

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.

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

AN ACT relating to 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 *plea of not guilty by reason of insanity must be entered not less*  
24 *than 21 days before the date set for trial. A defendant who has not*  
25 *so pleaded may offer the defense of insanity during trial upon*  
26 *good cause shown. Under such a plea or defense, the burden of*  
27 *proof is upon the defendant to establish his insanity by a*  
28 *preponderance of the evidence.*

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

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

- 35 (a) Probation is not allowed; or
- 36 (b) The maximum prison sentence is more than 10  
37 years,
- 38 unless the plea bargain is set forth in writing and signed by the  
39 defendant, the defendant's attorney, if he is represented by counsel,  
40 and the prosecuting attorney.

41 **Sec. 5.** NRS 174.055 is hereby amended to read as follows:  
42 174.055 In the justice's court, if the defendant pleads guilty ,  
43 ~~for guilty but mentally ill,]~~ the court may, before entering such a  
44 plea or pronouncing judgment, examine witnesses to ascertain the  
45 gravity of the offense committed. If it appears to the court that a



1 higher offense has been committed than the offense charged in the  
2 complaint, the court may order the defendant to be committed or  
3 admitted to bail ~~or~~ *or* to answer any indictment that may be found  
4 against him or any information which may be filed by the district  
5 attorney.

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

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

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

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

- 17 (a) Limits the testimony of the defendant to a predetermined  
18 formula.  
19 (b) Is contingent on the testimony of the defendant contributing  
20 to a specified conclusion.

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

22 174.065 Except as otherwise provided in NRS 174.061:

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

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

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

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

40 2. All other pleas, and demurrers and motions to quash are  
41 abolished, and defenses and objections raised before trial which  
42 could have been raised by one or more of them may be raised only  
43 by motion to dismiss or to grant appropriate relief, as provided in  
44 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 forensic facility for detention*  
10 *pending a hearing to determine his mental health;*

11       (b) *Order the examination of the person by two psychiatrists,*  
12 *two psychologists, or one psychiatrist and one psychologist who*  
13 *are employed by a division facility; and*

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

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

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

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

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

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

40       4. *As used in this section, unless the context otherwise*  
41 *requires:*

42       (a) *“Division facility” has the meaning ascribed to it in NRS*  
43 *433.094.*

44       (b) *“Forensic facility” means a secure facility of the Division*  
45 *of Mental Health and Developmental Services of the Department*



1 *of Human Resources for mentally disordered offenders and*  
2 *defendants. The term includes, without limitation, Lakes Crossing*  
3 *Center.*

4 (c) *“Mentally ill person” has the meaning ascribed to it in*  
5 *NRS 433A.115.*

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

7 175.282 If a prosecuting attorney enters into an agreement with  
8 a defendant in which the defendant agrees to testify against another  
9 defendant in exchange for a plea of guilty ~~[, guilty but mentally ill]~~  
10 or nolo contendere to a lesser charge or for a recommendation of a  
11 reduced sentence, the court shall:

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

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

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

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

21 175.552 1. Except as otherwise provided in subsection 2, in  
22 every case in which there is a finding that a defendant is guilty of  
23 murder of the first degree, whether or not the death penalty is  
24 sought, the court shall conduct a separate penalty hearing. The  
25 separate penalty hearing must be conducted as follows:

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

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

33 (c) If the finding is made upon a plea of guilty ~~for guilty but~~  
34 ~~mentally ill]~~ or a trial without a jury and the death penalty is not  
35 sought, the separate penalty hearing must be conducted before the  
36 judge who conducted the trial or who accepted the plea ~~[ ]~~ *of guilty,*  
37 as soon as practicable.

38 2. In a case in which the death penalty is not sought, the parties  
39 may by stipulation waive the separate penalty hearing required in  
40 subsection 1. When stipulating to such a waiver, the parties may  
41 also include an agreement to have the sentence, if any, imposed by  
42 the trial judge. Any stipulation pursuant to this subsection must be  
43 in writing and signed by the defendant, his attorney, if any, and the  
44 prosecuting attorney.



1 3. In the hearing, evidence may be presented concerning  
2 aggravating and mitigating circumstances relative to the offense,  
3 defendant or victim and on any other matter which the court deems  
4 relevant to sentence, whether or not the evidence is ordinarily  
5 admissible. Evidence may be offered to refute hearsay matters. No  
6 evidence which was secured in violation of the Constitution of the  
7 United States or the Constitution of the State of Nevada may be  
8 introduced. The State may introduce evidence of additional  
9 aggravating circumstances as set forth in NRS 200.033, other than  
10 the aggravated nature of the offense itself, only if it has been  
11 disclosed to the defendant before the commencement of the penalty  
12 hearing.

