

18 ➤ The court may require such progress reports on the treatment of
19 the person as it deems necessary.

20 4. A person who is placed under the supervision of an
21 approved ~~[facility]~~ *treatment provider* for treatment shall pay the
22 cost of the program of treatment to which the person is assigned and
23 the cost of any additional supervision that may be required, to the
24 extent of his or her financial resources. The court may issue a
25 judgment in favor of the ~~[court or facility for]~~ *treatment provider* for
26 the costs of the treatment and supervision which remain unpaid at
27 the conclusion of the treatment. Such a judgment constitutes a lien
28 in like manner as a judgment for money rendered in a civil action,
29 but in no event may the amount of the judgment include any amount
30 of the debt which was extinguished by the successful completion of
31 community service pursuant to subsection 5.

32 5. If the person who is placed under the supervision of an
33 approved ~~[facility]~~ *treatment provider* for treatment does not have
34 the financial resources to pay all of the related costs:

35 (a) The court shall, to the extent practicable, arrange for the
36 person to be assigned to a program ~~[at a facility]~~ *with a treatment*
37 *provider* that receives a sufficient amount of federal or state funding
38 to offset the remainder of the costs; and

39 (b) The court may order the person to perform supervised
40 community service in lieu of paying the remainder of the costs
41 relating to the treatment and supervision of the person. The
42 community service must be performed for and under the supervising
43 authority of a county, city, town or other political subdivision or
44 agency of the State of Nevada or a charitable organization that
45 renders service to the community or its residents. The court may



1 require the person to deposit with the court a reasonable sum of
2 money to pay for the cost of policies of insurance against liability
3 for personal injury and damage to property or for industrial
4 insurance, or both, during those periods in which the person
5 performs the community service, unless, in the case of industrial
6 insurance, it is provided by the authority for which the person
7 performs the community service.

8 6. No person may be placed under the supervision of a
9 ~~facility~~ *treatment provider* under this section unless the ~~facility~~
10 *treatment provider* accepts the person for treatment.

11 **Sec. 23.** NRS 458.330 is hereby amended to read as follows:

12 458.330 1. Whenever a person is placed under the
13 supervision of a treatment ~~facility,~~ *provider, including a treatment*
14 *provider in another jurisdiction pursuant to section 10 of this act,*
15 the person's sentencing must be deferred and the person's
16 conviction must be set aside if ~~the~~ :

17 (a) *The* treatment ~~facility~~ *provider* certifies to the court that
18 the person has satisfactorily completed the treatment program ; ~~;~~
19 and ~~the~~

20 (b) *The* court approves the certification and determines that the
21 conditions upon the election of treatment have been satisfied.

22 2. If, upon the expiration of the treatment period, the treatment
23 ~~facility~~ *provider* has yet to certify that the person has completed
24 his or her treatment program, the court shall sentence the person. If
25 the person has satisfied the conditions to the election of treatment
26 and the court believes that the person will complete his or her
27 treatment on a voluntary basis, it may, in its discretion, set the
28 conviction aside.

29 3. If, before the treatment period expires, the treatment
30 ~~facility~~ *provider* determines that the person is not likely to benefit
31 from further treatment ~~at the facility,~~ *with the treatment provider,*
32 it shall so advise the court. The court shall then:

33 (a) Arrange for the transfer of the person to a more suitable
34 treatment ~~facility,~~ *provider*, if any; or

35 (b) Terminate the supervision and conduct a hearing to
36 determine whether the person should be sentenced.

37 ➔ Whenever a person is sentenced under this section, time spent in
38 ~~institutional care~~ *inpatient treatment* must be deducted from any
39 sentence imposed.

40 4. Upon satisfactory completion of the treatment program, the
41 court shall order sealed all documents, papers and exhibits in the
42 person's record, minute book entries and entries on dockets, and
43 other documents related to the case in the custody of such other
44 agencies and officers as are named in the court's order. The court
45 shall order those records sealed without a hearing unless the



1 prosecution petitions the court, for good cause shown, not to seal the
2 records and requests a hearing thereon. When the court orders sealed
3 the records of a person pursuant to this subsection, the court shall
4 cause a copy of the order to be sent to each agency or officer named
5 in the order. Each such agency or officer shall notify the court in
6 writing of its compliance with the order. The provisions of this
7 subsection apply only to the offense for which the person has been
8 placed into treatment pursuant to NRS 458.290 to 458.350, inclusive
9 ~~and section 10 of this act.~~

10 **Sec. 24.** NRS 458.350 is hereby amended to read as follows:
11 458.350 The provisions of NRS 458.290 to 458.350, inclusive,
12 *and section 10 of this act* do not require the State or any of its
13 political subdivisions to establish or finance any ~~[facility]~~ *treatment*
14 *provider* for the treatment of abuse of alcohol or drugs.

