
ASSEMBLY BILL NO. 156—COMMITTEE ON JUDICIARY

FEBRUARY 18, 2003

Referred to Committee on Judiciary

SUMMARY—Abolishes plea of guilty but mentally ill and reinstates exculpation by reason of insanity. (BDR 14-131)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

~

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

AN ACT relating to criminal procedure; abolishing the plea of guilty but mentally ill; reinstating exculpation by reason of insanity; providing a procedure for committing a person to a mental health facility who is acquitted by reason of insanity; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 169.195 is hereby amended to read as follows:
2 169.195 1. “Trial” means that portion of a criminal action
3 which:
4 (a) If a jury is used, begins with the impaneling of the jury and
5 ends with the return of the verdict, both inclusive.
6 (b) If no jury is used, begins with the opening statement, or if
7 there is no opening statement, when the first witness is sworn, and
8 ends with the closing argument or upon submission of the cause to
9 the court without argument, both inclusive.
10 2. “Trial” does not include any proceeding had upon a plea of
11 guilty ~~for guilty but mentally ill~~ to determine the degree of guilt or
12 to fix the punishment.
13 **Sec. 2.** NRS 173.035 is hereby amended to read as follows:
14 173.035 1. An information may be filed against any person
15 for any offense when the person:



1 (a) Has had a preliminary examination as provided by law
2 before a justice of the peace, or other examining officer or
3 magistrate, and has been bound over to appear at the court having
4 jurisdiction; or

5 (b) Has waived his right to a preliminary examination.

6 2. If, however, upon the preliminary examination the accused
7 has been discharged, or the affidavit or complaint upon which the
8 examination has been held has not been delivered to the clerk of the
9 proper court, the Attorney General when acting pursuant to a
10 specific statute or the district attorney may, upon affidavit of any
11 person who has knowledge of the commission of an offense, and
12 who is a competent witness to testify in the case, setting forth
13 the offense and the name of the person or persons charged with the
14 commission thereof, upon being furnished with the names of the
15 witnesses for the prosecution, by leave of the court first had, file an
16 information, and process must forthwith be issued thereon. The
17 affidavit need not be filed in cases where the defendant has waived a
18 preliminary examination, or upon a preliminary examination has
19 been bound over to appear at the court having jurisdiction.

20 3. The information must be filed within 15 days after the
21 holding or waiver of the preliminary examination. Each information
22 must set forth the crime committed according to the facts.

23 4. If, with the consent of the prosecuting attorney, a defendant
24 waives his right to a preliminary examination in accordance with an
25 agreement by the defendant to plead guilty ~~[, guilty but mentally ill]~~
26 or nolo contendere to a lesser charge or at least one but not all, of
27 the initial charges, the information filed against the defendant
28 pursuant to this section may contain only the offense or offenses to
29 which the defendant has agreed to enter a plea of guilty ~~[, guilty but~~
30 ~~mentally ill]~~ or nolo contendere. If, for any reason, the agreement is
31 rejected by the district court or withdrawn by the defendant, the
32 prosecuting attorney may file an amended information charging all
33 of the offenses which were in the criminal complaint upon which the
34 preliminary examination was waived. The defendant must then be
35 arraigned in accordance with the amended information.

36 **Sec. 3.** NRS 173.125 is hereby amended to read as follows:

37 173.125 The prosecution is not required to elect between the
38 different offenses or counts set forth in the indictment or
39 information , and a plea of guilty ~~[or guilty but mentally ill]~~ to one
40 or more offenses charged in the indictment or information does not
41 preclude prosecution for the other offenses.

42 **Sec. 4.** NRS 174.035 is hereby amended to read as follows:

43 174.035 1. A defendant may plead not guilty, guilty ~~[, guilty~~
44 ~~but mentally ill]~~ or, with the consent of the court, nolo contendere.



1 The court may refuse to accept a plea of guilty . ~~for guilty but~~
2 ~~mentally ill.]~~

3 2. If a plea of guilty is made in a written plea agreement, the
4 agreement must be in substantially the form prescribed in NRS
5 174.063. If a plea of guilty ~~for guilty but mentally ill]~~ is made
6 orally, the court shall not accept such a plea or a plea of nolo
7 contendere without first addressing the defendant personally and
8 determining that the plea is made voluntarily with understanding of
9 the nature of the charge and consequences of the plea. ~~[In addition,~~
10 ~~the court shall not accept a plea of guilty but mentally ill without~~
11 ~~complying with the provisions of NRS 174.041.]~~

12 3. With the consent of the court and the district attorney, a
13 defendant may enter a conditional plea of guilty ~~[, guilty but~~
14 ~~mentally ill]~~ or nolo contendere, reserving in writing the right, on
15 appeal from the judgment, to a review of the adverse determination
16 of any specified pretrial motion. A defendant who prevails on appeal
17 must be allowed to withdraw the plea.

18 4. ~~[A plea of guilty but mentally ill is not a defense to the~~
19 ~~alleged offense. A defendant who enters such a plea is subject to the~~
20 ~~same penalties as a defendant who pleads guilty.]~~ *The defendant*
21 *may, in the alternative or in addition to any one of the pleas*
22 *permitted by subsection 1, plead not guilty by reason of insanity. A*
23 *defendant who has not so pleaded may offer the defense of*
24 *insanity during trial upon good cause shown. Under such a plea*
25 *or defense, the burden of proof is upon the defendant to establish*
26 *his insanity by a preponderance of the evidence.*

27 5. If a defendant refuses to plead ~~[,]~~ *or* if the court refuses to
28 accept a plea of guilty ~~for guilty but mentally ill]~~ or if a defendant
29 corporation fails to appear, the court shall enter a plea of not guilty.

30 6. A defendant may not enter a plea of guilty ~~for guilty but~~
31 ~~mentally ill]~~ pursuant to a plea bargain for an offense punishable as
32 a felony for which:

- 33 (a) Probation is not allowed; or
34 (b) The maximum prison sentence is more than 10
35 years,

36 unless the plea bargain is set forth in writing and signed by the
37 defendant, the defendant's attorney, if he is represented by counsel,
38 and the prosecuting attorney.

39 **Sec. 5.** NRS 174.055 is hereby amended to read as follows:

40 174.055 In the justice's court, if the defendant pleads guilty ,
41 ~~for guilty but mentally ill,]~~ the court may, before entering such a
42 plea or pronouncing judgment, examine witnesses to ascertain the
43 gravity of the offense committed. If it appears to the court that a
44 higher offense has been committed than the offense charged in the
45 complaint, the court may order the defendant to be committed or



1 admitted to bail ~~[]~~ or to answer any indictment that may be found
2 against him or any information which may be filed by the district
3 attorney.

4 **Sec. 6.** NRS 174.061 is hereby amended to read as follows:

5 174.061 1. If a prosecuting attorney enters into an agreement
6 with a defendant in which the defendant agrees to testify against
7 another defendant in exchange for a plea of guilty ~~[, guilty but~~
8 ~~mentally ill]~~ or nolo contendere to a lesser charge or for a
9 recommendation of a reduced sentence, the agreement:

10 (a) Is void if the defendant's testimony is false.

11 (b) Must be in writing and include a statement that the
12 agreement is void if the defendant's testimony is false.

13 2. A prosecuting attorney shall not enter into an agreement
14 with a defendant which:

15 (a) Limits the testimony of the defendant to a predetermined
16 formula.

17 (b) Is contingent on the testimony of the defendant contributing
18 to a specified conclusion.

19 **Sec. 7.** NRS 174.065 is hereby amended to read as follows:

20 174.065 Except as otherwise provided in NRS 174.061:

21 1. On a plea of guilty ~~for guilty but mentally ill]~~ to an
22 information or indictment accusing a defendant of a crime divided
23 into degrees, when consented to by the prosecuting attorney in open
24 court and approved by the court, the plea may specify the degree,
25 and in such event the defendant shall not be punished for a higher
26 degree than that specified in the plea.

27 2. On a plea of guilty ~~for guilty but mentally ill]~~ to an
28 indictment or information for murder of the first degree, when
29 consented to by the prosecuting attorney in open court and approved
30 by the court, the plea may specify a punishment less than death. The
31 specified punishment, or any lesser punishment, may be imposed by
32 a single judge.

33 **Sec. 8.** NRS 174.075 is hereby amended to read as follows:

34 174.075 1. Pleadings in criminal proceedings are the
35 indictment, the information and, in justice's court, the complaint,
36 and the pleas of guilty, ~~[guilty but mentally ill,]~~ not guilty and nolo
37 contendere.

38 2. All other pleas, and demurrers and motions to quash are
39 abolished, and defenses and objections raised before trial which
40 could have been raised by one or more of them may be raised only
41 by motion to dismiss or to grant appropriate relief, as provided in
42 this title.



1 **Sec. 9.** Chapter 175 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Where on a trial a defense of insanity is interposed by the*
4 *defendant and he is acquitted by reason of that defense, the*
5 *finding of the jury pending the judicial determination pursuant to*
6 *subsection 2 has the same effect as if he were regularly adjudged*
7 *insane, and the judge must:*

8 (a) *Order a peace officer to take the person into protective*
9 *custody and transport him to a mental health facility or hospital*
10 *for detention pending a hearing to determine his mental health;*

11 (b) *Appoint two psychiatrists, two psychologists, or one*
12 *psychiatrist and one psychologist, to examine the person; and*

13 (c) *At a hearing in open court, receive the report of the*
14 *examining advisers and allow counsel for the State and for the*
15 *person to examine the advisers, introduce other evidence and*
16 *cross-examine witnesses.*

17 2. *If the court finds, after the hearing:*

18 (a) *That there is not clear and convincing evidence that the*
19 *person is a mentally ill person, the court must order his discharge;*
20 *or*

21 (b) *That there is clear and convincing evidence that the person*
22 *is a mentally ill person, the court must order that he be committed*
23 *to the custody of the Administrator of the Division of Mental*
24 *Health and Developmental Services of the Department of Human*
25 *Resources until he is regularly discharged therefrom in*
26 *accordance with law.*

27 *The court shall issue its finding within 90 days after the defendant*
28 *is acquitted.*

29 3. *The Administrator shall make the same reports and the*
30 *court shall proceed in the same manner in the case of a person*
31 *committed to the custody of the Division of Mental Health and*
32 *Developmental Services pursuant to this section as of a person*
33 *committed because he is incompetent to stand trial pursuant to*
34 *NRS 178.400 to 178.460, inclusive, except that the determination*
35 *to be made by the Administrator and the district judge on the*
36 *question of release is whether the person has recovered from his*
37 *mental illness or has improved to such an extent that he is no*
38 *longer a mentally ill person.*

39 4. *As used in this section, unless the context otherwise*
40 *requires, "mentally ill person" has the meaning ascribed to it in*
41 *NRS 433A.115.*

42 **Sec. 10.** NRS 175.282 is hereby amended to read as follows:

43 175.282 If a prosecuting attorney enters into an agreement with
44 a defendant in which the defendant agrees to testify against another
45 defendant in exchange for a plea of guilty [~~guilty but mentally ill~~]



1 or nolo contendere to a lesser charge or for a recommendation of a
2 reduced sentence , the court shall:

3 1. After excising any portion it deems irrelevant or prejudicial,
4 permit the jury to inspect the agreement;

5 2. If the defendant who is testifying has not entered his plea or
6 been sentenced pursuant to the agreement, instruct the jury
7 regarding the possible related pressures on the defendant by
8 providing the jury with an appropriate cautionary instruction; and

9 3. Allow the defense counsel to cross-examine fully the
10 defendant who is testifying concerning the agreement.

11 **Sec. 11.** NRS 175.552 is hereby amended to read as follows:

12 175.552 1. Except as otherwise provided in subsection 2, in
13 every case in which there is a finding that a defendant is guilty of
14 murder of the first degree, whether or not the death penalty is
15 sought, the court shall conduct a separate penalty hearing. The
16 separate penalty hearing must be conducted as follows:

17 (a) If the finding is made by a jury, the separate penalty hearing
18 must be conducted in the trial court before the trial jury, as soon as
19 practicable.

20 (b) If the finding is made upon a plea of guilty ~~for guilty but~~
21 ~~mentally ill~~ or a trial without a jury and the death penalty is sought,
22 the separate penalty hearing must be conducted before a panel of
23 three district judges, as soon as practicable.

24 (c) If the finding is made upon a plea of guilty ~~for guilty but~~
25 ~~mentally ill~~ or a trial without a jury and the death penalty is not
26 sought, the separate penalty hearing must be conducted before the
27 judge who conducted the trial or who accepted the plea ~~of~~ *of guilty*,
28 as soon as practicable.

29 2. In a case in which the death penalty is not sought, the parties
30 may by stipulation waive the separate penalty hearing required in
31 subsection 1. When stipulating to such a waiver, the parties may
32 also include an agreement to have the sentence, if any, imposed by
33 the trial judge. Any stipulation pursuant to this subsection must be
34 in writing and signed by the defendant, his attorney, if any, and the
35 prosecuting attorney.

36 3. In the hearing, evidence may be presented concerning
37 aggravating and mitigating circumstances relative to the offense,
38 defendant or victim and on any other matter which the court deems
39 relevant to sentence, whether or not the evidence is ordinarily
40 admissible. Evidence may be offered to refute hearsay matters. No
41 evidence which was secured in violation of the Constitution of the
42 United States or the Constitution of the State of Nevada may be
43 introduced. The State may introduce evidence of additional
44 aggravating circumstances as set forth in NRS 200.033, other than
45 the aggravated nature of the offense itself, only if it has been



1 disclosed to the defendant before the commencement of the penalty
2 hearing.

3 4. In a case in which the death penalty is not sought, the jury or
4 the trial judge shall determine whether the defendant should be
5 sentenced to life with the possibility of parole or life without the
6 possibility of parole.

7 **Sec. 12.** NRS 175.558 is hereby amended to read as follows:
8 175.558 When any person is convicted of murder of the first
9 degree upon a plea of guilty ~~[or guilty but mentally ill,]~~ or a trial
10 without a jury ~~[,]~~ and the death penalty is sought, the Supreme Court
11 shall appoint two district judges from judicial districts other than the
12 district in which the plea is made, who shall with the district judge
13 before whom the plea is made, or his successor in office, conduct
14 the required penalty hearing to determine the presence of
15 aggravating and mitigating circumstances, and give sentence
16 accordingly. A sentence of death may be given only by unanimous
17 vote of the three judges, but any other sentence may be given by the
18 vote of a majority.

19 **Sec. 13.** NRS 176.059 is hereby amended to read as follows:
20 176.059 1. Except as otherwise provided in subsection 2,
21 when a defendant pleads guilty ~~[or guilty but mentally ill]~~ or is
22 found guilty of a misdemeanor, including the violation of any
23 municipal ordinance, the justice or judge shall include in the
24 sentence the sum prescribed by the following schedule as an
25 administrative assessment and render a judgment against the
26 defendant for the assessment:
27

Fine	Assessment
\$5 to \$49.....	\$15
50 to 59.....	30
60 to 69.....	35
70 to 79.....	40
80 to 89.....	45
90 to 99.....	50
100 to 199.....	60
200 to 299.....	70
300 to 399.....	80
400 to 499.....	90
500 to 1,000.....	105

40
41 2. The provisions of subsection 1 do not apply to:
42 (a) An ordinance regulating metered parking; or
43 (b) An ordinance which is specifically designated as imposing a
44 civil penalty or liability pursuant to NRS 244.3575 or 268.019.



1 3. The money collected for an administrative assessment must
2 not be deducted from the fine imposed by the justice or judge but
3 must be taxed against the defendant in addition to the fine. The
4 money collected for an administrative assessment must be stated
5 separately on the court's docket and must be included in the amount
6 posted for bail. If the defendant is found not guilty or the charges
7 are dismissed, the money deposited with the court must be returned
8 to the defendant. If the justice or judge cancels a fine because the
9 fine has been determined to be uncollectible, any balance of the fine
10 and the administrative assessment remaining unpaid shall be
11 deemed to be uncollectible and the defendant is not required to pay
12 it. If a fine is determined to be uncollectible, the defendant is not
13 entitled to a refund of the fine or administrative assessment he has
14 paid and the justice or judge shall not recalculate the administrative
15 assessment.

16 4. If the justice or judge permits the fine and administrative
17 assessment to be paid in installments, the payments must be first
18 applied to the unpaid balance of the administrative assessment. The
19 city treasurer shall distribute partially collected administrative
20 assessments in accordance with the requirements of subsection 5.
21 The county treasurer shall distribute partially collected
22 administrative assessments in accordance with the requirements of
23 subsection 6.