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

17 **Sec. 12.** NRS 175.558 is hereby amended to read as follows:

18 175.558 When any person is convicted of murder of the first  
19 degree upon a plea of guilty ~~{or guilty but mentally ill,}~~ or a trial  
20 without a jury ~~{}~~ and the death penalty is sought, the Supreme Court  
21 shall appoint two district judges from judicial districts other than the  
22 district in which the plea is made, who shall with the district judge  
23 before whom the plea is made, or his successor in office, conduct  
24 the required penalty hearing to determine the presence of  
25 aggravating and mitigating circumstances, and give sentence  
26 accordingly. A sentence of death may be given only by unanimous  
27 vote of the three judges, but any other sentence may be given by the  
28 vote of a majority.

29 **Sec. 13.** NRS 176.059 is hereby amended to read as follows:

30 176.059 1. Except as otherwise provided in subsection 2,  
31 when a defendant pleads guilty ~~{or guilty but mentally ill}~~ or is  
32 found guilty of a misdemeanor, including the violation of any  
33 municipal ordinance, the justice or judge shall include in the  
34 sentence the sum prescribed by the following schedule as an  
35 administrative assessment and render a judgment against the  
36 defendant for the assessment:

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



1	200 to 299.....	\$70
2	300 to 399.....	80
3	400 to 499.....	90
4	500 to 1,000.....	105

5  
6 2. The provisions of subsection 1 do not apply to:  
7 (a) An ordinance regulating metered parking; or  
8 (b) An ordinance which is specifically designated as imposing a  
9 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

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

25 4. If the justice or judge permits the fine and administrative  
26 assessment to be paid in installments, the payments must be first  
27 applied to the unpaid balance of the administrative assessment. The  
28 city treasurer shall distribute partially collected administrative  
29 assessments in accordance with the requirements of subsection 5.  
30 The county treasurer shall distribute partially collected  
31 administrative assessments in accordance with the requirements of  
32 subsection 6.

33 5. The money collected for administrative assessments in  
34 municipal court must be paid by the clerk of the court to the city  
35 treasurer on or before the fifth day of each month for the preceding  
36 month. The city treasurer shall distribute, on or before the 15th day  
37 of that month, the money received in the following amounts for each  
38 assessment received:

39 (a) Two dollars to the county treasurer for credit to a special  
40 account in the county general fund for the use of the county's  
41 juvenile court or for services to juvenile offenders. Any money  
42 remaining in the special account after 2 fiscal years must be  
43 deposited in the county general fund if it has not been committed for  
44 expenditure. The county treasurer shall provide, upon request by a





1 juvenile court, monthly reports of the revenue credited to and  
2 expenditures made from the special account.

3 (b) Seven dollars for credit to a special revenue fund for the use  
4 of the municipal courts. Any money remaining in the special  
5 revenue fund after 2 fiscal years must be deposited in the municipal  
6 general fund if it has not been committed for expenditure. The city  
7 treasurer shall provide, upon request by a municipal court, monthly  
8 reports of the revenue credited to and expenditures made from the  
9 special revenue fund.

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

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

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

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

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

34 7. The money apportioned to a juvenile court, a justice's court  
35 or a municipal court pursuant to this section must be used, in  
36 addition to providing services to juvenile offenders in the juvenile  
37 court, to improve the operations of the court, or to acquire  
38 appropriate advanced technology or the use of such technology, or  
39 both. Money used to improve the operations of the court may  
40 include expenditures for:

- 41 (a) Training and education of personnel;
- 42 (b) Acquisition of capital goods;
- 43 (c) Management and operational studies; or
- 44 (d) Audits.



1 8. Of the total amount deposited in the State General Fund  
2 pursuant to subsections 5 and 6, the State Controller shall distribute  
3 the money received to the following public agencies in the  
4 following manner:

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

7 (1) Eighteen and one-half percent of the amount distributed  
8 to the Office of the Court Administrator for the administration of the  
9 courts.

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

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

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

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

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

22 (1) The Central Repository for Nevada Records of Criminal  
23 History;

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

25 (3) The operation by the Nevada Highway Patrol of a  
26 computerized switching system for information related to law  
27 enforcement;

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

29 (5) The Advisory Council for Prosecuting Attorneys.

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

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

34 (b) In any other judicial district, the juvenile division of the  
35 district court.