15 **Sec. 25.** NRS 62A.340 is hereby amended to read as follows:
16 62A.340 “Treatment ~~[facility]~~ ~~means a facility for the~~
17 ~~treatment of abuse of alcohol or drugs that is certified by the~~
18 ~~Division of Public and Behavioral Health of the Department of~~
19 ~~Health and Human Services.] provider” *has the meaning ascribed*
20 *to it in NRS 458.010.*~~

21 **Sec. 26.** NRS 62E.620 is hereby amended to read as follows:
22 62E.620 1. The juvenile court shall order a delinquent child
23 to undergo an evaluation to determine whether the child is an abuser
24 of alcohol or other drugs if the child committed:

25 (a) An unlawful act in violation of NRS 484C.110, 484C.120,
26 484C.130 or 484C.430;

27 (b) The unlawful act of using, possessing, selling or distributing
28 a controlled substance; or

29 (c) The unlawful act of purchasing, consuming or possessing an
30 alcoholic beverage in violation of NRS 202.020.

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

33 (a) A clinical alcohol and drug abuse counselor who is licensed,
34 an alcohol and drug abuse counselor who is licensed or certified, or
35 an alcohol and drug abuse counselor intern or a clinical alcohol and
36 drug abuse counselor intern who is certified, pursuant to chapter
37 641C of NRS, to make that classification; or

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

40 3. If the child resides in this State but the nearest location at
41 which an evaluation may be conducted is in another state, the court
42 may allow the evaluation to be conducted in the other state if the
43 person conducting the evaluation:

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



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

3 (c) Is in good standing with the regulatory agency in the other
4 state.

5 4. The evaluation of the child may be conducted at an
6 evaluation center.

7 5. The person who conducts the evaluation of the child shall
8 report to the juvenile court the results of the evaluation and make a
9 recommendation to the juvenile court concerning the length and
10 type of treatment required for the child.

11 6. The juvenile court shall:

12 (a) Order the child to undergo a program of treatment as
13 recommended by the person who conducts the evaluation of the
14 child.

15 (b) Require the treatment **[facility] provider** to submit monthly
16 reports on the treatment of the child pursuant to this section.

17 (c) Order the child or the parent or guardian of the child, or both,
18 to the extent of their financial ability, to pay any charges relating to
19 the evaluation and treatment of the child pursuant to this section.
20 If the child or the parent or guardian of the child, or both, do not
21 have the financial resources to pay all those charges:

22 (1) The juvenile court shall, to the extent possible, arrange
23 for the child to receive treatment from a treatment **[facility] provider**
24 which receives a sufficient amount of federal or state money to
25 offset the remainder of the costs; and

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

29 7. After a treatment **[facility] provider** has certified a child's
30 successful completion of a program of treatment ordered pursuant to
31 this section, the treatment **[facility] provider** is not liable for any
32 damages to person or property caused by a child who:

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

36 (b) Engages in any other conduct prohibited by NRS 484C.110,
37 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
38 488.410, 488.420 or 488.425 or a law of any other jurisdiction that
39 prohibits the same or similar conduct.

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

42 (a) Requiring an evaluation to be conducted by a person who is
43 employed by a private company if the company meets the standards
44 of the Division of Public and Behavioral Health of the Department



1 of Health and Human Services. The evaluation may be conducted at
2 an evaluation center.

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

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

10 (a) The juvenile court;

11 (b) The child;

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

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

14 (e) The district attorney; and

15 (f) Any other person for whom the communication of that
16 information is necessary to effectuate the evaluation or treatment of
17 the child.