24 5. The money collected for administrative assessments in
25 municipal court must be paid by the clerk of the court to the city
26 treasurer on or before the fifth day of each month for the preceding
27 month. The city treasurer shall distribute, on or before the 15th day
28 of that month, the money received in the following amounts for each
29 assessment received:

30 (a) Two dollars to the county treasurer for credit to a special
31 account in the county general fund for the use of the county's
32 juvenile court or for services to juvenile offenders. Any money
33 remaining in the special account after 2 fiscal years must be
34 deposited in the county general fund if it has not been committed for
35 expenditure. The county treasurer shall provide, upon request by a
36 juvenile court, monthly reports of the revenue credited to and
37 expenditures made from the special account.

38 (b) Seven dollars for credit to a special revenue fund for the use
39 of the municipal courts. Any money remaining in the special
40 revenue fund after 2 fiscal years must be deposited in the municipal
41 general fund if it has not been committed for expenditure. The city
42 treasurer shall provide, upon request by a municipal court, monthly
43 reports of the revenue credited to and expenditures made from the
44 special revenue fund.



1 (c) The remainder of each assessment to the State Controller for
2 credit to a special account in the State General Fund.

3 6. The money collected for administrative assessments in
4 justices' courts must be paid by the clerk of the court to the county
5 treasurer on or before the fifth day of each month for the preceding
6 month. The county treasurer shall distribute, on or before the 15th
7 day of that month, the money received in the following amounts for
8 each assessment received:

9 (a) Two dollars for credit to a special account in the county
10 general fund for the use of the county's juvenile court or for services
11 to juvenile offenders. Any money remaining in the special account
12 after 2 fiscal years must be deposited in the county general fund if it
13 has not been committed for expenditure. The county treasurer shall
14 provide, upon request by a juvenile court, monthly reports of the
15 revenue credited to and expenditures made from the special account.

16 (b) Seven dollars for credit to a special revenue fund for the use
17 of the justices' courts. Any money remaining in the special revenue
18 fund after 2 fiscal years must be deposited in the county general
19 fund if it has not been committed for expenditure. The county
20 treasurer shall provide, upon request by a justice's court, monthly
21 reports of the revenue credited to and expenditures made from the
22 special revenue fund.

23 (c) The remainder of each assessment to the State Controller for
24 credit to a special account in the State General Fund.

25 7. The money apportioned to a juvenile court, a justice's court
26 or a municipal court pursuant to this section must be used, in
27 addition to providing services to juvenile offenders in the juvenile
28 court, to improve the operations of the court, or to acquire
29 appropriate advanced technology or the use of such technology, or
30 both. Money used to improve the operations of the court may
31 include expenditures for:

- 32 (a) Training and education of personnel;
- 33 (b) Acquisition of capital goods;
- 34 (c) Management and operational studies; or
- 35 (d) Audits.

36 8. Of the total amount deposited in the State General Fund
37 pursuant to subsections 5 and 6, the State Controller shall distribute
38 the money received to the following public agencies in the
39 following manner:

40 (a) Not less than 51 percent to the Office of the Court
41 Administrator for allocation as follows:

42 (1) Eighteen and one-half percent of the amount distributed
43 to the Office of the Court Administrator for the administration of the
44 courts.



1 (2) Nine percent of the amount distributed to the Office of
2 the Court Administrator for the development of a uniform system
3 for judicial records.

4 (3) Nine percent of the amount distributed to the Office
5 of the Court Administrator for continuing judicial education.

6 (4) Sixty percent of the amount distributed to the Office of
7 the Court Administrator for the Supreme Court.

8 (5) Three and one-half percent of the amount distributed to
9 the Office of the Court Administrator for the payment for the
10 services of retired justices and retired district judges.

11 (b) Not more than 49 percent must be used to the extent of
12 legislative authorization for the support of:

13 (1) The Central Repository for Nevada Records of Criminal
14 History;

15 (2) The Peace Officers' Standards and Training Commission;

16 (3) The operation by the Nevada Highway Patrol of a
17 computerized switching system for information related to law
18 enforcement;

19 (4) The Fund for the Compensation of Victims of Crime; and

20 (5) The Advisory Council for Prosecuting Attorneys.

21 9. As used in this section, "juvenile court" means:

22 (a) In any judicial district that includes a county whose
23 population is 100,000 or more, the family division of the district
24 court; or

25 (b) In any other judicial district, the juvenile division of the
26 district court.

27 **Sec. 14.** NRS 176.0611 is hereby amended to read as follows:

28 176.0611 1. A county or a city, upon recommendation of the
29 appropriate court, may, by ordinance, authorize the justices or
30 judges of the justices' or municipal courts within its jurisdiction to
31 impose for not longer than 25 years, in addition to an administrative
32 assessment imposed pursuant to NRS 176.059, an administrative
33 assessment for the provision of court facilities.

34 2. Except as otherwise provided in subsection 3, in any
35 jurisdiction in which an administrative assessment for the provision
36 of court facilities has been authorized, when a defendant pleads
37 guilty ~~for guilty but mentally ill~~ or is found guilty of a
38 misdemeanor, including the violation of any municipal ordinance,
39 the justice or judge shall include in the sentence the sum of \$10 as
40 an administrative assessment for the provision of court facilities and
41 render a judgment against the defendant for the assessment.

42 3. The provisions of subsection 2 do not apply to:

43 (a) An ordinance regulating metered parking; or

44 (b) An ordinance that is specifically designated as imposing a
45 civil penalty or liability pursuant to NRS 244.3575 or 268.019.



1 4. The money collected for an administrative assessment for
2 the provision of court facilities must not be deducted from the fine
3 imposed by the justice or judge but must be taxed against the
4 defendant in addition to the fine. The money collected for such an
5 administrative assessment must be stated separately on the court's
6 docket and must be included in the amount posted for bail. If the
7 defendant is found not guilty or the charges are dismissed, the
8 money deposited with the court must be returned to the defendant. If
9 the justice or judge cancels a fine because the fine has been
10 determined to be uncollectible, any balance of the fine and the
11 administrative assessment remaining unpaid shall be deemed to be
12 uncollectible and the defendant is not required to pay it. If a fine is
13 determined to be uncollectible, the defendant is not entitled to a
14 refund of the fine or administrative assessment he has paid and the
15 justice or judge shall not recalculate the administrative assessment.

16 5. If the justice or judge permits the fine and administrative
17 assessment for the provision of court facilities to be paid in
18 installments, the payments must be applied in the following order:

19 (a) To pay the unpaid balance of an administrative assessment
20 imposed pursuant to NRS 176.059;

21 (b) To pay the unpaid balance of an administrative assessment
22 for the provision of court facilities pursuant to this section; and

23 (c) To pay the fine.

24 6. The money collected for administrative assessments for the
25 provision of court facilities in municipal courts must be paid by the
26 clerk of the court to the city treasurer on or before the fifth day of
27 each month for the preceding month. The city treasurer shall deposit
28 the money received in a special revenue fund. The city may use the
29 money in the special revenue fund only to:

30 (a) Acquire land on which to construct additional facilities for
31 the municipal courts or a regional justice center that includes the
32 municipal courts.

33 (b) Construct or acquire additional facilities for the municipal
34 courts or a regional justice center that includes the municipal courts.

35 (c) Renovate or remodel existing facilities for the municipal
36 courts.

37 (d) Acquire furniture, fixtures and equipment necessitated by the
38 construction or acquisition of additional facilities or the renovation
39 of an existing facility for the municipal courts or a regional justice
40 center that includes the municipal courts. This paragraph does not
41 authorize the expenditure of money from the fund for furniture,
42 fixtures or equipment for judicial chambers.

43 (e) Acquire advanced technology for use in the additional or
44 renovated facilities.



1 (f) Pay debt service on any bonds issued pursuant to
2 subsection 3 of NRS 350.020 for the acquisition of land or facilities
3 or the construction or renovation of facilities for the municipal
4 courts or a regional justice center that includes the municipal
5 courts.

6 Any money remaining in the special revenue fund after 5 fiscal
7 years must be deposited in the municipal general fund for the
8 continued maintenance of court facilities if it has not been
9 committed for expenditure pursuant to a plan for the construction or
10 acquisition of court facilities or improvements to court facilities.
11 The city treasurer shall provide, upon request by a municipal court,
12 monthly reports of the revenue credited to and expenditures made
13 from the special revenue fund.

14 7. The money collected for administrative assessments for the
15 provision of court facilities in justices' courts must be paid by the
16 clerk of the court to the county treasurer on or before the fifth day of
17 each month for the preceding month. The county treasurer shall
18 deposit the money received to a special revenue fund. The county
19 may use the money in the special revenue fund only to:

20 (a) Acquire land on which to construct additional facilities for
21 the justices' courts or a regional justice center that includes the
22 justices' courts.

23 (b) Construct or acquire additional facilities for the justices'
24 courts or a regional justice center that includes the justices' courts.

25 (c) Renovate or remodel existing facilities for the justices'
26 courts.

27 (d) Acquire furniture, fixtures and equipment necessitated by the
28 construction or acquisition of additional facilities or the renovation
29 of an existing facility for the justices' courts or a regional justice
30 center that includes the justices' courts. This paragraph does not
31 authorize the expenditure of money from the fund for furniture,
32 fixtures or equipment for judicial chambers.

33 (e) Acquire advanced technology for use in the additional or
34 renovated facilities.

35 (f) Pay debt service on any bonds issued pursuant to
36 subsection 3 of NRS 350.020 for the acquisition of land or facilities
37 or the construction or renovation of facilities for the justices' courts
38 or a regional justice center that includes the justices'
39 courts.

40 Any money remaining in the special revenue fund after 5 fiscal
41 years must be deposited in the county general fund for the continued
42 maintenance of court facilities if it has not been committed for
43 expenditure pursuant to a plan for the construction or acquisition of
44 court facilities or improvements to court facilities. The county
45 treasurer shall provide, upon request by a justice's court, monthly



1 reports of the revenue credited to and expenditures made from the
2 special revenue fund.

3 8. If money collected pursuant to this section is to be used to
4 acquire land on which to construct a regional justice center, to
5 construct a regional justice center or to pay debt service on bonds
6 issued for these purposes, the county and the participating cities
7 shall, by interlocal agreement, determine such issues as the size of
8 the regional justice center, the manner in which the center will be
9 used and the apportionment of fiscal responsibility for the center.

10 **Sec. 15.** NRS 176.062 is hereby amended to read as follows:

11 176.062 1. When a defendant pleads guilty ~~for guilty but~~
12 ~~mentally ill]~~ or is found guilty of a felony or gross misdemeanor, the
13 judge shall include in the sentence the sum of \$25 as an
14 administrative assessment and render a judgment against the
15 defendant for the assessment.

16 2. The money collected for an administrative assessment:

17 (a) Must not be deducted from any fine imposed by the judge;

18 (b) Must be taxed against the defendant in addition to the fine;
19 and

20 (c) Must be stated separately on the court's docket.

21 3. The money collected for administrative assessments in
22 district courts must be paid by the clerk of the court to the county
23 treasurer on or before the fifth day of each month for the preceding
24 month. The county treasurer shall distribute, on or before the 15th
25 day of that month, the money received in the following amounts for
26 each assessment received:

27 (a) Five dollars for credit to a special account in the county
28 general fund for the use of the district court.

29 (b) The remainder of each assessment to the State Controller.

30 4. The State Controller shall credit the money received
31 pursuant to subsection 3 to a special account for the assistance of
32 criminal justice in the State General Fund, and distribute the money
33 from the account to the Attorney General as authorized by the
34 Legislature. Any amount received in excess of the amount
35 authorized by the Legislature for distribution must remain in the
36 account.

37 **Sec. 16.** NRS 176.135 is hereby amended to read as follows:

38 176.135 1. Except as otherwise provided in this section and
39 NRS 176.151, the Division shall make a presentence investigation
40 and report to the court on each defendant who pleads guilty ~~[, guilty~~
41 ~~but mentally ill]~~ or nolo contendere to or is found guilty of a felony.

42 2. If a defendant is convicted of a felony that is a sexual
43 offense, the presentence investigation and report:



1 (a) Must be made before the imposition of sentence or the
2 granting of probation; and

3 (b) If the sexual offense is an offense for which the suspension
4 of sentence or the granting of probation is permitted, must include a
5 psychosexual evaluation of the defendant.

6 3. If a defendant is convicted of a felony other than a sexual
7 offense, the presentence investigation and report must be made
8 before the imposition of sentence or the granting of probation
9 unless:

10 (a) A sentence is fixed by a jury; or

11 (b) Such an investigation and report on the defendant has been
12 made by the Division within the 5 years immediately preceding the
13 date initially set for sentencing on the most recent offense.

14 4. Upon request of the court, the Division shall make
15 presentence investigations and reports on defendants who plead
16 guilty ~~[, guilty but mentally ill]~~ or nolo contendere to or are found
17 guilty of gross misdemeanors.

18 **Sec. 17.** NRS 176.151 is hereby amended to read as follows:

19 176.151 1. If a defendant pleads guilty ~~[, guilty but mentally~~
20 ~~ill]~~ or nolo contendere to or is found guilty of one or more category
21 E felonies, but no other felonies, the Division shall not make a
22 presentence investigation and report on the defendant pursuant to
23 NRS 176.135, unless the Division has not made a presentence
24 investigation and report on the defendant pursuant to NRS 176.135
25 within the 5 years immediately preceding the date initially set for
26 sentencing on the category E felony or felonies and:

27 (a) The court requests a presentence investigation and report; or

28 (b) The prosecuting attorney possesses evidence that would
29 support a decision by the court to deny probation to the defendant
30 pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

31 2. If the Division does not make a presentence investigation
32 and report on a defendant pursuant to subsection 1, the Division
33 shall, not later than 45 days after the date on which the defendant is
34 sentenced, make a general investigation and report on the defendant
35 that contains:

36 (a) Any prior criminal record of the defendant;

37 (b) Information concerning the characteristics of the defendant,
38 the circumstances affecting his behavior and the circumstances of
39 his offense that may be helpful to persons responsible for the
40 supervision or correctional treatment of the defendant;

41 (c) Information concerning the effect that the offense committed
42 by the defendant has had upon the victim, including, without
43 limitation, any physical or psychological harm or financial loss
44 suffered by the victim, to the extent that such information is
45 available from the victim or other sources, but the provisions of this



1 paragraph do not require any particular examination or testing of
2 the victim, and the extent of any investigation or examination and
3 the extent of the information included in the report is solely at the
4 discretion of the Division;

5 (d) Data or information concerning reports and investigations
6 thereof made pursuant to chapter 432B of NRS that relate to the
7 defendant and are made available pursuant to NRS 432B.290; and

8 (e) Any other information that the Division believes may be
9 helpful to persons responsible for the supervision or correctional
10 treatment of the defendant.

11 **Sec. 18.** NRS 176.165 is hereby amended to read as follows:

12 176.165 Except as otherwise provided in this section, a motion
13 to withdraw a plea of guilty [~~guilty but mentally ill~~] or nolo
14 contendere may be made only before sentence is imposed or
15 imposition of sentence is suspended. To correct manifest injustice,
16 the court after sentence may set aside the judgment of conviction
17 and permit the defendant to withdraw his plea.

18 **Sec. 19.** NRS 176A.255 is hereby amended to read as follows:

19 176A.255 1. A justice's court or a municipal court may, upon
20 approval of the district court, transfer original jurisdiction to the
21 district court of a case involving an eligible defendant.

22 2. As used in this section, "eligible defendant" means a person
23 who:

24 (a) Has not tendered a plea of guilty [~~guilty but mentally ill~~] or
25 nolo contendere to, or been found guilty of, an offense that is a
26 misdemeanor;

27 (b) Appears to suffer from mental illness; and

28 (c) Would benefit from assignment to a program established
29 pursuant to NRS 176A.250.

30 **Sec. 20.** NRS 176A.260 is hereby amended to read as follows:

31 176A.260 1. Except as otherwise provided in subsection 2, if
32 a defendant who suffers from mental illness tenders a plea of guilty
33 [~~guilty but mentally ill~~] or nolo contendere to, or is found guilty of,
34 any offense for which the suspension of sentence or the granting of
35 probation is not prohibited by statute, the court may, without
36 entering a judgment of conviction and with the consent of the
37 defendant, suspend further proceedings and place the defendant on
38 probation upon terms and conditions that must include attendance
39 and successful completion of a program established pursuant to
40 NRS 176A.250.

41 2. If the offense committed by the defendant involved the use
42 or threatened use of force or violence or if the defendant was
43 previously convicted in this state or in any other jurisdiction of a
44 felony that involved the use or threatened use of force or violence,



1 the court may not assign the defendant to the program unless the
2 prosecuting attorney stipulates to the assignment.