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

37 176.0611 1. A county or a city, upon recommendation of the  
38 appropriate court, may, by ordinance, authorize the justices or  
39 judges of the justices' or municipal courts within its jurisdiction to  
40 impose for not longer than 25 years, in addition to an administrative  
41 assessment imposed pursuant to NRS 176.059, an administrative  
42 assessment for the provision of court facilities.

43 2. Except as otherwise provided in subsection 3, in any  
44 jurisdiction in which an administrative assessment for the provision  
45 of court facilities has been authorized, when a defendant pleads



1 guilty ~~for guilty but mentally ill~~ or is found guilty of a  
2 misdemeanor, including the violation of any municipal ordinance,  
3 the justice or judge shall include in the sentence the sum of \$10 as  
4 an administrative assessment for the provision of court facilities and  
5 render a judgment against the defendant for the assessment.

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

- 7 (a) An ordinance regulating metered parking; or
- 8 (b) An ordinance that is specifically designated as imposing a  
9 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

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

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

- 28 (a) To pay the unpaid balance of an administrative assessment  
29 imposed pursuant to NRS 176.059;
- 30 (b) To pay the unpaid balance of an administrative assessment  
31 for the provision of court facilities pursuant to this section; and
- 32 (c) To pay the fine.

33 6. The money collected for administrative assessments for the  
34 provision of court facilities in municipal courts must be paid by the  
35 clerk of the court to the city treasurer on or before the fifth day of  
36 each month for the preceding month. The city treasurer shall deposit  
37 the money received in a special revenue fund. The city may use the  
38 money in the special revenue fund only to:

39 (a) Acquire land on which to construct additional facilities for  
40 the municipal courts or a regional justice center that includes the  
41 municipal courts.

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

44 (c) Renovate or remodel existing facilities for the municipal  
45 courts.



1 (d) Acquire furniture, fixtures and equipment necessitated by the  
2 construction or acquisition of additional facilities or the renovation  
3 of an existing facility for the municipal courts or a regional justice  
4 center that includes the municipal courts. This paragraph does not  
5 authorize the expenditure of money from the fund for furniture,  
6 fixtures or equipment for judicial chambers.

7 (e) Acquire advanced technology for use in the additional or  
8 renovated facilities.

9 (f) Pay debt service on any bonds issued pursuant to  
10 subsection 3 of NRS 350.020 for the acquisition of land or facilities  
11 or the construction or renovation of facilities for the municipal  
12 courts or a regional justice center that includes the municipal  
13 courts.

14 Any money remaining in the special revenue fund after 5 fiscal  
15 years must be deposited in the municipal general fund for the  
16 continued maintenance of court facilities if it has not been  
17 committed for expenditure pursuant to a plan for the construction or  
18 acquisition of court facilities or improvements to court facilities.  
19 The city treasurer shall provide, upon request by a municipal court,  
20 monthly reports of the revenue credited to and expenditures made  
21 from the special revenue fund.

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

28 (a) Acquire land on which to construct additional facilities for  
29 the justices' courts or a regional justice center that includes the  
30 justices' courts.

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

33 (c) Renovate or remodel existing facilities for the justices'  
34 courts.

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

41 (e) Acquire advanced technology for use in the additional or  
42 renovated facilities.

43 (f) Pay debt service on any bonds issued pursuant to  
44 subsection 3 of NRS 350.020 for the acquisition of land or facilities  
45 or the construction or renovation of facilities for the justices' courts



1 or a regional justice center that includes the justices'  
2 courts.

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

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

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

19 176.062 1. When a defendant pleads guilty ~~for guilty but~~  
20 ~~mentally ill~~ or is found guilty of a felony or gross misdemeanor, the  
21 judge shall include in the sentence the sum of \$25 as an  
22 administrative assessment and render a judgment against the  
23 defendant for the assessment.

24 2. The money collected for an administrative assessment:

- 25 (a) Must not be deducted from any fine imposed by the judge;  
26 (b) Must be taxed against the defendant in addition to the fine;  
27 and  
28 (c) Must be stated separately on the court's docket.

29 3. The money collected for administrative assessments in  
30 district courts must be paid by the clerk of the court to the county  
31 treasurer on or before the fifth day of each month for the preceding  
32 month. The county treasurer shall distribute, on or before the 15th  
33 day of that month, the money received in the following amounts for  
34 each assessment received:

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

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

38 4. The State Controller shall credit the money received  
39 pursuant to subsection 3 to a special account for the assistance of  
40 criminal justice in the State General Fund, and distribute the money  
41 from the account to the Attorney General as authorized by the  
42 Legislature. Any amount received in excess of the amount  
43 authorized by the Legislature for distribution must remain in the  
44 account.