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

22 **Sec. 27.** NRS 484C.100 is hereby amended to read as follows:

23 484C.100 "~~Treatment [facility] means a facility for the~~
24 ~~treatment of abuse of alcohol or drugs, which is certified by the~~
25 ~~Division of Public and Behavioral Health of the Department of~~
26 ~~Health and Human Services.] provider" has the meaning ascribed~~
27 ~~to it in NRS 458.010.~~

28 **Sec. 28.** NRS 484C.320 is hereby amended to read as follows:

29 484C.320 1. An offender who is found guilty of a violation
30 of NRS 484C.110 or 484C.120 that is punishable pursuant to
31 paragraph (a) of subsection 1 of NRS 484C.400, other than an
32 offender who is found to have a concentration of alcohol of 0.18 or
33 more in his or her blood or breath, may, at that time or any time
34 before the offender is sentenced, apply to the court to undergo a
35 program of treatment for alcoholism or drug abuse ~~[which is~~
36 ~~certified by the Division of Public and Behavioral Health of the~~
37 ~~Department of Health and Human Services]~~ for at least 6 months.
38 The court shall authorize that treatment if:

39 (a) The offender is diagnosed as an alcoholic or abuser of drugs
40 by:

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



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

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

5 (c) The offender has served or will serve a term of imprisonment
6 in jail of 1 day, or has performed or will perform 24 hours of
7 community service.

8 2. A prosecuting attorney may, within 10 days after receiving
9 notice of an application for treatment pursuant to this section,
10 request a hearing on the question of whether the offender is eligible
11 to undergo a program of treatment for alcoholism or drug abuse.
12 The court shall order a hearing on the application upon the request
13 of the prosecuting attorney or may order a hearing on its own
14 motion. The hearing must be limited to the question of whether the
15 offender is eligible to undergo such a program of treatment.

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

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

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

25 (b) Suspend the sentence of the offender for not more than 3
26 years upon the condition that the offender be accepted for treatment
27 by a treatment ~~[facility,]~~ *provider that is approved by the court*, that
28 the offender complete the treatment satisfactorily and that the
29 offender comply with any other condition ordered by the court.

30 (c) Advise the offender that:

31 (1) ~~[If the offender is accepted for treatment by such a~~
32 ~~facility, he]~~ *He* or she may be placed under the supervision of ~~[the~~
33 ~~facility]~~ *a treatment provider* for a period not to exceed 3 years .
34 ~~[and during treatment the offender may be confined in an institution~~
35 ~~or, at]~~

36 (2) *At the discretion of the* ~~[facility, released for]~~ *treatment*
37 *provider, the offender may be confined in a residential treatment*
38 *facility or may be provided with outpatient* ~~[or supervised~~
39 ~~aftercare]~~ *in the community.*

40 ~~[(2)]~~ (3) If the offender ~~[is not accepted for treatment by~~
41 ~~such a facility or he or she]~~ fails to complete the *program of*
42 *treatment* satisfactorily, the offender shall serve the sentence
43 imposed by the court. Any sentence of imprisonment must be
44 reduced by a time equal to that which the offender served before
45 beginning treatment.



1 ~~[(3)]~~ (4) If the offender completes the treatment
2 satisfactorily, the offender's sentence will be reduced to a term of
3 imprisonment which is no longer than that provided for the offense
4 in paragraph (c) of subsection 1 and a fine of not more than the
5 minimum fine provided for the offense in NRS 484C.400, but
6 the conviction must remain on the record of criminal history of the
7 offender.

8 5. The court shall administer the program of treatment pursuant
9 to the procedures provided in NRS 458.320 and 458.330, except that
10 the court:

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

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

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

20 **Sec. 29.** NRS 484C.330 is hereby amended to read as follows:

21 484C.330 1. An offender who is found guilty of a violation
22 of NRS 484C.110 or 484C.120 that is punishable pursuant to
23 paragraph (b) of subsection 1 of NRS 484C.400 may, at that time or
24 any time before the offender is sentenced, apply to the court to
25 undergo a program of treatment for alcoholism or drug abuse ~~[which~~
26 ~~is certified by the Division of Public and Behavioral Health of the~~
27 ~~Department of Health and Human Services]~~ for at least 1 year . *The*
28 *court shall authorize that treatment* if:

29 (a) The offender is diagnosed as an alcoholic or abuser of drugs
30 by:

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

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

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

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

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



1 the application upon the request of the prosecuting attorney or may
2 order a hearing on its own motion.

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

8 4. If the court ~~[determines that]~~ **grants** an application for
9 treatment, ~~[should be granted.]~~ the court shall:

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

12 (b) Suspend the sentence of the offender for not more than 3
13 years upon the condition that the offender be accepted for treatment
14 by a treatment ~~[facility.]~~ **provider that is approved by the court**, that
15 the offender complete the treatment satisfactorily and that the
16 offender comply with any other condition ordered by the court.