3 3. Upon violation of a term or condition:

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

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

11 4. Upon fulfillment of the terms and conditions, the court shall
12 discharge the defendant and dismiss the proceedings against him.
13 Discharge and dismissal pursuant to this section is without
14 adjudication of guilt and is not a conviction for purposes of this
15 section or for purposes of employment, civil rights or any statute or
16 regulation or license or questionnaire or for any other public or
17 private purpose, but is a conviction for the purpose of additional
18 penalties imposed for second or subsequent convictions or the
19 setting of bail. Discharge and dismissal restores the defendant, in the
20 contemplation of the law, to the status occupied before the arrest,
21 indictment or information. The defendant may not be held thereafter
22 under any law to be guilty of perjury or otherwise giving a false
23 statement by reason of failure to recite or acknowledge that arrest,
24 indictment, information or trial in response to an inquiry made of
25 him for any purpose.

26 **Sec. 21.** NRS 177.015 is hereby amended to read as follows:

27 177.015 The party aggrieved in a criminal action may appeal
28 only as follows:

29 1. Whether that party is the State or the defendant:

30 (a) To the district court of the county from a final judgment of
31 the justice's court.

32 (b) To the Supreme Court from an order of the district court
33 granting a motion to dismiss, a motion for acquittal or a motion in
34 arrest of judgment, or granting or refusing a new trial.

35 2. The State may, upon good cause shown, appeal to the
36 Supreme Court from a pretrial order of the district court granting or
37 denying a motion to suppress evidence made pursuant to NRS
38 174.125. Notice of the appeal must be filed with the clerk of the
39 district court within 2 judicial days and with the Clerk of the
40 Supreme Court within 5 judicial days after the ruling by the district
41 court. The clerk of the district court shall notify counsel for the
42 defendant or, in the case of a defendant without counsel, the
43 defendant within 2 judicial days after the filing of the notice of
44 appeal. The Supreme Court may establish such procedures as it
45 determines proper in requiring the appellant to make a preliminary



1 showing of the propriety of the appeal and whether there may be a
2 miscarriage of justice if the appeal is not entertained. If the Supreme
3 Court entertains the appeal, or if it otherwise appears necessary, it
4 may enter an order staying the trial for such time as may be
5 required.

6 3. The defendant only may appeal from a final judgment or
7 verdict in a criminal case.

8 4. Except as otherwise provided in subsection 3 of NRS
9 174.035, the defendant in a criminal case shall not appeal a final
10 judgment or verdict resulting from a plea of guilty [~~guilty but~~
11 ~~mentally ill~~] or nolo contendere that the defendant entered into
12 voluntarily and with a full understanding of the nature of the charge
13 and the consequences of the plea, unless the appeal is based upon
14 reasonable constitutional, jurisdictional or other grounds that
15 challenge the legality of the proceedings. The Supreme Court may
16 establish procedures to require the defendant to make a preliminary
17 showing of the propriety of the appeal.

18 **Sec. 22.** NRS 177.055 is hereby amended to read as follows:

19 177.055 1. When upon a plea of not guilty *or not guilty by*
20 *reason of insanity* a judgment of death is entered, an appeal is
21 deemed automatically taken by the defendant without any action by
22 him or his counsel, unless the defendant or his counsel affirmatively
23 waives the appeal within 30 days after the rendition of the judgment.

24 2. Whether or not the defendant or his counsel affirmatively
25 waives the appeal, the sentence must be reviewed on the record by
26 the Supreme Court, which shall consider, in a single proceeding if
27 an appeal is taken:

- 28 (a) Any errors enumerated by way of appeal;
- 29 (b) Whether the evidence supports the finding of an aggravating
30 circumstance or circumstances;
- 31 (c) Whether the sentence of death was imposed under the
32 influence of passion, prejudice or any arbitrary factor; and
- 33 (d) Whether the sentence of death is excessive, considering both
34 the crime and the defendant.

35 3. The Supreme Court, when reviewing a death sentence, may:

- 36 (a) Affirm the sentence of death;
- 37 (b) Set the sentence aside and remand the case for a new penalty
38 hearing:
 - 39 (1) If the original penalty hearing was before a jury, before a
40 newly impaneled jury; or
 - 41 (2) If the original penalty hearing was before a panel of
42 judges, before a panel of three district judges which must consist,
43 insofar as possible, of the members of the original panel; or
 - 44 (c) Set aside the sentence of death and impose the sentence of
45 imprisonment for life without possibility of parole.



1 **Sec. 23.** NRS 177.075 is hereby amended to read as follows:
2 177.075 1. Except where appeal is automatic, an appeal from
3 a district court to the Supreme Court is taken by filing a notice of
4 appeal with the clerk of the district court. Bills of exception and
5 assignments of error in cases governed by this chapter are abolished.
6 2. When a court imposes sentence upon a defendant who has
7 not pleaded guilty ~~for guilty but mentally ill~~ and who is without
8 counsel, the court shall advise the defendant of his right to appeal,
9 and if he so requests, the clerk shall prepare and file forthwith a
10 notice of appeal on his behalf.

11 3. A notice of appeal must be signed:
12 (a) By the appellant or appellant's attorney; or
13 (b) By the clerk if prepared by him.
14 **Sec. 24.** NRS 178.388 is hereby amended to read as follows:
15 178.388 1. Except as otherwise provided in this title, the
16 defendant must be present at the arraignment, at every stage of
17 the trial including the impaneling of the jury and the return of the
18 verdict, and at the imposition of sentence. A corporation may appear
19 by counsel for all purposes.

20 2. In prosecutions for offenses not punishable by death:
21 (a) The defendant's voluntary absence after the trial has been
22 commenced in his presence must not prevent continuing the trial to
23 and including the return of the verdict.

24 (b) If the defendant was present at the trial through the time he
25 pleads guilty ~~for guilty but mentally ill~~ or is found guilty but at the
26 time of his sentencing is incarcerated in another jurisdiction, he may
27 waive his right to be present at the sentencing proceedings and agree
28 to be sentenced in this state in his absence. The defendant's waiver
29 is valid only if it is:

- 30 (1) Made knowingly, intelligently and voluntarily after
31 consulting with an attorney licensed to practice in this state;
32 (2) Signed and dated by the defendant and notarized by a
33 notary public or judicial officer; and
34 (3) Signed and dated by his attorney after it has been signed
35 by the defendant and notarized.

36 3. In prosecutions for offenses punishable by fine or by
37 imprisonment for not more than 1 year, or both, the court, with the
38 written consent of the defendant, may permit arraignment, plea, trial
39 and imposition of sentence in the defendant's absence, if the court
40 determines that the defendant was fully aware of his applicable
41 constitutional rights when he gave his consent.

42 4. The presence of the defendant is not required at the
43 arraignment or any preceding stage if the court has provided for the
44 use of a closed-circuit television to facilitate communication
45 between the court and the defendant during the proceeding. If



1 closed-circuit television is provided for, members of the news media
2 may observe and record the proceeding from both locations unless
3 the court specifically provides otherwise.

4 5. The defendant's presence is not required at the settling of
5 jury instructions.

6 **Sec. 25.** NRS 178.400 is hereby amended to read as follows:

7 178.400 1. A person may not be tried, ~~for~~ adjudged to
8 punishment *or punished* for a public offense while he is
9 incompetent.

10 2. For the purposes of this section, "incompetent" means that
11 the person is not of sufficient mentality to be able to understand the
12 nature of the criminal charges against him, and because of that
13 insufficiency, is not able to aid and assist his counsel in the defense
14 interposed upon the trial or against the pronouncement of the
15 judgment thereafter.

16 **Sec. 26.** NRS 178.460 is hereby amended to read as follows:

17 178.460 1. If requested by the district attorney or counsel for
18 the defendant within 10 days after the report by the Administrator or
19 his designee is sent to them, the judge shall hold a hearing within 10
20 days after the request at which the district attorney and the defense
21 counsel may examine the members of the treatment team on their
22 report.

23 2. If the judge orders the appointment of a licensed psychiatrist
24 or psychologist who is not employed by the Division of Mental
25 Health and Developmental Services of the Department of Human
26 Resources to perform an additional evaluation and report concerning
27 the defendant, the cost of the additional evaluation and report is a
28 charge against the county.

29 3. Within 10 days after the hearing or 20 days after the report is
30 sent, if no hearing is requested, the judge shall make and enter his
31 finding of competence or incompetence, and if he finds the
32 defendant to be incompetent:

33 (a) Whether there is substantial probability that the defendant
34 will attain competency to stand trial or receive pronouncement of
35 judgment in the foreseeable future; and

36 (b) Whether the defendant is at that time a danger to himself or
37 to society.

38 4. If the judge finds the defendant:

39 (a) Competent, the judge shall, within 10 days, forward his
40 finding to the prosecuting attorney and counsel for the defendant.
41 Upon receipt thereof, the prosecuting attorney shall notify the
42 sheriff of the county or chief of police of the city that the defendant
43 has been found competent and prearrange with the facility for the
44 return of the defendant to that county or city for trial upon the



1 offense there charged or the pronouncement of judgment, as the case
2 may be.

3 (b) Incompetent, but there is a substantial probability that he
4 will attain competency to stand trial or receive pronouncement of
5 judgment in the foreseeable future and finds that he is dangerous to
6 himself or to society, the judge shall recommit the defendant.

7 (c) Incompetent, but there is a substantial probability that he will
8 attain competency to stand trial or receive pronouncement of
9 judgment in the foreseeable future and finds that he is not dangerous
10 to himself or to society, the judge shall order that the defendant
11 remain an outpatient or be transferred to the status of an outpatient
12 under the provisions of NRS 178.425.

13 (d) Incompetent, with no substantial probability of attaining
14 competency in the foreseeable future, the judge shall order the
15 defendant released from custody or if the defendant is an outpatient,
16 released from his obligations as an outpatient if, within 10 days, a
17 petition is not filed to commit the person pursuant to NRS
18 433A.200. After the initial 10 days, the defendant may remain an
19 outpatient or in custody under the provisions of this chapter only as
20 long as the petition is pending unless the defendant is involuntarily
21 committed pursuant to chapter 433A of NRS.

22 5. No person who is committed under the provisions of this
23 chapter may be held in the custody of the Administrator of the
24 Division of Mental Health and Developmental Services of the
25 Department of Human Resources or his designee longer than
26 the longest period of incarceration provided for the crime or crimes
27 with which he is charged ~~or 10 years~~ *or 10 years, whichever period is*
28 *shorter*. Upon expiration of the *applicable* period, the defendant
29 must be returned to the committing court for a determination as to
30 whether or not involuntary commitment pursuant to chapter 433A of
31 NRS is required.

32 **Sec. 27.** NRS 179.225 is hereby amended to read as follows:

33 179.225 1. If the punishment of the crime is the confinement
34 of the criminal in prison, the expenses must be paid from money
35 appropriated to the Office of the Attorney General for that purpose,
36 upon approval by the State Board of Examiners. After the
37 appropriation is exhausted, the expenses must be paid from
38 the Reserve for Statutory Contingency Account upon approval by
39 the State Board of Examiners. In all other cases, they must be paid
40 out of the county treasury in the county wherein the crime is alleged
41 to have been committed. The expenses are:

42 (a) If the prisoner is returned to this state from another state, the
43 fees paid to the officers of the state on whose governor the
44 requisition is made;



1 (b) If the prisoner is returned to this state from a foreign country
2 or jurisdiction, the fees paid to the officers and agents of this state or
3 the United States; or

4 (c) If the prisoner is temporarily returned for prosecution to this
5 state from another state pursuant to this chapter or chapter 178 of
6 NRS and is then returned to the sending state upon completion of
7 the prosecution, the fees paid to the officers and agents of this
8 state,
9 and the necessary traveling expenses and subsistence allowances in
10 the amounts authorized by NRS 281.160 incurred in returning the
11 prisoner.

12 2. If a person is returned to this state pursuant to this chapter or
13 chapter 178 of NRS and is convicted of, or pleads guilty ~~[guilty but~~
14 ~~mentally ill]~~ or nolo contendere to the criminal charge for which he
15 was returned or a lesser criminal charge, the court shall conduct an
16 investigation of the financial status of the person to determine his
17 ability to make restitution. In conducting the investigation, the court
18 shall determine if the person is able to pay any existing obligations
19 for:

- 20 (a) Child support;
- 21 (b) Restitution to victims of crimes; and
- 22 (c) Any administrative assessment required to be paid pursuant
23 to NRS 62.2175, 176.059 and 176.062.

24 3. If the court determines that the person is financially able to
25 pay the obligations described in subsection 2, it shall, in addition to
26 any other sentence it may impose, order the person to make
27 restitution for the expenses incurred by the Attorney General or
28 other governmental entity in returning him to this state. The court
29 shall not order the person to make restitution if payment of
30 restitution will prevent him from paying any existing obligations
31 described in subsection 2. Any amount of restitution remaining
32 unpaid constitutes a civil liability arising upon the date of the
33 completion of his sentence.

34 4. The Attorney General may adopt regulations to carry out the
35 provisions of this section.

36 **Sec. 28.** NRS 34.735 is hereby amended to read as follows:

37 34.735 A petition must be in substantially the following form,
38 with appropriate modifications if the petition is filed in the Supreme
39 Court:

40 Case No.

41 Dept. No.

42
43
44 IN THE JUDICIAL DISTRICT COURT OF THE
45 STATE OF NEVADA IN AND FOR THE COUNTY OF.....



1
 2
 3 Petitioner,
 4
 5 v.
 6
 7
 8
 9 Respondent.

PETITION FOR WRIT
 OF HABEAS CORPUS
 (POSTCONVICTION)

10
 11 INSTRUCTIONS:

12 (1) This petition must be legibly handwritten or typewritten,
 13 signed by the petitioner and verified.

14 (2) Additional pages are not permitted except where noted or
 15 with respect to the facts which you rely upon to support your
 16 grounds for relief. No citation of authorities need be furnished. If
 17 briefs or arguments are submitted, they should be submitted in the
 18 form of a separate memorandum.

19 (3) If you want an attorney appointed, you must complete the
 20 Affidavit in Support of Request to Proceed in Forma Pauperis. You
 21 must have an authorized officer at the prison complete the certificate
 22 as to the amount of money and securities on deposit to your credit in
 23 any account in the institution.

24 (4) You must name as respondent the person by whom you are
 25 confined or restrained. If you are in a specific institution of the
 26 Department of Corrections, name the warden or head of the
 27 institution. If you are not in a specific institution of the Department
 28 but within its custody, name the Director of the Department of
 29 Corrections.

30 (5) You must include all grounds or claims for relief which you
 31 may have regarding your conviction or sentence. Failure to raise all
 32 grounds in this petition may preclude you from filing future
 33 petitions challenging your conviction and sentence.

34 (6) You must allege specific facts supporting the claims in the
 35 petition you file seeking relief from any conviction or sentence.
 36 Failure to allege specific facts rather than just conclusions may
 37 cause your petition to be dismissed. If your petition contains a claim
 38 of ineffective assistance of counsel, that claim will operate to waive
 39 the attorney-client privilege for the proceeding in which you claim
 40 your counsel was ineffective.

41 (7) When the petition is fully completed, the original and one
 42 copy must be filed with the clerk of the state district court for the
 43 county in which you were convicted. One copy must be mailed to
 44 the respondent, one copy to the Attorney General's Office, and one
 45 copy to the district attorney of the county in which you were



1 convicted or to the original prosecutor if you are challenging your
2 original conviction or sentence. Copies must conform in all
3 particulars to the original submitted for filing.

4
5 PETITION

6
7 1. Name of institution and county in which you are presently
8 imprisoned or where and how you are presently restrained of your
9 liberty:

10
11 2. Name and location of court which entered the judgment of
12 conviction under attack:

13
14 3. Date of judgment of conviction:

15 4. Case number:

16 5. (a) Length of sentence:

17

18 (b) If sentence is death, state any date upon which execution is
19 scheduled:

20 6. Are you presently serving a sentence for a conviction other
21 than the conviction under attack in this motion? Yes No

22 If "yes," list crime, case number and sentence being served at this
23 time:

24

25

26 7. Nature of offense involved in conviction being
27 challenged:

28

29 8. What was your plea? (check one)

30 (a) Not guilty

31 (b) Guilty

32 (c) ~~Guilty but mentally ill~~

33 ~~(d)~~ Nolo contendere

34 9. If you entered a plea of guilty ~~for guilty but mentally ill~~ to
35 one count of an indictment or information, and a plea of not guilty

36 to another count of an indictment or information, or if a plea of
37 guilty ~~for guilty but mentally ill~~ was negotiated, give details:

38

39

40 10. If you were found guilty after a plea of not guilty, was the
41 finding made by: (check one)

42 (a) Jury

43 (b) Judge without a jury



- 1 11. Did you testify at the trial? Yes No
- 2 12. Did you appeal from the judgment of conviction? Yes
- 3 No
- 4 13. If you did appeal, answer the following:
- 5 (a) Name of court:
- 6 (b) Case number or citation:
- 7 (c) Result:
- 8 (d) Date of result:
- 9 (Attach copy of order or decision, if available.)
- 10 14. If you did not appeal, explain briefly why you did not:
- 11
- 12
- 13 15. Other than a direct appeal from the judgment of conviction
- 14 and sentence, have you previously filed any petitions, applications
- 15 or motions with respect to this judgment in any court, state or
- 16 federal? Yes No
- 17 16. If your answer to No. 15 was "yes," give the following
- 18 information:
- 19 (a) (1) Name of court:
- 20 (2) Nature of proceeding:
- 21
- 22 (3) Grounds raised:
- 23
- 24
- 25 (4) Did you receive an evidentiary hearing on your petition,
- 26 application or motion? Yes No
- 27 (5) Result:
- 28 (6) Date of result:
- 29 (7) If known, citations of any written opinion or date of
- 30 orders entered pursuant to such result:
- 31
- 32 (b) As to any second petition, application or motion, give the
- 33 same information:
- 34 (1) Name of court:
- 35 (2) Nature of proceeding:
- 36 (3) Grounds raised:
- 37 (4) Did you receive an evidentiary hearing on your petition,
- 38 application or motion? Yes No
- 39 (5) Result:
- 40 (6) Date of result:
- 41 (7) If known, citations of any written opinion or date of
- 42 orders entered pursuant to such result:
- 43



* A B 1 5 6 *

1 (c) As to any third or subsequent additional applications or
2 motions, give the same information as above, list them on a separate
3 sheet and attach.