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

2       176.135 1. Except as otherwise provided in this section and  
3 NRS 176.151, the Division shall make a presentence investigation  
4 and report to the court on each defendant who pleads guilty ~~[, guilty~~  
5 ~~but mentally ill]~~ or nolo contendere to or is found guilty of a felony.

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

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

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

13       3. If a defendant is convicted of a felony other than a sexual  
14 offense, the presentence investigation and report must be made  
15 before the imposition of sentence or the granting of probation  
16 unless:

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

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

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

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

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

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

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

38       2. If the Division does not make a presentence investigation  
39 and report on a defendant pursuant to subsection 1, the Division  
40 shall, not later than 45 days after the date on which the defendant is  
41 sentenced, make a general investigation and report on the defendant  
42 that contains:

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

44       (b) Information concerning the characteristics of the defendant,  
45 the circumstances affecting his behavior and the circumstances of



1 his offense that may be helpful to persons responsible for the  
2 supervision or correctional treatment of the defendant;

3 (c) Information concerning the effect that the offense committed  
4 by the defendant has had upon the victim, including, without  
5 limitation, any physical or psychological harm or financial loss  
6 suffered by the victim, to the extent that such information is  
7 available from the victim or other sources, but the provisions of this  
8 paragraph do not require any particular examination or testing of  
9 the victim, and the extent of any investigation or examination and  
10 the extent of the information included in the report is solely at the  
11 discretion of the Division;

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

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

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

19 176.165 Except as otherwise provided in this section, a motion  
20 to withdraw a plea of guilty [~~guilty but mentally ill~~] or nolo  
21 contendere may be made only before sentence is imposed or  
22 imposition of sentence is suspended. To correct manifest injustice,  
23 the court after sentence may set aside the judgment of conviction  
24 and permit the defendant to withdraw his plea.

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

26 176A.255 1. A justice’s court or a municipal court may, upon  
27 approval of the district court, transfer original jurisdiction to the  
28 district court of a case involving an eligible defendant.

29 2. As used in this section, “eligible defendant” means a person  
30 who:

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

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

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

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

38 176A.260 1. Except as otherwise provided in subsection 2, if  
39 a defendant who suffers from mental illness tenders a plea of guilty  
40 [~~guilty but mentally ill~~] or nolo contendere to, or is found guilty of,  
41 any offense for which the suspension of sentence or the granting of  
42 probation is not prohibited by statute, the court may, without  
43 entering a judgment of conviction and with the consent of the  
44 defendant, suspend further proceedings and place the defendant on  
45 probation upon terms and conditions that must include attendance



1 and successful completion of a program established pursuant to  
2 NRS 176A.250.

3 2. If the offense committed by the defendant involved the use  
4 or threatened use of force or violence or if the defendant was  
5 previously convicted in this state or in any other jurisdiction of a  
6 felony that involved the use or threatened use of force or violence,  
7 the court may not assign the defendant to the program unless the  
8 prosecuting attorney stipulates to the assignment.

9 3. Upon violation of a term or condition:

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

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

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

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

33 177.015 The party aggrieved in a criminal action may appeal  
34 only as follows:

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

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

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

41 2. The State may, upon good cause shown, appeal to the  
42 Supreme Court from a pretrial order of the district court granting or  
43 denying a motion to suppress evidence made pursuant to NRS  
44 174.125. Notice of the appeal must be filed with the clerk of the  
45 district court within 2 judicial days and with the Clerk of the





1 Supreme Court within 5 judicial days after the ruling by the district  
2 court. The clerk of the district court shall notify counsel for the  
3 defendant or, in the case of a defendant without counsel, the  
4 defendant within 2 judicial days after the filing of the notice of  
5 appeal. The Supreme Court may establish such procedures as it  
6 determines proper in requiring the appellant to make a preliminary  
7 showing of the propriety of the appeal and whether there may be a  
8 miscarriage of justice if the appeal is not entertained. If the Supreme  
9 Court entertains the appeal, or if it otherwise appears necessary, it  
10 may enter an order staying the trial for such time as may be  
11 required.

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

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

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

25 177.055 1. When upon a plea of not guilty *or not guilty by*  
26 *reason of insanity* a judgment of death is entered, an appeal is  
27 deemed automatically taken by the defendant without any action by  
28 him or his counsel, unless the defendant or his counsel affirmatively  
29 waives the appeal within 30 days after the rendition of the judgment.

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

- 34 (a) Any errors enumerated by way of appeal;  
35 (b) Whether the evidence supports the finding of an aggravating  
36 circumstance or circumstances;  
37 (c) Whether the sentence of death was imposed under the  
38 influence of passion, prejudice or any arbitrary factor; and  
39 (d) Whether the sentence of death is excessive, considering both  
40 the crime and the defendant.