17 (c) Advise the offender that:

18 (1) ~~[If the offender is accepted for treatment by such a~~
19 ~~facility, he]~~ **He** or she may be placed under the supervision of the
20 ~~[facility] treatment provider~~ **for a period not to exceed 3 years . [and**
21 ~~during treatment the offender may be confined in an institution or,~~
22 ~~at]~~

23 (2) **At the discretion of the [facility, released for] treatment**
24 **provider, the offender may be confined in a residential treatment**
25 **facility or may be provided with outpatient treatment [or supervised**
26 **aftercare]** in the community.

27 ~~[(2)]~~ (3) If the offender ~~[is not accepted for treatment by~~
28 ~~such a facility or he or she]~~ fails to complete the **program of**
29 treatment satisfactorily, the offender shall serve the sentence
30 imposed by the court. Any sentence of imprisonment must be
31 reduced by a time equal to that which the offender served before
32 beginning treatment.

33 ~~[(3)]~~ (4) If the offender completes the treatment
34 satisfactorily, the offender's sentence will be reduced to a term of
35 imprisonment which is no longer than that provided for the offense
36 in paragraph (c) of subsection 1 and a fine of not more than
37 the minimum provided for the offense in NRS 484C.400, but the
38 conviction must remain on the record of criminal history of the
39 offender.

40 5. The court shall administer the program of treatment pursuant
41 to the procedures provided in NRS 458.320 and 458.330, except that
42 the court:

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



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

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

7 **Sec. 30.** NRS 484C.340 is hereby amended to read as follows:

8 484C.340 1. An offender who enters a plea of guilty or nolo
9 contendere to a violation of NRS 484C.110 or 484C.120 that is
10 punishable pursuant to paragraph (c) of subsection 1 of NRS
11 484C.400 may, at the time the offender enters a plea, apply to the
12 court to undergo a program of treatment for alcoholism or drug
13 abuse ~~[which is certified by the Division of Public and Behavioral~~
14 ~~Health of the Department of Health and Human Services]~~ for at least
15 3 years. *The court shall authorize that treatment* if:

16 (a) The offender is diagnosed as an alcoholic or abuser of drugs
17 by:

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

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

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

26 ↪ An alcohol and drug abuse counselor, a clinical alcohol and drug
27 abuse counselor or a physician who diagnoses an offender as an
28 alcoholic or abuser of drugs shall make a report and
29 recommendation to the court concerning the length and type of
30 treatment required for the offender.

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

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

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

42 (a) Immediately, without entering a judgment of conviction and
43 with the consent of the offender, suspend further proceedings and
44 place the offender on probation for not more than 5 years. ~~[upon the~~
45 ~~condition that the offender be accepted for treatment by a treatment~~



1 ~~facility, that the offender complete the treatment satisfactorily and~~
2 ~~that the offender comply with any other condition ordered by the~~
3 ~~court.]~~

4 (b) *Order the offender to complete a program of treatment for*
5 *alcoholism or drug abuse with a treatment provider approved by*
6 *the court.*

7 (c) Advise the offender that:

8 (1) ~~[If the offender is accepted for treatment by such a~~
9 ~~facility, he] He~~ or she may be placed under the supervision of ~~[the~~
10 ~~facility] a treatment provider~~ for not more than 5 years . ~~[and~~
11 ~~during]~~

12 (2) *At the discretion of the treatment provider,* the offender
13 may be confined in ~~[an institution or, at the discretion of the] a~~
14 *residential treatment facility* ~~[, released for] or may be provided~~
15 *with outpatient treatment* ~~[or supervised aftercare]~~ in the
16 community.

17 ~~[(2) If the offender is not accepted for treatment by such a~~
18 ~~treatment facility, or if he or she fails to complete the treatment~~
19 ~~satisfactorily, the]~~

20 (3) *The court will enter a judgment of conviction for a*
21 *violation of paragraph (c) of subsection 1 of NRS 484C.400* ~~[.]~~ *if a*
22 *treatment provider fails to accept the offender for a program of*
23 *treatment for alcoholism or drug abuse or if the offender fails to*
24 *complete the program of treatment satisfactorily.* Any sentence of
25 imprisonment may be reduced by a time equal to that which the
26 offender served before beginning treatment.