4 (d) Did you appeal to the highest state or federal court having
5 jurisdiction, the result or action taken on any petition, application or
6 motion?

7 (1) First petition, application or motion? Yes No

8 Citation or date of decision:

9 (2) Second petition, application or motion? Yes

10 No

11 Citation or date of decision:

12 (3) Third or subsequent petitions, applications or motions?

13 Yes No

14 Citation or date of decision:

15 (e) If you did not appeal from the adverse action on any petition,
16 application or motion, explain briefly why you did not. (You must
17 relate specific facts in response to this question. Your response may
18 be included on paper which is 8 1/2 by 11 inches attached to the
19 petition. Your response may not exceed five handwritten or
20 typewritten pages in length.)

21

22

23 17. Has any ground being raised in this petition been
24 previously presented to this or any other court by way of petition for
25 habeas corpus, motion, application or any other postconviction
26 proceeding? If so, identify:

27 (a) Which of the grounds is the same:

28

29 (b) The proceedings in which these grounds were raised:

30

31 (c) Briefly explain why you are again raising these grounds.
32 (You must relate specific facts in response to this question. Your
33 response may be included on paper which is 8 1/2 by 11 inches
34 attached to the petition. Your response may not exceed five
35 handwritten or typewritten pages in length.)

36

37 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d),
38 or listed on any additional pages you have attached, were not
39 previously presented in any other court, state or federal, list briefly
40 what grounds were not so presented, and give your reasons for not
41 presenting them. (You must relate specific facts in response to this
42 question. Your response may be included on paper which is 8 1/2 by
43 11 inches attached to the petition. Your response may not exceed
44 five handwritten or typewritten pages in length.)

45



1 19. Are you filing this petition more than 1 year following the
2 filing of the judgment of conviction or the filing of a decision on
3 direct appeal? If so, state briefly the reasons for the delay. (You
4 must relate specific facts in response to this question. Your response
5 may be included on paper which is 8 1/2 by 11 inches attached to
6 the petition. Your response may not exceed five handwritten or
7 typewritten pages in length.)
8

9 20. Do you have any petition or appeal now pending in
10 any court, either state or federal, as to the judgment under attack?
11 Yes No

12 If yes, state what court and the case number:
13

14 21. Give the name of each attorney who represented you in the
15 proceeding resulting in your conviction and on direct appeal:
16

17 22. Do you have any future sentences to serve after you
18 complete the sentence imposed by the judgment under attack?
19 Yes No

20 If yes, specify where and when it is to be served, if you know:
21

22 23. State concisely every ground on which you claim that you
23 are being held unlawfully. Summarize briefly the facts supporting
24 each ground. If necessary you may attach pages stating additional
25 grounds and facts supporting same.

26 (a) Ground one:
27

28 Supporting FACTS (Tell your story briefly without citing cases or
29 law.):
30
31

32 (b) Ground two:
33

34 Supporting FACTS (Tell your story briefly without citing cases or
35 law.):
36
37

38 (c) Ground three:
39

40 Supporting FACTS (Tell your story briefly without citing cases or
41 law.):
42
43



1 (d) Ground four:

2

3 Supporting FACTS (Tell your story briefly without citing cases or

4 law.):

5

6

7 WHEREFORE, petitioner prays that the court grant petitioner

8 relief to which he may be entitled in this proceeding.

9 EXECUTED at on the day of the month of

10 of the year

11

12

13 Signature of petitioner

14

15 Address

16

17 Signature of attorney (if any)

18

19 Attorney for petitioner

20

21 Address

22

23 VERIFICATION

24

25 Under penalty of perjury, the undersigned declares that he is the

26 petitioner named in the foregoing petition and knows the contents

27 thereof; that the pleading is true of his own knowledge, except as to

28 those matters stated on information and belief, and as to such

29 matters he believes them to be true.

30

31

32 Petitioner

33

34 Attorney for petitioner

35

36 CERTIFICATE OF SERVICE BY MAIL

37

38 I,, hereby certify pursuant to N.R.C.P. 5(b),

39 that on this day of the month of of the year, I

40 mailed a true and correct copy of the foregoing PETITION FOR

41 WRIT OF HABEAS CORPUS addressed to:

42

43

44 Respondent prison or jail official



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

.....
Address
.....
Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710
.....
District Attorney of County of Conviction
.....
Address
.....
Signature of Petitioner

Sec. 29. NRS 34.810 is hereby amended to read as follows:
34.810 1. The court shall dismiss a petition if the court determines that:
(a) The petitioner's conviction was upon a plea of guilty ~~for guilty but mentally ill~~ and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel.
(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:
(1) Presented to the trial court;
(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or
(3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence, unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.
2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.
3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:
(a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and
(b) Actual prejudice to the petitioner.
The petitioner shall include in the petition all prior proceedings in which he challenged the same conviction or sentence.



1 4. The court may dismiss a petition that fails to include any
2 prior proceedings of which the court has knowledge through the
3 record of the court or through the pleadings submitted by the
4 respondent.

5 **Sec. 30.** NRS 41B.070 is hereby amended to read as follows:
6 41B.070 “Convicted” and “conviction” mean a judgment based
7 upon:

- 8 1. A plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere;
- 9 2. A finding of guilt by a jury or a court sitting without a jury;
- 10 3. An adjudication of delinquency or finding of guilt by a court
11 having jurisdiction over juveniles; or
- 12 4. Any other admission or finding of guilt in a criminal action
13 or a proceeding in a court having jurisdiction over juveniles.

14 **Sec. 31.** NRS 48.061 is hereby amended to read as follows:
15 48.061 Evidence of domestic violence as defined in NRS
16 33.018 and expert testimony concerning the effect of domestic
17 violence on the beliefs, behavior and perception of the person
18 alleging the domestic violence is admissible in chief and in rebuttal,
19 when determining:

- 20 1. Whether a person is excepted from criminal liability
21 pursuant to subsection ~~[6]~~ 7 of NRS 194.010, to show the state of
22 mind of the defendant.
- 23 2. Whether a person in accordance with NRS 200.200 has
24 killed another in self-defense, toward the establishment of the legal
25 defense.

26 **Sec. 32.** NRS 48.125 is hereby amended to read as follows:
27 48.125 1. Evidence of a plea of guilty ~~for guilty but mentally~~
28 ~~ill,],~~ later withdrawn, or of an offer to plead guilty ~~for guilty but~~
29 ~~mentally ill]~~ to the crime charged or any other crime is not
30 admissible in a criminal proceeding involving the person who made
31 the plea or offer.

32 2. Evidence of a plea of nolo contendere or of an offer to plead
33 nolo contendere to the crime charged or any other crime is not
34 admissible in a civil or criminal proceeding involving the person
35 who made the plea or offer.

36 **Sec. 33.** NRS 50.068 is hereby amended to read as follows:
37 50.068 1. A defendant is not incompetent to be a witness
38 solely by reason of the fact that he enters into an agreement with the
39 prosecuting attorney in which he agrees to testify against another
40 defendant in exchange for a plea of guilty ~~[, guilty but mentally ill]~~
41 or nolo contendere to a lesser charge or for a recommendation of a
42 reduced sentence.

43 2. The testimony of the defendant who is testifying may be
44 admitted whether or not he has entered his plea or been sentenced
45 pursuant to the agreement with the prosecuting attorney.



1 **Sec. 34.** NRS 51.295 is hereby amended to read as follows:
2 51.295 1. Evidence of a final judgment, entered after trial or
3 upon a plea of guilty, ~~[or guilty but mentally ill,]~~ but not upon a
4 plea of nolo contendere, adjudging a person guilty of a crime
5 punishable by death or imprisonment in excess of 1 year, is not
6 inadmissible under the hearsay rule to prove any fact essential to
7 sustain the judgment.

8 2. This section does not make admissible, when offered by the
9 State in a criminal prosecution for purposes other than
10 impeachment, a judgment against a person other than the accused.

11 3. The pendency of an appeal may be shown but does not affect
12 admissibility.

13 **Sec. 35.** NRS 193.210 is hereby amended to read as follows:

14 193.210 A person is of sound mind who *is not affected with*
15 *insanity and who* has arrived at the age of 14 years, or before that
16 age if he knew the distinction between good and evil.

17 **Sec. 36.** NRS 193.220 is hereby amended to read as follows:

18 193.220 No act committed by a person while in a state of
19 ~~[insanity or]~~ voluntary intoxication shall be deemed less criminal by
20 reason of his condition, but whenever the actual existence of any
21 particular purpose, motive or intent is a necessary element to
22 constitute a particular species or degree of crime, the fact of his
23 ~~[insanity or]~~ intoxication may be taken into consideration in
24 determining the purpose, motive or intent.

25 **Sec. 37.** NRS 194.010 is hereby amended to read as follows:

26 194.010 All persons are liable to punishment except those
27 belonging to the following classes:

28 1. Children under the age of 8 years.

29 2. Children between the ages of 8 years and 14 years, in the
30 absence of clear proof that at the time of committing the act charged
31 against them they knew its wrongfulness.

32 3. *Persons who committed the act charged or made the*
33 *omission charged in a state of insanity.*

34 4. Persons who committed the act or made the omission
35 charged under an ignorance or mistake of fact, which disproves any
36 criminal intent, where a specific intent is required to constitute the
37 offense.

38 ~~[4.]~~ 5. Persons who committed the act charged without being
39 conscious thereof.

40 ~~[5.]~~ 6. Persons who committed the act or made the omission
41 charged, through misfortune or by accident, when it appears that
42 there was no evil design, intention or culpable negligence.

43 ~~[6.]~~ 7. Persons, unless the crime is punishable with death, who
44 committed the act or made the omission charged under threats or
45 menaces sufficient to show that they had reasonable cause to



1 believe, and did believe, their lives would be endangered if they
2 refused, or that they would suffer great bodily harm.

3 **Sec. 38.** NRS 200.485 is hereby amended to read as follows:

4 200.485 1. Unless a greater penalty is provided pursuant to
5 NRS 200.481, a person convicted of a battery that constitutes
6 domestic violence pursuant to NRS 33.018:

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

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

11 (2) Perform not less than 48 hours, but not more than
12 120 hours, of community service.

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

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

22 (1) Imprisonment in the city or county jail or detention
23 facility for not less than 10 days, but not more than 6 months; and

24 (2) Perform not less than 100 hours, but not more than
25 200 hours, of community service.

26 The person shall be further punished by a fine of not less than \$500,
27 but not more than \$1,000.

28 (c) For the third and any subsequent offense within 7 years, is
29 guilty of a category C felony and shall be punished as provided in
30 NRS 193.130.

31 2. In addition to any other penalty, if a person is convicted of a
32 battery which constitutes domestic violence pursuant to NRS
33 33.018, the court shall:

34 (a) For the first offense within 7 years, require him to participate
35 in weekly counseling sessions of not less than 1 1/2 hours per week
36 for not less than 6 months, but not more than 12 months, at his
37 expense, in a program for the treatment of persons who commit
38 domestic violence that has been certified pursuant to NRS 228.470.

39 (b) For the second offense within 7 years, require him to
40 participate in weekly counseling sessions of not less than 1 1/2
41 hours per week for 12 months, at his expense, in a program for the
42 treatment of persons who commit domestic violence that has been
43 certified pursuant to NRS 228.470.

44 3. An offense that occurred within 7 years immediately
45 preceding the date of the principal offense or after the principal



1 offense constitutes a prior offense for the purposes of this section
2 when evidenced by a conviction, without regard to the sequence of
3 the offenses and convictions. The facts concerning a prior offense
4 must be alleged in the complaint, indictment or information, must
5 not be read to the jury or proved at trial but must be proved at the
6 time of sentencing and, if the principal offense is alleged to be a
7 felony, must also be shown at the preliminary examination or
8 presented to the grand jury.

9 4. In addition to any other fine or penalty, the court shall order
10 such a person to pay an administrative assessment of \$35. Any
11 money so collected must be paid by the clerk of the court to the
12 State Controller on or before the fifth day of each month for the
13 preceding month for credit to the Account for Programs Related to
14 Domestic Violence established pursuant to NRS 228.460.

15 5. In addition to any other penalty, the court may require such a
16 person to participate, at his expense, in a program of treatment for
17 the abuse of alcohol or drugs that has been certified by the Health
18 Division of the Department of Human Resources.

19 6. If it appears from information presented to the court that a
20 child under the age of 18 years may need counseling as a result of
21 the commission of a battery which constitutes domestic violence
22 pursuant to NRS 33.018, the court may refer the child to an agency
23 which provides child welfare services. If the court refers a child to
24 an agency which provides child welfare services, the court shall
25 require the person convicted of a battery which constitutes domestic
26 violence pursuant to NRS 33.018 to reimburse the agency for the
27 costs of any services provided, to the extent of his ability to pay.

28 7. If a person is charged with committing a battery which
29 constitutes domestic violence pursuant to NRS 33.018, a
30 prosecuting attorney shall not dismiss such a charge in exchange for
31 a plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a
32 lesser charge or for any other reason unless he knows, or it is
33 obvious, that the charge is not supported by probable cause or
34 cannot be proved at the time of trial. A court shall not grant
35 probation to and, except as otherwise provided in NRS 4.373 and
36 5.055, a court shall not suspend the sentence of such a person.

37 8. As used in this section:

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

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

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



1 **Sec. 39.** NRS 202.270 is hereby amended to read as follows:
2 202.270 1. A person who destroys, or attempts to destroy,
3 with dynamite, nitroglycerine, gunpowder or other high explosive,
4 any dwelling house or other building, knowing or having reason to
5 believe that a human being is therein at the time, is guilty of a
6 category A felony and shall be punished by imprisonment in the
7 state prison:

- 8 (a) For life without the possibility of parole;
- 9 (b) For life with the possibility of parole, with eligibility for
10 parole beginning when a minimum of 10 years has been served; or
- 11 (c) For a definite term of 25 years, with eligibility for parole
12 beginning when a minimum of 10 years has been served,
13 in the discretion of the jury, or of the court upon a plea of guilty . ~~for~~
14 ~~guilty but mentally ill.~~

15 2. A person who conspires with others to commit the offense
16 described in subsection 1 shall be punished in the same manner.

17 **Sec. 40.** NRS 202.885 is hereby amended to read as follows:

18 202.885 1. A person may not be prosecuted or convicted
19 pursuant to NRS 202.882 unless a court in this state or any other
20 jurisdiction has entered a judgment of conviction against a culpable
21 actor for:

- 22 (a) The violent or sexual offense against the child; or
- 23 (b) Any other offense arising out of the same facts as the violent
24 or sexual offense against the child.

25 2. For any violation of NRS 202.882, an indictment must be
26 found or an information or complaint must be filed within 1 year
27 after the date on which:

28 (a) A court in this state or any other jurisdiction has entered a
29 judgment of conviction against a culpable actor as provided in
30 subsection 1; or

31 (b) The violation is discovered,
32 whichever occurs later.

33 3. For the purposes of this section:

34 (a) A court in “any other jurisdiction” includes, without
35 limitation, a tribal court or a court of the United States or the Armed
36 Forces of the United States.

37 (b) “Convicted” and “conviction” mean a judgment based upon:

38 (1) A plea of guilty ~~[, guilty but mentally ill]~~ or nolo
39 contendere;

40 (2) A finding of guilt by a jury or a court sitting without a
41 jury;

42 (3) An adjudication of delinquency or finding of guilt by a
43 court having jurisdiction over juveniles; or

44 (4) Any other admission or finding of guilt in a criminal
45 action or a proceeding in a court having jurisdiction over juveniles.