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

- 42 (a) Affirm the sentence of death;  
43 (b) Set the sentence aside and remand the case for a new penalty  
44 hearing:



1 (1) If the original penalty hearing was before a jury, before a  
2 newly impaneled jury; or

3 (2) If the original penalty hearing was before a panel of  
4 judges, before a panel of three district judges which must consist,  
5 insofar as possible, of the members of the original panel; or

6 (c) Set aside the sentence of death and impose the sentence of  
7 imprisonment for life without possibility of parole.

8 **Sec. 23.** NRS 177.075 is hereby amended to read as follows:

9 177.075 1. Except where appeal is automatic, an appeal from  
10 a district court to the Supreme Court is taken by filing a notice of  
11 appeal with the clerk of the district court. Bills of exception and  
12 assignments of error in cases governed by this chapter are abolished.

13 2. When a court imposes sentence upon a defendant who has  
14 not pleaded guilty ~~for guilty but mentally ill~~ and who is without  
15 counsel, the court shall advise the defendant of his right to appeal,  
16 and if he so requests, the clerk shall prepare and file forthwith a  
17 notice of appeal on his behalf.

18 3. A notice of appeal must be signed:

19 (a) By the appellant or appellant's attorney; or

20 (b) By the clerk if prepared by him.

21 **Sec. 24.** NRS 178.388 is hereby amended to read as follows:

22 178.388 1. Except as otherwise provided in this title, the  
23 defendant must be present at the arraignment, at every stage of  
24 the trial including the impaneling of the jury and the return of the  
25 verdict, and at the imposition of sentence. A corporation may appear  
26 by counsel for all purposes.

27 2. In prosecutions for offenses not punishable by death:

28 (a) The defendant's voluntary absence after the trial has been  
29 commenced in his presence must not prevent continuing the trial to  
30 and including the return of the verdict.

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

37 (1) Made knowingly, intelligently and voluntarily after  
38 consulting with an attorney licensed to practice in this state;

39 (2) Signed and dated by the defendant and notarized by a  
40 notary public or judicial officer; and

41 (3) Signed and dated by his attorney after it has been signed  
42 by the defendant and notarized.

43 3. In prosecutions for offenses punishable by fine or by  
44 imprisonment for not more than 1 year, or both, the court, with the  
45 written consent of the defendant, may permit arraignment, plea, trial



1 and imposition of sentence in the defendant's absence, if the court  
2 determines that the defendant was fully aware of his applicable  
3 constitutional rights when he gave his consent.

4 4. The presence of the defendant is not required at the  
5 arraignment or any preceding stage if the court has provided for the  
6 use of a closed-circuit television to facilitate communication  
7 between the court and the defendant during the proceeding. If  
8 closed-circuit television is provided for, members of the news media  
9 may observe and record the proceeding from both locations unless  
10 the court specifically provides otherwise.

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

13 **Sec. 25.** (Deleted by amendment.)

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

15 178.460 1. If requested by the district attorney or counsel for  
16 the defendant within 10 days after the report by the Administrator or  
17 his designee is sent to them, the judge shall hold a hearing within 10  
18 days after the request at which the district attorney and the defense  
19 counsel may examine the members of the treatment team on their  
20 report.

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

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

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

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

36 4. If the judge finds the defendant:

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



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

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

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

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

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

31 179.225 1. If the punishment of the crime is the confinement  
32 of the criminal in prison, the expenses must be paid from money  
33 appropriated to the Office of the Attorney General for that purpose,  
34 upon approval by the State Board of Examiners. After the  
35 appropriation is exhausted, the expenses must be paid from  
36 the Reserve for Statutory Contingency Account upon approval by  
37 the State Board of Examiners. In all other cases, they must be paid  
38 out of the county treasury in the county wherein the crime is alleged  
39 to have been committed. The expenses are:

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

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



1 (c) If the prisoner is temporarily returned for prosecution to this  
2 state from another state pursuant to this chapter or chapter 178 of  
3 NRS and is then returned to the sending state upon completion of  
4 the prosecution, the fees paid to the officers and agents of this  
5 state,

6 and the necessary traveling expenses and subsistence allowances in  
7 the amounts authorized by NRS 281.160 incurred in returning the  
8 prisoner.

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

17 (a) Child support;

18 (b) Restitution to victims of crimes; and

19 (c) Any administrative assessment required to be paid pursuant  
20 to NRS 62.2175, 176.059 and 176.062.