27 ~~[(3)]~~ (4) If the offender completes the treatment
28 satisfactorily, the court will enter a judgment of conviction for a
29 violation of paragraph (b) of subsection 1 of NRS 484C.400.

30 ~~[(4)]~~ (5) The provisions of NRS 483.460 requiring the
31 revocation of the license, permit or privilege of the offender to drive
32 do not apply.

33 5. The court shall administer the program of treatment pursuant
34 to the procedures provided in NRS 458.320 and 458.330, except that
35 the court:

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

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

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

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

44 (b) Install, at his or her own expense, a device for not less than
45 12 months;



1 (c) Not drive any vehicle unless it is equipped with a device;
2 (d) Agree to be subject to periodic testing for the use of alcohol
3 or controlled substances while participating in a program of
4 treatment; and

5 (e) Agree to any other conditions that the court deems necessary.

6 7. An offender may not apply to the court to undergo a
7 program of treatment for alcoholism or drug abuse pursuant to this
8 section if the offender has previously applied to receive treatment
9 pursuant to this section or if the offender has previously been
10 convicted of:

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

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

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

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

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

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

22 8. As used in this section, "device" has the meaning ascribed to
23 it in NRS 484C.450.

24 **Sec. 31.** NRS 484C.360 is hereby amended to read as follows:

25 484C.360 1. When a program of treatment is ordered
26 pursuant to NRS 484C.340 or paragraph (a) or (b) of subsection 1 of
27 NRS 484C.400, the court shall place the offender under the clinical
28 supervision of a treatment ~~{facility}~~ *provider* for treatment in
29 accordance with the report submitted to the court pursuant to NRS
30 484C.340 or subsection 3, 4, 5 or 6 of NRS 484C.350, as
31 appropriate. The court shall:

32 (a) Order the offender ~~{confined in}~~ *to be placed under the*
33 *supervision of* a treatment ~~{facility}~~ *provider*, then release the
34 offender for supervised aftercare in the community; or

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

37 2. The court shall:

38 (a) Require the treatment ~~{facility}~~ *provider* to submit monthly
39 progress reports on the treatment of an offender pursuant to this
40 section; and

41 (b) Order the offender, to the extent of his or her financial
42 resources, to pay any charges for treatment pursuant to this section.
43 If the offender does not have the financial resources to pay all those
44 charges, the court shall, to the extent possible, arrange for the
45 offender to obtain the treatment from a treatment ~~{facility}~~ *provider*



1 that receives a sufficient amount of federal or state money to offset
2 the remainder of the charges.

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

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

8 (b) Engages in any other conduct prohibited by NRS 484C.110,
9 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
10 488.410, 488.420 or 488.425 or a law of any other jurisdiction that
11 prohibits the same or similar conduct,

12 ↪ after the treatment **[facility] provider** has certified that the
13 offender has successfully completed a program of treatment ordered
14 pursuant to NRS 484C.340 or paragraph (a) or (b) of subsection 1 of
15 NRS 484C.400.

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

17 484C.400 1. Unless a greater penalty is provided pursuant to
18 NRS 484C.430 or 484C.440, and except as otherwise provided in
19 NRS 484C.410, a person who violates the provisions of NRS
20 484C.110 or 484C.120:

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

24 (1) Except as otherwise provided in subparagraph (4) of this
25 paragraph or subsection 2 of NRS 484C.420, order the person to pay
26 tuition for an educational course on the abuse of alcohol and
27 controlled substances approved by the Department and complete the
28 course within the time specified in the order, and the court shall
29 notify the Department if the person fails to complete the course
30 within the specified time;

31 (2) Unless the sentence is reduced pursuant to NRS
32 484C.320, sentence the person to imprisonment for not less than 2
33 days nor more than 6 months in jail, or to perform not less than 48
34 hours, but not more than 96 hours, of community service while
35 dressed in distinctive garb that identifies the person as having
36 violated the provisions of NRS 484C.110 or 484C.120;

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

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

43 (b) For a second offense within 7 years, is guilty of a
44 misdemeanor. Unless the sentence is reduced pursuant to NRS
45 484C.330, the court shall:



1 (1) Sentence the person to:
2 (I) Imprisonment for not less than 10 days nor more than
3 6 months in jail; or