1 (c) A court “enters” a judgment of conviction against a person
2 on the date on which guilt is admitted, adjudicated or found,
3 whether or not:

4 (1) The court has imposed a sentence, a penalty or other
5 sanction for the conviction; or

6 (2) The person has exercised any right to appeal the
7 conviction.

8 (d) “Culpable actor” means a person who:

9 (1) Causes or perpetrates an unlawful act;

10 (2) Aids, abets, commands, counsels, encourages, hires,
11 induces, procures or solicits another person to cause or perpetrate an
12 unlawful act; or

13 (3) Is a principal in any degree, accessory before or after the
14 fact, accomplice or conspirator to an unlawful act.

15 **Sec. 41.** NRS 207.016 is hereby amended to read as follows:

16 207.016 1. A conviction pursuant to NRS 207.010, 207.012
17 or 207.014 operates only to increase, not to reduce, the sentence
18 otherwise provided by law for the principal crime.

19 2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is
20 included in an information charging the primary offense, each
21 previous conviction must be alleged in the accusatory pleading, but
22 no such conviction may be alluded to on trial of the primary offense,
23 nor may any allegation of the conviction be read in the presence of a
24 jury trying the offense or a grand jury considering an indictment for
25 the offense. A count pursuant to NRS 207.010, 207.012 or 207.014
26 may be separately filed after conviction of the primary offense, but
27 if it is so filed, sentence must not be imposed, or the hearing
28 required by subsection 3 held, until 15 days after the separate filing.

29 3. If a defendant charged pursuant to NRS 207.010, 207.012 or
30 207.014 pleads guilty ~~for guilty but mentally ill to,~~ *to* or is found
31 guilty of ~~the~~ primary offense ~~but~~ denies any previous
32 conviction charged, the court shall determine the issue of the
33 previous conviction after hearing all relevant evidence presented on
34 the issue by the prosecution and the defendant. At such a hearing,
35 the defendant may not challenge the validity of a previous
36 conviction. The court shall impose sentence:

37 (a) Pursuant to NRS 207.010 upon finding that the defendant
38 has suffered previous convictions sufficient to support an
39 adjudication of habitual criminality;

40 (b) Pursuant to NRS 207.012 upon finding that the defendant
41 has suffered previous convictions sufficient to support an
42 adjudication of habitual felon; or

43 (c) Pursuant to NRS 207.014 upon finding that the defendant
44 has suffered previous convictions sufficient to support an
45 adjudication of habitually fraudulent felon.



1 4. Nothing in the provisions of this section, NRS 207.010,
2 207.012 or 207.014 limits the prosecution in introducing evidence
3 of prior convictions for purposes of impeachment.

4 5. For the purposes of NRS 207.010, 207.012 and 207.014, a
5 certified copy of a felony conviction is prima facie evidence of
6 conviction of a prior felony.

7 6. Nothing in the provisions of this section, NRS 207.010,
8 207.012 or 207.014 prohibits a court from imposing an adjudication
9 of habitual criminality, adjudication of habitual felon or adjudication
10 of habitually fraudulent felon based upon a stipulation of the parties.

11 **Sec. 42.** NRS 207.193 is hereby amended to read as follows:

12 207.193 1. Except as otherwise provided in subsection 4, if a
13 person is convicted of coercion or attempted coercion in violation of
14 paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the
15 request of the prosecuting attorney, conduct a separate hearing to
16 determine whether the offense was sexually motivated. A request
17 for such a hearing may not be submitted to the court unless the
18 prosecuting attorney, not less than 72 hours before the
19 commencement of the trial, files and serves upon the defendant a
20 written notice of his intention to request such a hearing.

21 2. A hearing requested pursuant to subsection 1 must be
22 conducted before:

23 (a) The court imposes its sentence; or

24 (b) A separate penalty hearing is conducted.

25 3. At the hearing, only evidence concerning the question of
26 whether the offense was sexually motivated may be presented. The
27 prosecuting attorney must prove beyond a reasonable doubt that the
28 offense was sexually motivated.

29 4. A person may stipulate that his offense was sexually
30 motivated before a hearing held pursuant to subsection 1 or as part
31 of an agreement to plead nolo contendere ~~[guilty]~~ or guilty . ~~[but~~
32 ~~mentally ill.]~~

33 5. The court shall enter in the record:

34 (a) Its finding from a hearing held pursuant to subsection 1; or

35 (b) A stipulation made pursuant to subsection 4.

36 6. For the purposes of this section, an offense is “sexually
37 motivated” if one of the purposes for which the person committed
38 the offense was his sexual gratification.

39 **Sec. 43.** NRS 212.189 is hereby amended to read as follows:

40 212.189 1. Except as otherwise provided in subsection 9, a
41 prisoner who is in lawful custody or confinement, other than
42 residential confinement, shall not knowingly:

43 (a) Store or stockpile any human excrement or bodily fluid;

44 (b) Sell, supply or provide any human excrement or bodily fluid
45 to any other person;



1 (c) Buy, receive or acquire any human excrement or bodily fluid
2 from any other person; or

3 (d) Use, propel, discharge, spread or conceal, or cause to be
4 used, propelled, discharged, spread or concealed, any human
5 excrement or bodily fluid:

6 (1) With the intent to have the excrement or bodily fluid
7 come into physical contact with any portion of the body of an
8 officer or employee of a prison or any other person, whether or not
9 such physical contact actually occurs; or

10 (2) Under circumstances in which the excrement or bodily
11 fluid is reasonably likely to come into physical contact with any
12 portion of the body of an officer or employee of a prison or any
13 other person, whether or not such physical contact actually occurs.

14 2. Except as otherwise provided in subsection 3, if a prisoner
15 violates any provision of subsection 1, the prisoner is guilty of a
16 category B felony and shall be punished by imprisonment in the
17 state prison for a minimum term of not less than 2 years and a
18 maximum term of not more than 10 years, and may be further
19 punished by a fine of not more than \$10,000.

20 3. If a prisoner violates any provision of paragraph (d) of
21 subsection 1 and, at the time of the offense, the prisoner knew that
22 any portion of the excrement or bodily fluid involved in the offense
23 contained a communicable disease that causes or is reasonably
24 likely to cause substantial bodily harm, whether or not the
25 communicable disease was transmitted to a victim as a result of the
26 offense, the prisoner is guilty of a category A felony and shall be
27 punished by imprisonment in the state prison:

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

30 (b) For a definite term of 25 years, with eligibility for parole
31 beginning when a minimum of 10 years has been served,
32 and may be further punished by a fine of not more than \$50,000.

33 4. A sentence imposed upon a prisoner pursuant to
34 subsection 2 or 3:

35 (a) Is not subject to suspension or the granting of probation; and

36 (b) Must run consecutively after the prisoner has served any
37 sentences imposed upon him for the offense or offenses for which
38 the prisoner was in lawful custody or confinement when he violated
39 the provisions of subsection 1.

40 5. In addition to any other penalty, the court shall order a
41 prisoner who violates any provision of paragraph (d) of subsection 1
42 to reimburse the appropriate person or governmental body for the
43 cost of any examinations or testing:

44 (a) Conducted pursuant to paragraphs (a) and (b) of
45 subsection 7; or



1 (b) Paid for pursuant to subparagraph (2) of paragraph (c) of
2 subsection 7.

3 6. The warden, sheriff, administrator or other person
4 responsible for administering a prison shall immediately and fully
5 investigate any act described in subsection 1 that is reported or
6 suspected to have been committed in the prison.

7 7. If there is probable cause to believe that an act described in
8 paragraph (d) of subsection 1 has been committed in a prison:

9 (a) Each prisoner believed to have committed the act or to have
10 been the bodily source of any portion of the excrement or bodily
11 fluid involved in the act must submit to any appropriate
12 examinations and testing to determine whether each such prisoner
13 has any communicable disease.

14 (b) If possible, a sample of the excrement or bodily fluid
15 involved in the act must be recovered and tested to determine
16 whether any communicable disease is present in the excrement or
17 bodily fluid.

18 (c) If the excrement or bodily fluid involved in the act came into
19 physical contact with any portion of the body of an officer or
20 employee of a prison or any other person:

21 (1) The results of any examinations or testing conducted
22 pursuant to paragraphs (a) and (b) must be provided to each such
23 officer, employee or other person; and

24 (2) For each such officer or employee, the person or
25 governmental body operating the prison where the act was
26 committed shall pay for any appropriate examinations and testing
27 requested by the officer or employee to determine whether a
28 communicable disease was transmitted to him as a result of the act.

29 (d) The results of the investigation conducted pursuant to
30 subsection 6 and the results of any examinations or testing
31 conducted pursuant to paragraphs (a) and (b) must be submitted to
32 the district attorney of the county in which the act was committed or
33 to the office of the Attorney General for possible prosecution of
34 each prisoner who committed the act.

35 8. If a prisoner is charged with committing an act described in
36 paragraph (d) of subsection 1 and a victim or an intended victim of
37 the act was an officer or employee of a prison, the prosecuting
38 attorney shall not dismiss the charge in exchange for a plea of guilty
39 ~~[- guilty but mentally ill]~~ or nolo contendere to a lesser charge or for
40 any other reason unless the prosecuting attorney knows or it is
41 obvious that the charge is not supported by probable cause or cannot
42 be proved at the time of trial.

43 9. The provisions of this section do not apply to a prisoner who
44 commits an act described in subsection 1 if the act:



1 (a) Is otherwise lawful and is authorized by the warden, sheriff,
2 administrator or other person responsible for administering the
3 prison, or his designee, and the prisoner performs the act in
4 accordance with the directions or instructions given to him by that
5 person;

6 (b) Involves the discharge of human excrement or bodily fluid
7 directly from the body of the prisoner and the discharge is the direct
8 result of a temporary or permanent injury, disease or medical
9 condition afflicting the prisoner that prevents the prisoner from
10 having physical control over the discharge of his own excrement or
11 bodily fluid; or

12 (c) Constitutes voluntary sexual conduct with another person in
13 violation of the provisions of NRS 212.187.

14 **Sec. 44.** NRS 453.3363 is hereby amended to read as follows:

15 453.3363 1. If a person who has not previously been
16 convicted of any offense pursuant to NRS 453.011 to 453.552,
17 inclusive, or pursuant to any statute of the United States or of any
18 state relating to narcotic drugs, marijuana, or stimulant, depressant
19 or hallucinogenic substances tenders a plea of guilty, ~~guilty but~~
20 ~~mentally ill,~~ nolo contendere or similar plea to a charge pursuant to
21 subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is
22 found guilty of one of those charges, the court, without entering a
23 judgment of conviction and with the consent of the accused, may
24 suspend further proceedings and place him on probation upon terms
25 and conditions that must include attendance and successful
26 completion of an educational program or, in the case of a person
27 dependent upon drugs, of a program of treatment and rehabilitation
28 pursuant to NRS 453.580.

29 2. Upon violation of a term or condition, the court may enter a
30 judgment of conviction and proceed as provided in the section
31 pursuant to which the accused was charged. Notwithstanding the
32 provisions of paragraph (e) of subsection 2 of NRS 193.130, upon
33 violation of a term or condition, the court may order the person to
34 the custody of the Department of Corrections.

35 3. Upon fulfillment of the terms and conditions, the court shall
36 discharge the accused and dismiss the proceedings against him. A
37 nonpublic record of the dismissal must be transmitted to and
38 retained by the Division of Parole and Probation of the Department
39 of Public Safety solely for the use of the courts in determining
40 whether, in later proceedings, the person qualifies under this section.

41 4. Except as otherwise provided in subsection 5, discharge and
42 dismissal under this section is without adjudication of guilt and is
43 not a conviction for purposes of this section or for purposes of
44 employment, civil rights or any statute or regulation or license or
45 questionnaire or for any other public or private purpose, but is a



1 conviction for the purpose of additional penalties imposed for
2 second or subsequent convictions or the setting of bail. Discharge
3 and dismissal restores the person discharged, in the contemplation
4 of the law, to the status occupied before the arrest, indictment or
5 information. He may not be held thereafter under any law to be
6 guilty of perjury or otherwise giving a false statement by reason of
7 failure to recite or acknowledge that arrest, indictment, information
8 or trial in response to an inquiry made of him for any purpose.
9 Discharge and dismissal under this section may occur only once
10 with respect to any person.

11 5. A professional licensing board may consider a proceeding
12 under this section in determining suitability for a license or liability
13 to discipline for misconduct. Such a board is entitled for those
14 purposes to a truthful answer from the applicant or licensee
15 concerning any such proceeding with respect to him.

16 **Sec. 45.** NRS 453.348 is hereby amended to read as follows:

17 453.348 In any proceeding brought under NRS 453.316,
18 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401,
19 any previous convictions of the offender for a felony relating to
20 controlled substances must be alleged in the indictment or
21 information charging the primary offense, but the conviction may
22 not be alluded to on the trial of the primary offense nor may any
23 evidence of the previous offense be produced in the presence of the
24 jury except as otherwise prescribed by law. If the offender pleads
25 guilty ~~for guilty but mentally ill~~ to or is convicted of the primary
26 offense but denies any previous conviction charged, the court shall
27 determine the issue after hearing all relevant evidence. A certified
28 copy of a conviction of a felony is prima facie evidence of the
29 conviction.

30 **Sec. 46.** NRS 453.575 is hereby amended to read as follows:

31 453.575 1. If a defendant pleads guilty ~~for guilty but~~
32 ~~mentally ill to,~~ *to* or is found guilty of ~~it~~ any violation of this
33 chapter and an analysis of a controlled substance or other substance
34 or drug was performed in relation to his case, the court shall include
35 in the sentence an order that the defendant pay the sum of \$60 as a
36 fee for the analysis of the controlled substance or other substance or
37 drug.

38 2. Except as otherwise provided in this subsection, any money
39 collected for such an analysis must not be deducted from, and is in
40 addition to, any fine otherwise imposed by the court and must be:

41 (a) Collected from the defendant before or at the same time that
42 the fine is collected.

43 (b) Stated separately in the judgment of the court or on the
44 court's docket.



1 3. The money collected pursuant to subsection 1 in any district,
2 municipal or justice's court must be paid by the clerk of the court to
3 the county or city treasurer, as appropriate, on or before the fifth day
4 of each month for the preceding month.

5 4. The board of county commissioners of each county shall by
6 ordinance create in the county treasury a fund to be designated as
7 the fund for forensic services. The governing body of each city shall
8 create in the city treasury a fund to be designated as the fund for
9 forensic services. Upon receipt, the county or city treasurer, as
10 appropriate, shall deposit any fee for the analyses of controlled
11 substances or other substances or drugs in the fund. The money
12 from such deposits must be accounted for separately within the
13 fund.

14 5. Except as otherwise provided in subsection 6, each month
15 the treasurer shall, from the money credited to the fund pursuant to
16 subsection 3, pay any amount owed for forensic services and deposit
17 any remaining money in the county or city general fund, as
18 appropriate.

19 6. In counties which do not receive forensic services under a
20 contract with the State, the money deposited in the fund for forensic
21 services pursuant to subsection 4 must be expended, except as
22 otherwise provided in this subsection:

23 (a) To pay for the analyses of controlled substances or other
24 substances or drugs performed in connection with criminal
25 investigations within the county;

26 (b) To purchase and maintain equipment to conduct these
27 analyses; and

28 (c) For the training and continuing education of the employees
29 who conduct these analyses.

30 Money from the fund must not be expended to cover the costs of
31 analyses conducted by, equipment used by or training for employees
32 of an analytical laboratory not registered with the Drug Enforcement
33 Administration of the United States Department of Justice.

34 **Sec. 47.** NRS 454.358 is hereby amended to read as follows:

35 454.358 1. When a defendant pleads guilty ~~for guilty but~~
36 ~~mentally ill to,~~ to or is found guilty of ~~§~~ any violation of this
37 chapter and an analysis of a dangerous drug was performed in
38 relation to his case, the justice or judge shall include in the sentence
39 the sum of \$50 as a fee for the analysis of the dangerous drug.

40 2. The money collected for such an analysis must not be
41 deducted from the fine imposed by the justice or judge, but must be
42 taxed against the defendant in addition to the fine. The money
43 collected for such an analysis must be stated separately on the
44 court's docket and must be included in the amount posted for bail. If



1 the defendant is found not guilty or the charges are dropped, the
2 money deposited with the court must be returned to the defendant.

3 3. The money collected pursuant to subsection 1 in municipal
4 court must be paid by the clerk of the court to the county treasurer
5 on or before the ~~5th~~ *fifth* day of each month for the preceding
6 month.

7 4. The money collected pursuant to subsection 1 in justices'
8 courts must be paid by the clerk of the court to the county treasurer
9 on or before the ~~5th~~ *fifth* day of each month for the preceding
10 month.

11 5. The board of county commissioners of each county shall by
12 ordinance, before September 1, 1987, create in the county treasury a
13 fund to be designated as the fund for forensic services. Upon receipt,
14 the county treasurer shall deposit any fee for the analyses of
15 dangerous drugs in the fund.