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

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

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

34 34.735 A petition must be in substantially the following form,  
35 with appropriate modifications if the petition is filed in the Supreme  
36 Court:

37  
38 Case No. ....  
39 Dept. No. ....

40  
41 IN THE ..... JUDICIAL DISTRICT COURT OF THE  
42 STATE OF NEVADA IN AND FOR THE COUNTY OF.....

43  
44 .....  
45 Petitioner,



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v.

PETITION FOR WRIT  
OF HABEAS CORPUS  
(POSTCONVICTION)

.....  
Respondent.

INSTRUCTIONS:

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

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

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

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

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

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

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.



PETITION

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

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

3. Date of judgment of conviction: .....

4. Case number: .....

5. (a) Length of sentence: .....

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

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes ..... No .....  
If "yes," list crime, case number and sentence being served at this time: .....

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

8. What was your plea? (check one)

(a) Not guilty .....

(b) Guilty .....

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

~~(d)~~ Nolo contendere .....

9. If you entered a plea of guilty ~~for guilty but mentally ill~~ to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty ~~for guilty but mentally ill~~ was negotiated, give details: .....

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

(a) Jury .....

(b) Judge without a jury .....

11. Did you testify at the trial? Yes ..... No .....

12. Did you appeal from the judgment of conviction? Yes .....

No .....

13. If you did appeal, answer the following:

(a) Name of court: .....

(b) Case number or citation: .....



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





1 (2) Second petition, application or motion? Yes .....  
2 No .....

3 Citation or date of decision: .....

4 (3) Third or subsequent petitions, applications or motions?  
5 Yes ..... No .....

6 Citation or date of decision: .....

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

13 .....

14 .....

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

19 (a) Which of the grounds is the same: .....

20 .....

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

22 .....

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

28 .....

29 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d),  
30 or listed on any additional pages you have attached, were not  
31 previously presented in any other court, state or federal, list briefly  
32 what grounds were not so presented, and give your reasons for not  
33 presenting them. (You must relate specific facts in response to this  
34 question. Your response may be included on paper which is 8 1/2 by  
35 11 inches attached to the petition. Your response may not exceed  
36 five handwritten or typewritten pages in length.) .....

37 .....

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

45 .....



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

4 If yes, state what court and the case number: .....  
5 .....

6 21. Give the name of each attorney who represented you in the  
7 proceeding resulting in your conviction and on direct appeal: .....  
8 .....

9 22. Do you have any future sentences to serve after you  
10 complete the sentence imposed by the judgment under attack?  
11 Yes ..... No .....

12 If yes, specify where and when it is to be served, if you know: .....  
13 .....

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

18 (a) Ground one: .....  
19 .....

20 Supporting FACTS (Tell your story briefly without citing cases or  
21 law.): .....  
22 .....

23 .....

24 (b) Ground two: .....  
25 .....

26 Supporting FACTS (Tell your story briefly without citing cases or  
27 law.): .....  
28 .....

29 .....

30 (c) Ground three: .....  
31 .....

32 Supporting FACTS (Tell your story briefly without citing cases or  
33 law.): .....  
34 .....

35 .....

36 (d) Ground four: .....  
37 .....

38 Supporting FACTS (Tell your story briefly without citing cases or  
39 law.): .....  
40 .....

41 .....

42 WHEREFORE, petitioner prays that the court grant petitioner  
43 relief to which he may be entitled in this proceeding.

44 EXECUTED at ..... on the ..... day of the month of .....  
45 of the year .....



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Signature of petitioner

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Address

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Signature of attorney (if any)

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Attorney for petitioner

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VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

.....  
Petitioner

.....  
Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, ....., hereby certify pursuant to N.R.C.P. 5(b), that on this ..... day of the month of ..... of the year ....., I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

.....  
Respondent prison or jail official

.....  
Address

.....  
Attorney General  
Heroes' Memorial Building  
Capitol Complex  
Carson City, Nevada 89710

.....  
District Attorney of County of Conviction

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Address



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Signature of Petitioner

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**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.

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

**Sec. 30.** NRS 41B.070 is hereby amended to read as follows:

41B.070 “Convicted” and “conviction” mean a judgment based upon:

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



1       **Sec. 31.** NRS 48.061 is hereby amended to read as follows:  
2       48.061 Evidence of domestic violence as defined in NRS  
3 33.018 and expert testimony concerning the effect of domestic  
4 violence on the beliefs, behavior and perception of the person  
5 alleging the domestic violence is admissible in chief and in rebuttal,  
6 when determining:

7       1. Whether a person is excepted from criminal liability  
8 pursuant to subsection ~~6~~ 7 of NRS 194.010, to show the state of  
9 mind of the defendant.