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

7 (2) Fine the person not less than \$750 nor more than \$1,000,
8 or order the person to perform an equivalent number of hours of
9 community service while dressed in distinctive garb that identifies
10 the person as having violated the provisions of NRS 484C.110 or
11 484C.120; and

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

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

18 (c) Except as otherwise provided in NRS 484C.340, for a third
19 offense within 7 years, is guilty of a category B felony and shall be
20 punished by imprisonment in the state prison for a minimum term of
21 not less than 1 year and a maximum term of not more than 6 years,
22 and shall be further punished by a fine of not less than \$2,000 nor
23 more than \$5,000. An offender who is imprisoned pursuant to the
24 provisions of this paragraph must, insofar as practicable, be
25 segregated from offenders whose crimes were violent and, insofar as
26 practicable, be assigned to an institution or facility of minimum
27 security.

28 2. An offense that occurred within 7 years immediately
29 preceding the date of the principal offense or after the principal
30 offense constitutes a prior offense for the purposes of this section
31 when evidenced by a conviction, without regard to the sequence of
32 the offenses and convictions. The facts concerning a prior offense
33 must be alleged in the complaint, indictment or information, must
34 not be read to the jury or proved at trial but must be proved at the
35 time of sentencing and, if the principal offense is alleged to be a
36 felony, must also be shown at the preliminary examination or
37 presented to the grand jury.

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



1 6 months after the date of conviction or, if the offender was
2 sentenced pursuant to NRS 484C.320 or 484C.330 and the
3 suspension of his or her sentence was revoked, within 6 months
4 after the date of revocation. Any time for which the offender is
5 confined must consist of not less than 24 consecutive hours.

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

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

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

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

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

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

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

29 **Sec. 33.** NRS 484C.410 is hereby amended to read as follows:

30 484C.410 1. Unless a greater penalty is provided in NRS
31 484C.440, a person who has previously been convicted of:

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

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

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

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

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



1 ↳ and who violates the provisions of NRS 484C.110 or 484C.120 is
2 guilty of a category B felony and shall be punished by imprisonment
3 in the state prison for a minimum term of not less than 2 years and a
4 maximum term of not more than 15 years, and shall be further
5 punished by a fine of not less than \$2,000 nor more than \$5,000. An
6 offender so imprisoned must, insofar as practicable, be segregated
7 from offenders whose crimes were violent and, insofar as
8 practicable, be assigned to an institution or facility of minimum
9 security.

10 2. An offense which is listed in paragraphs (a) to (e), inclusive,
11 of subsection 1 that occurred on any date preceding the date of the
12 principal offense or after the principal offense constitutes a prior
13 offense for the purposes of this section when evidenced by a
14 conviction, without regard for the sequence of the offenses and
15 convictions. The facts concerning a prior offense must be alleged in
16 the complaint, indictment or information, must not be read to the
17 jury or proved at trial but must be proved at the time of sentencing
18 and, if the principal offense is alleged to be a felony, must also be
19 shown at the preliminary examination or presented to the grand jury.

20 3. A term of confinement imposed pursuant to the provisions
21 of this section may be served intermittently at the discretion of the
22 judge or justice of the peace, except that a person who is convicted
23 of a second or subsequent offense within 7 years must be confined
24 for at least one segment of not less than 48 consecutive hours. This
25 discretion must be exercised after considering all the circumstances
26 surrounding the offense, and the family and employment of the
27 offender, but any sentence of 30 days or less must be served within
28 6 months after the date of conviction or, if the offender was
29 sentenced pursuant to NRS 484C.320 or 484C.330 and the
30 suspension of offender's sentence was revoked, within 6 months
31 after the date of revocation. Any time for which the offender is
32 confined must consist of not less than 24 consecutive hours.

33 4. Jail sentences simultaneously imposed pursuant to this
34 section and NRS 482.456, 483.560, 484C.400 or 485.330 must run
35 consecutively.

36 5. If the defendant was transporting a person who is less than
37 15 years of age in the motor vehicle at the time of the violation, the
38 court shall consider that fact as an aggravating factor in determining
39 the sentence of the defendant.