16 6. In counties which receive forensic services under a contract
17 with the State, any money in the fund for forensic services must be
18 paid monthly by the county treasurer to the State Treasurer for
19 deposit in the State General Fund, after retaining 2 percent of the
20 money to cover his administrative expenses.

21 7. In counties which do not receive forensic services under a
22 contract with the State, money in the fund for forensic services must
23 be expended, except as otherwise provided in this subsection:

24 (a) To pay for the analyses of dangerous drugs performed in
25 connection with criminal investigations within the county;

26 (b) To purchase and maintain equipment to conduct these
27 analyses; and

28 (c) For the training and continuing education of the employees
29 who conduct these analyses.

30 Money from the fund must not be expended to cover the costs of
31 analyses conducted by, equipment used by or training for employees
32 of an analytical laboratory not registered with the Drug Enforcement
33 Administration of the United States Department of Justice.

34 **Sec. 48.** NRS 483.560 is hereby amended to read as follows:

35 483.560 1. Except as otherwise provided in subsection 2, any
36 person who drives a motor vehicle on a highway or on premises to
37 which the public has access at a time when his driver's license has
38 been canceled, revoked or suspended is guilty of a misdemeanor.

39 2. Except as otherwise provided in this subsection, if the
40 license of the person was suspended, revoked or restricted
41 because of:

42 (a) A violation of NRS 484.379, 484.3795 or 484.384;

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



1 intoxicating liquor or a controlled substance or resulting from any
2 other conduct prohibited by NRS 484.379 or 484.3795; or

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

6 the person shall be punished by imprisonment in jail for not less
7 than 30 days nor more than 6 months or by serving a term of
8 residential confinement for not less than 60 days nor more than 6
9 months, and shall be further punished by a fine of not less than \$500
10 nor more than \$1,000. A person who is punished pursuant to this
11 subsection may not be granted probation, and a sentence imposed
12 for such a violation may not be suspended. A prosecutor may not
13 dismiss a charge of such a violation in exchange for a plea of guilty
14 ~~[, of guilty but mentally ill]~~ or of nolo contendere to a lesser charge
15 or for any other reason, unless in his judgment the charge is not
16 supported by probable cause or cannot be proved at trial. The
17 provisions of this subsection do not apply if the period of revocation
18 has expired but the person has not reinstated his license.

19 3. A term of imprisonment imposed pursuant to the provisions
20 of this section may be served intermittently at the discretion of the
21 judge or justice of the peace. This discretion must be exercised after
22 considering all the circumstances surrounding the offense, and the
23 family and employment of the person convicted. However, the full
24 term of imprisonment must be served within 6 months after the date
25 of conviction, and any segment of time the person is imprisoned
26 must not consist of less than 24 hours.

27 4. Jail sentences simultaneously imposed pursuant to this
28 section and NRS 484.3792, 484.37937 or 484.3794 must run
29 consecutively.

30 5. If the Department receives a record of the conviction or
31 punishment of any person pursuant to this section upon a charge of
32 driving a vehicle while his license was:

33 (a) Suspended, the Department shall extend the period of the
34 suspension for an additional like period.

35 (b) Revoked, the Department shall extend the period of
36 ineligibility for a license, permit or privilege to drive for an
37 additional 1 year.

38 (c) Restricted, the Department shall revoke his restricted license
39 and extend the period of ineligibility for a license, permit or
40 privilege to drive for an additional 1 year.

41 (d) Suspended or canceled for an indefinite period, the
42 Department shall suspend his license for an additional 6 months for
43 the first violation and an additional 1 year for each subsequent
44 violation.



1 6. Suspensions and revocations imposed pursuant to this
2 section must run consecutively.

3 **Sec. 49.** NRS 484.3792 is hereby amended to read as follows:
4 484.3792 1. Unless a greater penalty is provided pursuant
5 to NRS 484.3795, a person who violates the provisions of
6 NRS 484.379:

7 (a) For the first offense within 7 years, is guilty of a
8 misdemeanor. Unless he is allowed to undergo treatment as
9 provided in NRS 484.37937, the court shall:

10 (1) Except as otherwise provided in subparagraph (4) or
11 subsection 6, order him to pay tuition for an educational course on
12 the abuse of alcohol and controlled substances approved by the
13 Department and complete the course within the time specified in the
14 order, and the court shall notify the Department if he fails to
15 complete the course within the specified time;

16 (2) Unless the sentence is reduced pursuant to NRS
17 484.37937, sentence him to imprisonment for not less than 2 days
18 nor more than 6 months in jail, or to perform not less than 48 hours,
19 but not more than 96 hours, of community service while dressed in
20 distinctive garb that identifies him as having violated the provisions
21 of NRS 484.379;

22 (3) Fine him not less than \$400 nor more than \$1,000; and

23 (4) If he is found to have a concentration of alcohol of 0.18
24 or more in his blood or breath, order him to attend a program of
25 treatment for the abuse of alcohol or drugs pursuant to the
26 provisions of NRS 484.37945.

27 (b) For a second offense within 7 years, is guilty of a
28 misdemeanor. Unless the sentence is reduced pursuant to NRS
29 484.3794, the court shall:

30 (1) Sentence him to:

31 (I) Imprisonment for not less than 10 days nor more than
32 6 months in jail; or

33 (II) Residential confinement for not less than 10 days nor
34 more than 6 months, in the manner provided in NRS 4.376 to
35 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

36 (2) Fine him not less than \$750 nor more than \$1,000;

37 (3) Order him to perform not less than 100 hours, but not
38 more than 200 hours, of community service while dressed in
39 distinctive garb that identifies him as having violated the provisions
40 of NRS 484.379, unless the court finds that extenuating
41 circumstances exist; and

42 (4) Order him to attend a program of treatment for the
43 abuse of alcohol or drugs pursuant to the provisions of
44 NRS 484.37945.



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

4 (c) For a third or subsequent offense within 7 years, is guilty of
5 a category B felony and shall be punished by imprisonment in the
6 state prison for a minimum term of not less than 1 year and a
7 maximum term of not more than 6 years, and shall be further
8 punished by a fine of not less than \$2,000 nor more than \$5,000. An
9 offender so imprisoned must, insofar as practicable, be segregated
10 from offenders whose crimes were violent and, insofar as
11 practicable, be assigned to an institution or facility of minimum
12 security.

13 2. An offense that occurred within 7 years immediately
14 preceding the date of the principal offense or after the principal
15 offense constitutes a prior offense for the purposes of this section
16 when evidenced by a conviction, without regard to the sequence of
17 the offenses and convictions. The facts concerning a prior offense
18 must be alleged in the complaint, indictment or information, must
19 not be read to the jury or proved at trial but must be proved at the
20 time of sentencing and, if the principal offense is alleged to be a
21 felony, must also be shown at the preliminary examination or
22 presented to the grand jury.

23 3. A person convicted of violating the provisions of NRS
24 484.379 must not be released on probation, and a sentence imposed
25 for violating those provisions must not be suspended except, as
26 provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that
27 portion of the sentence imposed that exceeds the mandatory
28 minimum. A prosecuting attorney shall not dismiss a charge of
29 violating the provisions of NRS 484.379 in exchange for a plea of
30 guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a lesser charge
31 or for any other reason unless he knows or it is obvious that the
32 charge is not supported by probable cause or cannot be proved at the
33 time of trial.

34 4. A term of confinement imposed pursuant to the provisions
35 of this section may be served intermittently at the discretion of the
36 judge or justice of the peace, except that a person who is convicted
37 of a second or subsequent offense within 7 years must be confined
38 for at least one segment of not less than 48 consecutive hours. This
39 discretion must be exercised after considering all the circumstances
40 surrounding the offense, and the family and employment of the
41 offender, but any sentence of 30 days or less must be served within
42 6 months after the date of conviction or, if the offender was
43 sentenced pursuant to NRS 484.37937 or 484.3794 and the
44 suspension of his sentence was revoked, within 6 months after the



1 date of revocation. Any time for which the offender is confined
2 must consist of not less than 24 consecutive hours.

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

6 6. If the person who violated the provisions of NRS 484.379
7 possesses a driver's license issued by a state other than the State of
8 Nevada and does not reside in the State of Nevada, in carrying out
9 the provisions of subparagraph (1) of paragraph (a) of subsection 1,
10 the court shall:

11 (a) Order the person to pay tuition for and submit evidence of
12 completion of an educational course on the abuse of alcohol and
13 controlled substances approved by a governmental agency of the
14 state of his residence within the time specified in the order; or

15 (b) Order him to complete an educational course by
16 correspondence on the abuse of alcohol and controlled substances
17 approved by the Department within the time specified in the
18 order,

19 and the court shall notify the Department if the person fails to
20 complete the assigned course within the specified time.

21 7. If the defendant was transporting a person who is less than
22 15 years of age in the motor vehicle at the time of the violation, the
23 court shall consider that fact as an aggravating factor in determining
24 the sentence of the defendant.

25 8. As used in this section, unless the context otherwise
26 requires:

27 (a) "Concentration of alcohol of 0.18 or more in his blood or
28 breath" means 0.18 gram or more of alcohol per 100 milliliters of
29 the blood of a person or per 210 liters of this breath.

30 (b) "Offense" means:

31 (1) A violation of NRS 484.379 or 484.3795;

32 (2) A homicide resulting from driving or being in actual
33 physical control of a vehicle while under the influence of
34 intoxicating liquor or a controlled substance or resulting from any
35 other conduct prohibited by NRS 484.379 or 484.3795; or

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

39 **Sec. 50.** NRS 484.3795 is hereby amended to read as follows:
40 484.3795 1. A person who:

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

42 (b) Has a concentration of alcohol of 0.10 or more in his blood
43 or breath;



1 (c) Is found by measurement within 2 hours after driving or
2 being in actual physical control of a vehicle to have a concentration
3 of alcohol of 0.10 or more in his blood or breath;

4 (d) Is under the influence of a controlled substance or is under
5 the combined influence of intoxicating liquor and a controlled
6 substance;

7 (e) Inhales, ingests, applies or otherwise uses any chemical,
8 poison or organic solvent, or any compound or combination of any
9 of these, to a degree which renders him incapable of safely driving
10 or exercising actual physical control of a vehicle; or

11 (f) Has a prohibited substance in his blood or urine in an amount
12 that is equal to or greater than the amount set forth in subsection 3
13 of NRS 484.379,

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

26 2. A prosecuting attorney shall not dismiss a charge of
27 violating the provisions of subsection 1 in exchange for a plea of
28 guilty [~~guilty but mentally ill~~] or nolo contendere to a lesser charge
29 or for any other reason unless he knows or it is obvious that the
30 charge is not supported by probable cause or cannot be proved at the
31 time of trial. A sentence imposed pursuant to subsection 1 may not
32 be suspended nor may probation be granted.

33 3. If consumption is proven by a preponderance of the
34 evidence, it is an affirmative defense under paragraph (c) of
35 subsection 1 that the defendant consumed a sufficient quantity of
36 alcohol after driving or being in actual physical control of the
37 vehicle, and before his blood or breath was tested, to cause him to
38 have a concentration of alcohol of 0.10 or more in his blood or
39 breath. A defendant who intends to offer this defense at a trial
40 or preliminary hearing must, not less than 14 days before the trial or
41 hearing or at such other time as the court may direct, file and serve
42 on the prosecuting attorney a written notice of that intent.

43 4. If the defendant was transporting a person who is less than
44 15 years of age in the motor vehicle at the time of the violation, the



1 court shall consider that fact as an aggravating factor in determining
2 the sentence of the defendant.

3 **Sec. 51.** NRS 484.3797 is hereby amended to read as follows:

4 484.3797 1. The judge or judges in each judicial district shall
5 cause the preparation and maintenance of a list of the panels of
6 persons who:

7 (a) Have been injured or had members of their families or close
8 friends injured or killed by a person who was driving or in actual
9 physical control of a vehicle while under the influence of
10 intoxicating liquor or a controlled substance or who was engaging in
11 any other conduct prohibited by NRS 484.379 or 484.3795 or a law
12 of any other jurisdiction that prohibits the same or similar conduct;
13 and

14 (b) Have, by contacting the judge or judges in the district,
15 expressed their willingness to discuss collectively the personal
16 effect of those crimes.

17 The list must include the name and telephone number of the person
18 to be contacted regarding each such panel and a schedule of times
19 and locations of the meetings of each such panel. The judge or
20 judges shall establish, in cooperation with representatives of the
21 members of the panels, a fee, if any, to be paid by defendants who
22 are ordered to attend a meeting of the panel. The amount of the fee,
23 if any, must be reasonable. The panel may not be operated for profit.

24 2. Except as otherwise provided in this subsection, if a
25 defendant pleads guilty ~~for guilty but mentally ill to,~~ *to* or is found
26 guilty of ~~§~~ any violation of NRS 484.379 or 484.3795, the court
27 shall, in addition to imposing any other penalties provided by law,
28 order the defendant to:

29 (a) Attend, at the defendant's expense, a meeting of a panel of
30 persons who have been injured or had members of their families or
31 close friends injured or killed by a person who was driving or in
32 actual physical control of a vehicle while under the influence of
33 intoxicating liquor or a controlled substance or who was engaging in
34 any other conduct prohibited by NRS 484.379 or 484.3795 or a law
35 of any other jurisdiction that prohibits the same or similar conduct,
36 in order to have the defendant understand the effect such a crime has
37 on other persons; and

38 (b) Pay the fee, if any, established by the court pursuant to
39 subsection 1.

40 The court may, but is not required to, order the defendant to attend
41 such a meeting if one is not available within 60 miles of the
42 defendant's residence.

43 3. A person ordered to attend a meeting pursuant to subsection
44 2 shall, after attending the meeting, present evidence or other



1 documentation satisfactory to the court that he attended the meeting
2 and remained for its entirety.

3 **Sec. 52.** NRS 484.3798 is hereby amended to read as follows:
4 484.3798 1. If a defendant pleads guilty ~~for guilty but~~
5 ~~mentally ill to.~~ **to** or is found guilty of ~~§~~ any violation of NRS
6 484.379 or 484.3795 and a chemical analysis of his blood, urine,
7 breath or other bodily substance was conducted, the court shall, in
8 addition to any penalty provided by law, order the defendant to pay
9 the sum of \$60 as a fee for the chemical analysis. Except as
10 otherwise provided in this subsection, any money collected for the
11 chemical analysis must not be deducted from, and is in addition to,
12 any fine otherwise imposed by the court and must be:

13 (a) Collected from the defendant before or at the same time that
14 the fine is collected.

15 (b) Stated separately in the judgment of the court or on the
16 court's docket.

17 2. All money collected pursuant to subsection 1 must be paid
18 by the clerk of the court to the county or city treasurer, as
19 appropriate, on or before the fifth day of each month for the
20 preceding month.

21 3. The treasurer shall deposit all money received by him
22 pursuant to subsection 2 in the county or city treasury, as
23 appropriate, for credit to the fund for forensic services created
24 pursuant to NRS 453.575. The money must be accounted for
25 separately within the fund.

26 4. Except as otherwise provided in subsection 5, each month
27 the treasurer shall, from the money credited to the fund pursuant to
28 subsection 3, pay any amount owed for forensic services and deposit
29 any remaining money in the county or city general fund, as
30 appropriate.

31 5. In counties that do not receive forensic services under a
32 contract with the State, the money credited to the fund pursuant to
33 subsection 3:

34 (a) Except as otherwise provided in paragraph (b), must be:

35 (1) Expended to pay for the chemical analyses performed
36 within the county;

37 (2) Expended to purchase and maintain equipment to conduct
38 such analyses;

39 (3) Expended for the training and continuing education of the
40 employees who conduct such analyses; and

41 (4) Paid to law enforcement agencies which conduct such
42 analyses to be used by those agencies in the manner provided in this
43 subsection.

44 (b) May only be expended to cover the costs of chemical
45 analyses conducted by, equipment used by, or training for



1 employees of an analytical laboratory that is approved by the
2 committee on testing for intoxication created in NRS 484.388.

3 **Sec. 53.** NRS 484.3945 is hereby amended to read as follows:
4 484.3945 1. A person required to install a device pursuant to
5 NRS 484.3943 shall not operate a motor vehicle without a device or
6 tamper with the device.

7 2. A person who violates any provision of subsection 1:
8 (a) Must have his driving privilege revoked in the manner set
9 forth in subsection 4 of NRS 483.460; and

10 (b) Shall be:
11 (1) Punished by imprisonment in jail for not less than 30
12 days nor more than 6 months; or

13 (2) Sentenced to a term of not less than 60 days in residential
14 confinement nor more than 6 months, and by a fine of not less than
15 \$500 nor more than \$1,000.