10       2. Whether a person in accordance with NRS 200.200 has  
11 killed another in self-defense, toward the establishment of the legal  
12 defense.

13       **Sec. 32.** NRS 48.125 is hereby amended to read as follows:

14       48.125 1. Evidence of a plea of guilty ~~for guilty but mentally~~  
15 ~~ill,~~ later withdrawn, or of an offer to plead guilty ~~for guilty but~~  
16 ~~mentally ill~~ to the crime charged or any other crime is not  
17 admissible in a criminal proceeding involving the person who made  
18 the plea or offer.

19       2. Evidence of a plea of nolo contendere or of an offer to plead  
20 nolo contendere to the crime charged or any other crime is not  
21 admissible in a civil or criminal proceeding involving the person  
22 who made the plea or offer.

23       **Sec. 33.** NRS 50.068 is hereby amended to read as follows:

24       50.068 1. A defendant is not incompetent to be a witness  
25 solely by reason of the fact that he enters into an agreement with the  
26 prosecuting attorney in which he agrees to testify against another  
27 defendant in exchange for a plea of guilty ~~for guilty but mentally ill~~  
28 or nolo contendere to a lesser charge or for a recommendation of a  
29 reduced sentence.

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

33       **Sec. 34.** NRS 51.295 is hereby amended to read as follows:

34       51.295 1. Evidence of a final judgment, entered after trial or  
35 upon a plea of guilty, ~~for guilty but mentally ill,~~ but not upon a  
36 plea of nolo contendere, adjudging a person guilty of a crime  
37 punishable by death or imprisonment in excess of 1 year, is not  
38 inadmissible under the hearsay rule to prove any fact essential to  
39 sustain the judgment.

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

43       3. The pendency of an appeal may be shown but does not affect  
44 admissibility.



1     **Sec. 35.** NRS 193.210 is hereby amended to read as follows:  
2     193.210 A person is of sound mind who *is not affected with*  
3 *insanity and who* has arrived at the age of 14 years, or before that  
4 age if he knew the distinction between good and evil.

5     **Sec. 36.** NRS 193.220 is hereby amended to read as follows:  
6     193.220 No act committed by a person while in a state of  
7 ~~insanity or~~ voluntary intoxication shall be deemed less criminal by  
8 reason of his condition, but whenever the actual existence of any  
9 particular purpose, motive or intent is a necessary element to  
10 constitute a particular species or degree of crime, the fact of his  
11 ~~insanity or~~ intoxication may be taken into consideration in  
12 determining the purpose, motive or intent.

13     **Sec. 37.** NRS 194.010 is hereby amended to read as follows:  
14     194.010 All persons are liable to punishment except those  
15 belonging to the following classes:

- 16     1. Children under the age of 8 years.
- 17     2. Children between the ages of 8 years and 14 years, in the  
18 absence of clear proof that at the time of committing the act charged  
19 against them they knew its wrongfulness.
- 20     3. *Persons who committed the act charged or made the*  
21 *omission charged in a state of insanity.*
- 22     4. Persons who committed the act or made the omission  
23 charged under an ignorance or mistake of fact, which disproves any  
24 criminal intent, where a specific intent is required to constitute the  
25 offense.

26     ~~4.~~ 5. Persons who committed the act charged without being  
27 conscious thereof.

28     ~~5.~~ 6. Persons who committed the act or made the omission  
29 charged, through misfortune or by accident, when it appears that  
30 there was no evil design, intention or culpable negligence.

31     ~~6.~~ 7. Persons, unless the crime is punishable with death, who  
32 committed the act or made the omission charged under threats or  
33 menaces sufficient to show that they had reasonable cause to  
34 believe, and did believe, their lives would be endangered if they  
35 refused, or that they would suffer great bodily harm.

36     **Sec. 38.** NRS 200.485 is hereby amended to read as follows:  
37     200.485 1. Unless a greater penalty is provided pursuant to  
38 NRS 200.481, a person convicted of a battery that constitutes  
39 domestic violence pursuant to NRS 33.018:

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

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

44         (2) Perform not less than 48 hours, but not more than  
45 120 hours, of community service.



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

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

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

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

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

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

19 2. In addition to any other penalty, if a person is convicted of a  
20 battery which constitutes domestic violence pursuant to NRS  
21 33.018, the court shall:

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

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

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

42 4. In addition to any other fine or penalty, the court shall order  
43 such a person to pay an administrative assessment of \$35. Any  
44 money so collected must be paid by the clerk of the court to the  
45 State Controller on or before the fifth day of each month for the



1 preceding month for credit to the Account for Programs Related to  
2 Domestic Violence established pursuant to NRS 228.460.