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



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

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

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

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

11 **Sec. 34.** NRS 484C.460 is hereby amended to read as follows:

12 484C.460 1. Except as otherwise provided in subsections 2
13 and 5, a court:

14 (a) May order a person convicted of a violation of NRS
15 484C.110 that is punishable pursuant to paragraph (a) or (b) of
16 subsection 1 of NRS 484C.400, if the person is found to have had a
17 concentration of alcohol of less than 0.18 in his or her blood or
18 breath, for a period of not less than 3 months nor more than 6
19 months, to install at his or her own expense a device in any motor
20 vehicle which the person owns or operates as a condition to
21 obtaining a restricted license pursuant to NRS 483.490 or as a
22 condition of reinstatement of the driving privilege of the person.

23 (b) Shall order a person convicted of:

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

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

30 (3) A violation of NRS 484C.130 or 484C.430,
31 ↪ for a period of not less than 12 months nor more than 36 months,
32 to install at his or her own expense a device in any motor vehicle
33 which the person owns or operates as a condition to obtaining a
34 restricted license pursuant to NRS 483.490 or as a condition of
35 reinstatement of the driving privilege of the person.

36 2. A court may provide for an exception to the provisions of
37 subparagraph (1) of paragraph (b) of subsection 1 for a person who
38 is convicted of a violation of NRS 484C.110 that is punishable
39 pursuant to paragraph (a) of subsection 1 of NRS 484C.400, to
40 avoid undue hardship to the person if the court determines that:

41 (a) Requiring the person to install a device in a motor vehicle
42 which the person owns or operates would cause the person to
43 experience an economic hardship; and

44 (b) The person requires the use of the motor vehicle to:



1 (1) Travel to and from work or in the course and scope of his
2 or her employment;

3 (2) Obtain medicine, food or other necessities or to obtain
4 health care services for the person or another member of the
5 person's immediate family; or

6 (3) Transport the person or another member of the person's
7 immediate family to or from school.

8 3. If the court orders a person to install a device pursuant to
9 subsection 1:

10 (a) The court shall immediately prepare and transmit a copy of
11 its order to the Director. The order must include a statement that a
12 device is required and the specific period for which it is required.
13 The Director shall cause this information to be incorporated into the
14 records of the Department and noted as a restriction on the person's
15 driver's license.

16 (b) The person who is required to install the device shall provide
17 proof of compliance to the Department before the person may
18 receive a restricted license or before the driving privilege of the
19 person may be reinstated, as applicable. Each model of a device
20 installed pursuant to this section must have been certified by the
21 Committee on Testing for Intoxication.

22 4. A person whose driving privilege is restricted pursuant to
23 this section shall:

24 (a) If the person was ordered to install a device pursuant to
25 paragraph (a) of subsection 1, have the device inspected by the
26 manufacturer of the device or its agent at least one time during the
27 period in which the person is required to use the device; or

28 (b) If the person was ordered to install a device pursuant to
29 paragraph (b) of subsection 1, have the device inspected by the
30 manufacturer of the device or its agent at least one time each 90
31 days,

32 to determine whether the device is operating properly. An
33 inspection required pursuant to this subsection must be conducted in
34 accordance with regulations adopted pursuant to NRS 484C.480.
35 The manufacturer or its agent shall submit a report to the Director
36 indicating whether the device is operating properly and whether it
37 has been tampered with. If the device has been tampered with, the
38 Director shall notify the court that ordered the installation of the
39 device.

40 5. If a person is required to operate a motor vehicle in the
41 course and scope of his or her employment and the motor vehicle is
42 owned by the person's employer, the person may operate that
43 vehicle without the installation of a device, if:

44 (a) The employee notifies his or her employer that the
45 employee's driving privilege has been so restricted; and



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

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

7 6. The running of the period during which a person is required
8 to have a device installed pursuant to this section commences when
9 the Department issues a restricted license to the person or reinstates
10 the driving privilege of the person and is tolled whenever and for as
11 long as the person is, with regard to a violation of NRS 484C.110,
12 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of
13 residential confinement, ~~confined in~~ *placed under the supervision*
14 *of a treatment facility, provider,* on parole or on probation.

15 **Sec. 35.** NRS 449.00455 is hereby repealed.

16 **Sec. 36.** This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTION

449.00455 “Facility for the treatment of abuse of alcohol or drugs” defined. “Facility for the treatment of abuse of alcohol or drugs” means any public or private establishment which provides residential treatment, including mental and physical restoration, of abusers of alcohol or drugs and which is certified by the Division pursuant to subsection 4 of NRS 458.025. It does not include a medical facility or services offered by volunteers or voluntary organizations.