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

23 **Sec. 54.** NRS 488.420 is hereby amended to read as follows:

24 488.420 1. A person who:

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

26 (b) Has a concentration of alcohol of 0.10 or more in his blood
27 or breath;

28 (c) Is found by measurement within 2 hours after operating or
29 being in actual physical control of a vessel under power or sail to
30 have a concentration of alcohol of 0.10 or more in his blood or
31 breath;

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

35 (e) Inhales, ingests, applies or otherwise uses any chemical,
36 poison or organic solvent, or any compound or combination of any
37 of these, to a degree which renders him incapable of safely
38 operating or being in actual physical control of a vessel under power
39 or sail; or

40 (f) Has a prohibited substance in his blood or urine in an amount
41 that is equal to or greater than the amount set forth in subsection 3
42 of NRS 488.410,

43 and does any act or neglects any duty imposed by law while
44 operating or being in actual physical control of any vessel under
45 power or sail, if the act or neglect of duty proximately causes the



1 death of, or substantial bodily harm to, a person other than himself,
2 is guilty of a category B felony and shall be punished by
3 imprisonment in the state prison for a minimum term of not less
4 than 2 years and a maximum term of not more than 20 years and
5 shall be further punished by a fine of not less than \$2,000 nor more
6 than \$5,000. A person so imprisoned must, insofar as practicable, be
7 segregated from offenders whose crimes were violent and, insofar as
8 practicable, be assigned to an institution or facility of minimum
9 security.

10 2. A prosecuting attorney shall not dismiss a charge of
11 violating the provisions of subsection 1 in exchange for a plea of
12 guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a lesser charge
13 or for any other reason unless he knows or it is obvious that the
14 charge is not supported by probable cause or cannot be proved at the
15 time of trial. A sentence imposed pursuant to subsection 1 must not
16 be suspended, and probation must not be granted.

17 3. If consumption is proven by a preponderance of the
18 evidence, it is an affirmative defense under paragraph (c) of
19 subsection 1 that the defendant consumed a sufficient quantity of
20 alcohol after operating or being in actual physical control of the
21 vessel under power or sail, and before his blood was tested, to cause
22 him to have a concentration of alcohol of 0.10 or more in his blood
23 or breath. A defendant who intends to offer this defense at a trial or
24 preliminary hearing must, not less than 14 days before the trial or
25 hearing or at such other time as the court may direct, file and serve
26 on the prosecuting attorney a written notice of that intent.

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

30 **Sec. 55.** NRS 488.440 is hereby amended to read as follows:

31 488.440 1. If a defendant pleads guilty ~~[or guilty but~~
32 ~~mentally ill to,]~~ **to** or is found guilty of, a violation of NRS 488.410
33 or 488.420 and a chemical analysis of his blood, urine, breath or
34 other bodily substance was conducted, the court shall, in addition to
35 any penalty provided by law, order the defendant to pay the sum of
36 \$60 as a fee for the chemical analysis. Except as otherwise provided
37 in this subsection, any money collected for the chemical analysis
38 must not be deducted from, and is in addition to, any fine otherwise
39 imposed by the court and must be:

40 (a) Collected from the defendant before or at the same time that
41 the fine is collected.

42 (b) Stated separately in the judgment of the court or on the
43 court's docket.

44 2. All money collected pursuant to subsection 1 must be paid
45 by the clerk of the court to the county or city treasurer, as



1 appropriate, on or before the fifth day of each month for the
2 preceding month.

3 3. The treasurer shall deposit all money received by him
4 pursuant to subsection 2 in the county or city treasury, as
5 appropriate, for credit to the fund for forensic services created
6 pursuant to NRS 453.575. The money must be accounted for
7 separately within the fund.

8 4. Except as otherwise provided in subsection 5, each month
9 the treasurer shall, from the money credited to the fund pursuant to
10 subsection 3, pay any amount owed for forensic services and deposit
11 any remaining money in the county or city general fund, as
12 appropriate.

13 5. In counties that do not receive forensic services under a
14 contract with the State, the money credited to the fund pursuant to
15 subsection 3:

16 (a) Except as otherwise provided in paragraph (b), must be:

17 (1) Expended to pay for the chemical analyses performed
18 within the county;

19 (2) Expended to purchase and maintain equipment to conduct
20 such analyses;

21 (3) Expended for the training and continuing education of the
22 employees who conduct such analyses; and

23 (4) Paid to law enforcement agencies which conduct such
24 analyses to be used by those agencies in the manner provided in this
25 subsection.

26 (b) May only be expended to cover the costs of chemical
27 analyses conducted by, equipment used by or training for employees
28 of an analytical laboratory that is approved by the committee on
29 testing for intoxication created in NRS 484.388.

30 **Sec. 56.** NRS 489.421 is hereby amended to read as follows:

31 489.421 The following grounds, among others, constitute
32 grounds for disciplinary action under NRS 489.381:

33 1. Revocation or denial of a license issued pursuant to this
34 chapter or an equivalent license in any other state, territory or
35 country.

36 2. Failure of the licensee to maintain any other license required
37 by any political subdivision of this state.

38 3. Failure to respond to a notice served by the Division as
39 provided by law within the time specified in the notice.

40 4. Failure to take the corrective action required in a notice of
41 violation issued pursuant to NRS 489.291.

42 5. Failure or refusing to permit access by the Administrator to
43 documentary materials set forth in NRS 489.231.



1 6. Disregarding or violating any order of the Administrator,
2 any agreement with the Division, or any provision of this chapter or
3 any regulation adopted under it.

4 7. Conviction of a misdemeanor for violation of any of the
5 provisions of this chapter.

6 8. Conviction of or entering a plea of guilty ~~[, guilty but~~
7 ~~mentally ill]~~ or nolo contendere to a felony or a crime of moral
8 turpitude in this state or any other state, territory or country.

9 9. Any other conduct that constitutes deceitful, fraudulent or
10 dishonest dealing.

11 **Sec. 57.** NRS 616A.250 is hereby amended to read as follows:
12 616A.250 "Incarcerated" means confined in:

13 1. Any local detention facility, county jail, state prison,
14 reformatory or other correctional facility as a result of a conviction
15 or a plea of guilty or nolo contendere in a criminal proceeding; or

16 2. Any institution or facility for the mentally ill as a result
17 of a *plea of not guilty by reason of insanity in a* criminal
18 proceeding,
19 in this state, another state or a foreign country.

20 **Sec. 58.** NRS 624.265 is hereby amended to read as follows:

21 624.265 1. An applicant for a contractor's license or a
22 licensed contractor and each officer, director, partner and associate
23 thereof must possess good character. Lack of character may be
24 established by showing that the applicant or licensed contractor, or
25 any officer, director, partner or associate thereof, has:

26 (a) Committed any act which would be grounds for the denial,
27 suspension or revocation of a contractor's license;

28 (b) A bad reputation for honesty and integrity;

29 (c) Entered a plea of nolo contendere ~~[, guilty]~~ or guilty ~~[but~~
30 ~~mentally ill]~~ to, been found guilty of or been convicted of a crime
31 arising out of, in connection with or related to the activities of such
32 person in such a manner as to demonstrate his unfitness to act as a
33 contractor, and the time for appeal has elapsed or the judgment of
34 conviction has been affirmed on appeal; or

35 (d) Had a license revoked or suspended for reasons that would
36 preclude the granting or renewal of a license for which the
37 application has been made.

38 2. Upon the request of the Board, an applicant for a
39 contractor's license, and any officer, director, partner or associate of
40 the applicant, must submit to the Board completed fingerprint cards
41 and a form authorizing an investigation of the applicant's
42 background and the submission of his fingerprints to the Central
43 Repository for Nevada Records of Criminal History and the Federal
44 Bureau of Investigation. The fingerprint cards and authorization
45 form submitted must be those that are provided to the applicant by



1 the Board. The applicant's fingerprints may be taken by an agent of
2 the Board or an agency of law enforcement.

3 3. The Board shall keep the results of the investigation
4 confidential and not subject to inspection by the general public.

5 4. The Board shall establish by regulation the fee for
6 processing the fingerprints to be paid by the applicant. The fee must
7 not exceed the sum of the amounts charged by the Central
8 Repository for Nevada Records of Criminal History and the Federal
9 Bureau of Investigation for processing the fingerprints.

10 5. The Board may obtain records of a law enforcement agency
11 or any other agency that maintains records of criminal history,
12 including, without limitation, records of:

- 13 (a) Arrests;
- 14 (b) Guilty pleas;
- 15 (c) Sentencing;
- 16 (d) Probation;
- 17 (e) Parole;
- 18 (f) Bail;
- 19 (g) Complaints; and
- 20 (h) Final dispositions,

21 for the investigation of a licensee or an applicant for a contractor's
22 license.

23 **Sec. 59.** NRS 632.320 is hereby amended to read as follows:

24 632.320 The Board may deny, revoke or suspend any license
25 or certificate applied for or issued pursuant to this chapter, or take
26 other disciplinary action against a licensee or holder of a certificate,
27 upon determining that he:

28 1. Is guilty of fraud or deceit in procuring or attempting to
29 procure a license or certificate pursuant to this chapter.

30 2. Is guilty of a felony or any offense:

- 31 (a) Involving moral turpitude; or
- 32 (b) Related to the qualifications, functions or duties of a licensee
33 or holder of a certificate,

34 in which case the record of conviction is conclusive evidence
35 thereof.

36 3. Has been convicted of violating any of the provisions of
37 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
38 inclusive.

39 4. Is unfit or incompetent by reason of gross negligence or
40 recklessness in carrying out usual nursing functions.

41 5. Uses any controlled substance, dangerous drug as defined in
42 chapter 454 of NRS, or intoxicating liquor to an extent or in a
43 manner which is dangerous or injurious to any other person or
44 which impairs his ability to conduct the practice authorized by his
45 license or certificate.



- 1 6. Is mentally incompetent.
- 2 7. Is guilty of unprofessional conduct, which includes, but is
3 not limited to, the following:
 - 4 (a) Conviction of practicing medicine without a license in
5 violation of chapter 630 of NRS, in which case the record of
6 conviction is conclusive evidence thereof.
 - 7 (b) Impersonating any applicant or acting as proxy for an
8 applicant in any examination required pursuant to this chapter for
9 the issuance of a license or certificate.
 - 10 (c) Impersonating another licensed practitioner or holder of a
11 certificate.
 - 12 (d) Permitting or allowing another person to use his license or
13 certificate to practice as a licensed practical nurse, registered nurse
14 or nursing assistant.
 - 15 (e) Repeated malpractice, which may be evidenced by claims of
16 malpractice settled against him.
 - 17 (f) Physical, verbal or psychological abuse of a patient.
 - 18 (g) Conviction for the use or unlawful possession of a controlled
19 substance or dangerous drug as defined in chapter 454 of NRS.
- 20 8. Has willfully or repeatedly violated the provisions of this
21 chapter. The voluntary surrender of a license or certificate issued
22 pursuant to this chapter is prima facie evidence that the licensee or
23 certificate holder has committed or expects to commit a violation of
24 this chapter.
- 25 9. Is guilty of aiding or abetting any person in a violation of
26 this chapter.
- 27 10. Has falsified an entry on a patient's medical chart
28 concerning a controlled substance.
- 29 11. Has falsified information which was given to a physician,
30 pharmacist, podiatric physician or dentist to obtain a controlled
31 substance.
- 32 12. Has been disciplined in another state in connection with a
33 license to practice nursing or a certificate to practice as a nursing
34 assistant or has committed an act in another state which would
35 constitute a violation of this chapter.
- 36 13. Has engaged in conduct likely to deceive, defraud or
37 endanger a patient or the general public.
- 38 14. Has willfully failed to comply with a regulation, subpoena
39 or order of the Board.
- 40 For the purposes of this section, a plea or verdict of guilty ~~for guilty~~
41 ~~but mentally ill~~ or a plea of nolo contendere constitutes a
42 conviction of an offense. The Board may take disciplinary action
43 pending the appeal of a conviction.



1 **Sec. 60.** NRS 639.006 is hereby amended to read as follows:
2 639.006 “Conviction” means a plea or verdict of guilty ~~for~~
3 ~~guilty but mentally ill~~ or a conviction following a plea of nolo
4 contendere to a charge of a felony, any offense involving moral
5 turpitude or any violation of the provisions of this chapter or chapter
6 453 or 454 of NRS.

7 **Sec. 61.** NRS 645.330 is hereby amended to read as follows:
8 645.330 1. Except as otherwise provided by specific statute,
9 the Division may approve an application for a license for a person
10 who meets all the following requirements:

11 (a) Has a good reputation for honesty, trustworthiness and
12 integrity and who offers proof of those qualifications satisfactory to
13 the Division.

14 (b) Has not made a false statement of material fact on his
15 application.

16 (c) Is competent to transact the business of a real estate broker,
17 broker-salesman or salesman in a manner which will safeguard the
18 interests of the public.

19 (d) Has submitted the statement required pursuant to NRS
20 645.358 if the person is a natural person.

21 (e) Has passed the examination.

22 2. The Division:

23 (a) May deny a license to any person who has been convicted of,
24 or entered a plea of guilty ~~to~~ ~~guilty but mentally ill~~ or nolo
25 contendere to, forgery, embezzlement, obtaining money under false
26 pretenses, larceny, extortion, conspiracy to defraud, engaging in a
27 real estate business without a license, possessing for the purpose of
28 sale any controlled substance or any crime involving moral
29 turpitude, in any court of competent jurisdiction in the United States
30 or elsewhere; and

31 (b) Shall not issue a license to such a person until at least 3 years
32 after:

33 (1) The person pays any fine or restitution ordered by the
34 court; or

35 (2) The expiration of the period of the person’s parole,
36 probation or sentence,
37 whichever is later.

38 3. Suspension or revocation of a license pursuant to this
39 chapter or any prior revocation or current suspension in this or any
40 other state, district or territory of the United States or any foreign
41 country within 10 years before the date of the application is grounds
42 for refusal to grant a license.

43 4. A person may not be licensed as a real estate broker unless
44 he has been actively engaged as a full-time licensed real estate
45 broker-salesman or salesman in this state, or actively engaged as a



1 full-time licensed real estate broker, broker-salesman or salesman in
2 another state or the District of Columbia, for at least 2 of the 4 years
3 immediately preceding the issuance of a broker's license.

4 **Sec. 62.** NRS 645.350 is hereby amended to read as follows:

5 645.350 1. An application for a license as a real estate broker,
6 broker-salesman or salesman must be submitted in writing to the
7 Division upon blanks prepared or furnished by the Division.

8 2. Every application for a real estate broker's, broker-
9 salesman's or salesman's license must set forth the following
10 information:

11 (a) The name, age and address of the applicant. If the applicant
12 is a partnership or an association which is applying to do business as
13 a real estate broker, the application must contain the name and
14 address of each member thereof. If the application is for a
15 corporation which is applying to do business as a real estate
16 salesman, real estate broker-salesman or real estate broker, the
17 application must contain the name and address of each officer and
18 director thereof. If the applicant is a limited-liability company which
19 is applying to do business as a real estate broker, the company's
20 articles of organization must designate a manager, and the name and
21 address of the manager and each member must be listed in the
22 application.

23 (b) In the case of a broker, the name under which the business is
24 to be conducted. The name is a fictitious name if it does not contain
25 the name of the applicant or the names of the members of the
26 applicant's company, firm, partnership or association. Except as
27 otherwise provided in NRS 645.387, a license must not be issued
28 under a fictitious name which includes the name of a real estate
29 salesman or broker-salesman. A license must not be issued under the
30 same fictitious name to more than one licensee within the State. All
31 licensees doing business under a fictitious name shall comply with
32 other pertinent statutory regulations regarding the use of fictitious
33 names.

34 (c) In the case of a broker, the place or places, including the
35 street number, city and county, where the business is to be
36 conducted.

37 (d) If the applicant is a natural person, the social security
38 number of the applicant.

39 (e) The business or occupation engaged in by the applicant for at
40 least 2 years immediately preceding the date of the application, and
41 the location thereof.

42 (f) The time and place of the applicant's previous experience in
43 the real estate business as a broker or salesman.

44 (g) Whether the applicant has ever been convicted of or is under
45 indictment for a felony or has entered a plea of guilty ~~[- guilty but~~



1 ~~mentally ill~~ or nolo contendere to a charge of felony, and if so, the
2 nature of the felony.

3 (h) Whether the applicant has been convicted of or entered a
4 plea of nolo contendere to forgery, embezzlement, obtaining money
5 under false pretenses, larceny, extortion, conspiracy to defraud,
6 engaging in the business of selling real estate without a license or
7 any crime involving moral turpitude.

8 (i) Whether the applicant has been refused a real estate broker's,
9 broker-salesman's or salesman's license in any state, or whether his
10 license as a broker or salesman has been revoked or suspended by
11 any other state, district or territory of the United States or any other
12 country.

13 (j) If the applicant is a member of a limited-liability company,
14 partnership or association, or an officer of a corporation, the name
15 and address of the office of the limited-liability company,
16 partnership, association or corporation of which the applicant is a
17 member or officer.

18 3. An applicant for a license as a broker-salesman or salesman
19 shall provide a verified statement from the broker with whom he
20 will be associated, expressing the intent of that broker to associate
21 the applicant with him and to be responsible for the applicant's
22 activities as a licensee.

23 4. If a limited-liability company, partnership or association is
24 to do business as a real estate broker, the application for a broker's
25 license must be verified by at least two members thereof. If a
26 corporation is to do business as a real estate broker, the application
27 must be verified by the president and the secretary thereof.

28 **Sec. 63.** NRS 645.350 is hereby amended to read as follows:

29 645.350 1. Application for license as a real estate broker,
30 broker-salesman or salesman must be made in writing to the
31 Division upon blanks prepared or furnished by the Division.

32 2. Every application for a real estate broker's, broker-
33 salesman's or salesman's license must set forth the following
34 information:

35 (a) The name, age and address of the applicant. If the applicant
36 is a partnership or an association which is applying to do business as
37 a real estate broker, the application must contain the name and
38 address of each member thereof. If the application is for a
39 corporation which is applying to do business as a real estate
40 salesman, real estate broker-salesman or real estate broker, the
41 application must contain the name and address of each officer and
42 director thereof. If the applicant is a limited-liability company which
43 is applying to do business as a real estate broker, the company's
44 articles of organization must designate a manager, and the name and



1 address of the manager and each member must be listed in the
2 application.

3 (b) In the case of a broker, the name under which the business is
4 to be conducted. The name is a fictitious name if it does not contain
5 the name of the applicant or the names of the members of the
6 applicant's company, firm, partnership or association. Except as
7 otherwise provided in NRS 645.387, a license must not be issued
8 under a fictitious name which includes the name of a real estate
9 salesman or broker-salesman. A license must not be issued under the
10 same fictitious name to more than one licensee within the State. All
11 licensees doing business under a fictitious name shall comply with
12 other pertinent statutory regulations regarding the use of fictitious
13 names.

14 (c) In the case of a broker, the place or places, including the
15 street number, city and county, where the business is to be
16 conducted.

17 (d) The business or occupation engaged in by the applicant for
18 at least 2 years immediately preceding the date of the application,
19 and the location thereof.

20 (e) The time and place of the applicant's previous experience in
21 the real estate business as a broker or salesman.

22 (f) Whether the applicant has ever been convicted of or is under
23 indictment for a felony or has entered a plea of guilty [~~guilty but~~
24 ~~mentally ill~~] or nolo contendere to a charge of felony, and if so, the
25 nature of the felony.

26 (g) Whether the applicant has been convicted of or entered a
27 plea of nolo contendere to forgery, embezzlement, obtaining money
28 under false pretenses, larceny, extortion, conspiracy to defraud,
29 engaging in the business of selling real estate without a license or
30 any crime involving moral turpitude.

31 (h) Whether the applicant has been refused a real estate broker's,
32 broker-salesman's or salesman's license in any state, or whether his
33 license as a broker or salesman has been revoked or suspended by
34 any other state, district or territory of the United States or any other
35 country.

36 (i) If the applicant is a member of a limited-liability company,
37 partnership or association, or an officer of a corporation, the name
38 and address of the office of the limited-liability company,
39 partnership, association or corporation of which the applicant is a
40 member or officer.

41 3. An applicant for a license as a broker-salesman or salesman
42 shall provide a verified statement from the broker with whom he
43 will be associated, expressing the intent of that broker to associate
44 the applicant with him and to be responsible for the applicant's
45 activities as a licensee.



1 4. If a limited-liability company, partnership or association is
2 to do business as a real estate broker, the application for a broker's
3 license must be verified by at least two members thereof. If a
4 corporation is to do business as a real estate broker, the application
5 must be verified by the president and the secretary thereof.

6 **Sec. 64.** NRS 645.633 is hereby amended to read as follows:

7 645.633 1. The Commission may take action pursuant to
8 NRS 645.630 against any person subject to that section who is
9 guilty of:

10 (a) Willfully using any trade name, service mark or insigne of
11 membership in any real estate organization of which the licensee is
12 not a member, without the legal right to do so.

13 (b) Violating any order of the Commission, any agreement with
14 the Division, any of the provisions of this chapter, chapter 116, 119,
15 119A, 119B, 645A or 645C of NRS or any regulation adopted
16 thereunder.

17 (c) Paying a commission, compensation or a finder's fee to any
18 person for performing the services of a broker, broker-salesman or
19 salesman who has not secured his license pursuant to this chapter.
20 This subsection does not apply to payments to a broker who is
21 licensed in his state of residence.

22 (d) A felony, or has entered a plea of guilty [~~guilty but~~
23 ~~mentally ill~~] or nolo contendere to a charge of felony or any crime
24 involving fraud, deceit, misrepresentation or moral turpitude.

25 (e) Guaranteeing, or having authorized or permitted any person
26 to guarantee, future profits which may result from the resale of real
27 property.

28 (f) Failure to include a fixed date of expiration in any written
29 brokerage agreement or to leave a copy of the brokerage agreement
30 with the client.

31 (g) Accepting, giving or charging any undisclosed commission,
32 rebate or direct profit on expenditures made for a client.

33 (h) Gross negligence or incompetence in performing any act for
34 which he is required to hold a license pursuant to this chapter,
35 chapter 119, 119A or 119B of NRS.

36 (i) Any other conduct which constitutes deceitful, fraudulent or
37 dishonest dealing.

38 (j) Any conduct which took place before he became licensed,
39 which was in fact unknown to the Division and which would have
40 been grounds for denial of a license had the Division been aware of
41 the conduct.

42 (k) Knowingly permitting any person whose license has been
43 revoked or suspended to act as a real estate broker, broker-salesman
44 or salesman, with or on behalf of the licensee.



- 1 (1) Recording or causing to be recorded a claim pursuant to the
2 provisions of NRS 645.8701 to 645.8811, inclusive, that is
3 determined by a district court to be frivolous and made without
4 reasonable cause pursuant to NRS 645.8791.
- 5 2. The Commission may take action pursuant to NRS 645.630
6 against a person who is subject to that section for the suspension or
7 revocation of a real estate broker's, broker-salesman's or salesman's
8 license issued to him by any other jurisdiction.
- 9 3. The Commission may take action pursuant to NRS 645.630
10 against any person who:
- 11 (a) Holds a permit to engage in property management issued
12 pursuant to NRS 645.6052; and
- 13 (b) In connection with any property for which the person has
14 obtained a written brokerage agreement to manage the property
15 pursuant to NRS 645.6056:
- 16 (1) Is convicted of violating any of the provisions of
17 NRS 202.470;
- 18 (2) Has been notified in writing by the appropriate
19 governmental agency of a potential violation of NRS 244.360,
20 244.3603 or 268.4124, and has failed to inform the owner of the
21 property of such notification; or
- 22 (3) Has been directed in writing by the owner of the property
23 to correct a potential violation of NRS 244.360, 244.3603 or
24 268.4124, and has failed to correct the potential violation, if such
25 corrective action is within the scope of the person's duties pursuant
26 to the written brokerage agreement.
- 27 4. The Division shall maintain a log of any complaints that it
28 receives relating to activities for which the Commission may take
29 action against a person holding a permit to engage in property
30 management pursuant to subsection 3.
- 31 5. On or before February 1 of each odd-numbered year, the
32 Division shall submit to the Director of the Legislative Counsel
33 Bureau a written report setting forth, for the previous biennium:
- 34 (a) Any complaints included in the log maintained by the
35 Division pursuant to subsection 4; and
- 36 (b) Any disciplinary actions taken by the Commission pursuant
37 to subsection 3.
- 38 **Sec. 65.** NRS 645C.290 is hereby amended to read as follows:
39 645C.290 An application for a certificate or license must be in
40 writing upon a form prepared and furnished by the Division. The
41 application must include the following information:
- 42 1. The name, age and address of the applicant.
- 43 2. The place or places, including the street number, city and
44 county, where the applicant intends to conduct business as an
45 appraiser.



1 3. The business, occupation or other employment of the
2 applicant during the 5 years immediately preceding the date of the
3 application, and the location thereof.

4 4. The periods during which, and the locations where, he
5 gained his experience as an intern.

6 5. Whether the applicant has ever been convicted of, is under
7 indictment for, or has entered a plea of guilty ~~[, guilty but mentally~~
8 ~~ill]~~ or nolo contendere to:

9 (a) A felony, and if so, the nature of the felony.

10 (b) Forgery, embezzlement, obtaining money under false
11 pretenses, larceny, extortion, conspiracy to defraud or any crime
12 involving moral turpitude.

13 6. Whether the applicant has ever been refused a certificate,
14 license or permit to act as an appraiser, or has ever had such a
15 certificate, license or permit suspended or revoked, in any other
16 jurisdiction.

17 7. If the applicant is a member of a partnership or association
18 or is an officer of a corporation, the name and address of the
19 principal office of the partnership, association or corporation.

20 8. Any other information the Division requires.

21 **Sec. 66.** NRS 645C.320 is hereby amended to read as follows:

22 645C.320 1. The Administrator shall issue a certificate or
23 license, as appropriate, to any person:

24 (a) Of good moral character, honesty and integrity;

25 (b) Who meets the educational requirements and has the
26 experience prescribed in NRS 645C.330;

27 (c) Who submits the statement required pursuant to NRS
28 645C.295; and

29 (d) Who, except as otherwise provided in NRS 645C.360, has
30 satisfactorily passed a written examination approved by the
31 Commission.

32 2. The Administrator may deny an application for a certificate
33 or license to any person who:

34 (a) Has been convicted of, or entered a plea of guilty ~~[, guilty~~
35 ~~but mentally ill]~~ or nolo contendere to, forgery, embezzlement,
36 obtaining money under false pretenses, larceny, extortion,
37 conspiracy to defraud or any crime involving moral turpitude;

38 (b) Makes a false statement of a material fact on his application;
39 or

40 (c) Has had a certificate, license or registration card suspended
41 or revoked pursuant to this chapter, or a certificate, license or permit
42 to act as an appraiser suspended or revoked in any other jurisdiction,
43 within the 10 years immediately preceding the date of his
44 application.



1 **Sec. 67.** NRS 645C.320 is hereby amended to read as follows:
2 645C.320 1. The Administrator shall issue a certificate or
3 license, as appropriate, to any person:

- 4 (a) Of good moral character, honesty and integrity;
5 (b) Who meets the educational requirements and has the
6 experience prescribed in NRS 645C.330; and
7 (c) Who, except as otherwise provided in NRS 645C.360, has
8 satisfactorily passed a written examination approved by the
9 Commission.

10 2. The Administrator may deny an application for a certificate
11 or license to any person who:

- 12 (a) Has been convicted of, or entered a plea of guilty ~~to~~ ~~guilty~~
13 ~~but mentally ill~~ or nolo contendere to, forgery, embezzlement,
14 obtaining money under false pretenses, larceny, extortion,
15 conspiracy to defraud or any crime involving moral turpitude;
16 (b) Makes a false statement of a material fact on his application;
17 or
18 (c) Has had a certificate, license or registration card suspended
19 or revoked pursuant to this chapter, or a certificate, license or permit
20 to act as an appraiser suspended or revoked in any other jurisdiction,
21 within the 10 years immediately preceding the date of his
22 application.

23 **Sec. 68.** NRS 690B.029 is hereby amended to read as follows:

24 690B.029 1. A policy of insurance against liability arising
25 out of the ownership, maintenance or use of a motor vehicle
26 delivered or issued for delivery in this state to a person who is 55
27 years of age or older must contain a provision for the reduction in
28 the premiums for 3-year periods if the insured:

29 (a) Successfully completes, after attaining 55 years of age and
30 every 3 years thereafter, a course of traffic safety approved by the
31 Department of Motor Vehicles; and

32 (b) For the 3-year period before completing the course of traffic
33 safety and each 3-year period thereafter:

34 (1) Is not involved in an accident involving a motor vehicle
35 for which the insured is at fault;

36 (2) Maintains a driving record free of violations; and

37 (3) Has not been convicted of or entered a plea of guilty ~~to~~
38 ~~guilty but mentally ill~~ or nolo contendere to a moving traffic
39 violation or an offense involving:

40 (I) The operation of a motor vehicle while under the
41 influence of intoxicating liquor or a controlled substance; or

42 (II) Any other conduct prohibited by NRS 484.379 or
43 484.3795 or a law of any other jurisdiction that prohibits the same or
44 similar conduct.



1 2. The reduction in the premiums provided for in subsection 1
2 must be based on the actuarial and loss experience data available to
3 each insurer and must be approved by the Commissioner. Each
4 reduction must be calculated based on the amount of the premium
5 before any reduction in that premium is made pursuant to this
6 section, and not on the amount of the premium once it has been
7 reduced.

8 3. A course of traffic safety that an insured is required to
9 complete as the result of moving traffic violations must not be used
10 as the basis for a reduction in premiums pursuant to this section.

11 4. The organization that offers a course of traffic safety
12 approved by the Department of Motor Vehicles shall issue a
13 certificate to each person who successfully completes the course. A
14 person must use the certificate to qualify for the reduction in the
15 premiums pursuant to this section.

16 5. The Commissioner shall review and approve or disapprove a
17 policy of insurance that offers a reduction in the premiums pursuant
18 to subsection 1. An insurer must receive written approval from the
19 commissioner before delivering or issuing a policy with a provision
20 containing such a reduction.

21 **Sec. 69.** NRS 174.041, 176.127 and 176.129 are hereby
22 repealed.

23 **Sec. 70.** The Legislative Counsel shall, in preparing the reprint
24 and supplements to the Nevada Revised Statutes, remove or
25 appropriately change any references to "guilty but mentally ill."

26 **Sec. 71.** 1. This section and sections 1 to 61, inclusive, 64,
27 65, 68, 69 and 70 of this act become effective on July 1, 2003.

28 2. Sections 62 and 66 of this act become effective on July 1,
29 2003, and expire by limitation on the date of the repeal of the
30 federal law requiring each state to establish procedures for
31 withholding, suspending and restricting the professional,
32 occupational and recreational licenses for child support arrearages
33 and for noncompliance with certain processes relating to paternity or
34 child support proceedings.

35 3. Sections 63 and 67 of this act become effective on the date
36 of the repeal of the federal law requiring each state to establish
37 procedures for withholding, suspending and restricting the
38 professional, occupational and recreational licenses for child support
39 arrearages and for noncompliance with certain processes relating to
40 paternity or child support proceedings.



TEXT OF REPEALED SECTIONS

174.041 Plea of guilty but mentally ill: Hearing; examination of defendant and testimony; plea is not defense to offense charged; acceptance of plea.

1. If a plea of guilty but mentally ill is entered by a defendant, the court shall hold a hearing within a reasonable time to determine whether the defendant was mentally ill at the time of the commission of the alleged offense to which the plea is entered.

2. The court may order the examination of the defendant or receive the testimony of any expert witness offered by the defendant or the prosecuting attorney, or both.

3. At the hearing, the court shall advise the defendant that a plea of guilty but mentally ill is a plea of guilty and not a defense to the alleged offense.

4. The court shall accept the plea of guilty but mentally ill only if it determines that the defendant was mentally ill at the time of the alleged offense to which the plea is entered.

176.127 Determination of mental condition of defendant; treatment if defendant mentally ill at time of sentencing.

1. If a court accepts a plea of guilty but mentally ill pursuant to NRS 174.041, the court shall, before imposing sentence, afford the defendant an opportunity to present evidence of his present mental condition. If the defendant claims that he is mentally ill at the time of sentencing, the burden of proof is upon the defendant to establish that fact by a preponderance of the evidence.

2. If the defendant has been ordered to the custody of the Department of Corrections, the court may order the Department to cause an examination of the defendant to be conducted to determine his mental condition, and may receive the evidence of any expert witness offered by the defendant or the prosecuting attorney.

3. If the court finds:

(a) That the defendant is not mentally ill at the time of sentencing, it shall impose any sentence that it is authorized to impose upon a defendant who pleads or is found guilty of the same offense.

(b) By a preponderance of the evidence that the defendant is mentally ill at the time of sentencing, it shall impose any sentence that it is authorized to impose upon a defendant who pleads or is found guilty of the same offense and include in that sentence an order that the defendant, during the period of his confinement or



probation, be given such treatment as is available for his mental illness if the court determines that the relative risks and benefits of the available treatment are such that a reasonable person would consent to such treatment. The treatment must be provided by the Department of Corrections.

176.129 Final judgment of guilty but mentally ill deemed judgment of guilty. Except for the purposes of NRS 176.127, a final judgment of guilty but mentally ill shall be deemed to be a final judgment of guilty.

Ⓢ