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

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

16 7. If a person is charged with committing a battery which  
17 constitutes domestic violence pursuant to NRS 33.018, a  
18 prosecuting attorney shall not dismiss such a charge in exchange for  
19 a plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a  
20 lesser charge or for any other reason unless he knows, or it is  
21 obvious, that the charge is not supported by probable cause or  
22 cannot be proved at the time of trial. A court shall not grant  
23 probation to and, except as otherwise provided in NRS 4.373 and  
24 5.055, a court shall not suspend the sentence of such a person.

25 8. As used in this section:

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

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

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

33 **Sec. 39.** NRS 202.270 is hereby amended to read as follows:

34 202.270 1. A person who destroys, or attempts to destroy,  
35 with dynamite, nitroglycerine, gunpowder or other high explosive,  
36 any dwelling house or other building, knowing or having reason to  
37 believe that a human being is therein at the time, is guilty of a  
38 category A felony and shall be punished by imprisonment in the  
39 state prison:

40 (a) For life without the possibility of parole;

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

43 (c) For a definite term of 25 years, with eligibility for parole  
44 beginning when a minimum of 10 years has been served,





1 in the discretion of the jury, or of the court upon a plea of guilty . ~~for~~  
2 ~~guilty but mentally ill.]~~

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

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

6 202.885 1. A person may not be prosecuted or convicted  
7 pursuant to NRS 202.882 unless a court in this state or any other  
8 jurisdiction has entered a judgment of conviction against a culpable  
9 actor for:

10 (a) The violent or sexual offense against the child; or

11 (b) Any other offense arising out of the same facts as the violent  
12 or sexual offense against the child.

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

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

19 (b) The violation is discovered,  
20 whichever occurs later.

21 3. For the purposes of this section:

22 (a) A court in "any other jurisdiction" includes, without  
23 limitation, a tribal court or a court of the United States or the Armed  
24 Forces of the United States.

25 (b) "Convicted" and "conviction" mean a judgment based upon:

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

28 (2) A finding of guilt by a jury or a court sitting without a  
29 jury;

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

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

34 (c) A court "enters" a judgment of conviction against a person  
35 on the date on which guilt is admitted, adjudicated or found,  
36 whether or not:

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

39 (2) The person has exercised any right to appeal the  
40 conviction.

41 (d) "Culpable actor" means a person who:

42 (1) Causes or perpetrates an unlawful act;

43 (2) Aids, abets, commands, counsels, encourages, hires,  
44 induces, procures or solicits another person to cause or perpetrate an  
45 unlawful act; or



1 (3) Is a principal in any degree, accessory before or after the  
2 fact, accomplice or conspirator to an unlawful act.  
3 **Sec. 41.** NRS 207.016 is hereby amended to read as follows:  
4 207.016 1. A conviction pursuant to NRS 207.010, 207.012  
5 or 207.014 operates only to increase, not to reduce, the sentence  
6 otherwise provided by law for the principal crime.  
7 2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is  
8 included in an information charging the primary offense, each  
9 previous conviction must be alleged in the accusatory pleading, but  
10 no such conviction may be alluded to on trial of the primary offense,  
11 nor may any allegation of the conviction be read in the presence of a  
12 jury trying the offense or a grand jury considering an indictment for  
13 the offense. A count pursuant to NRS 207.010, 207.012 or 207.014  
14 may be separately filed after conviction of the primary offense, but  
15 if it is so filed, sentence must not be imposed, or the hearing  
16 required by subsection 3 held, until 15 days after the separate filing.  
17 3. If a defendant charged pursuant to NRS 207.010, 207.012 or  
18 207.014 pleads guilty ~~for guilty but mentally ill to,~~ *to* or is found  
19 guilty of ~~the~~ primary offense ~~but~~ denies any previous  
20 conviction charged, the court shall determine the issue of the  
21 previous conviction after hearing all relevant evidence presented on  
22 the issue by the prosecution and the defendant. At such a hearing,  
23 the defendant may not challenge the validity of a previous  
24 conviction. The court shall impose sentence:  
25 (a) Pursuant to NRS 207.010 upon finding that the defendant  
26 has suffered previous convictions sufficient to support an  
27 adjudication of habitual criminality;  
28 (b) Pursuant to NRS 207.012 upon finding that the defendant  
29 has suffered previous convictions sufficient to support an  
30 adjudication of habitual felon; or  
31 (c) Pursuant to NRS 207.014 upon finding that the defendant  
32 has suffered previous convictions sufficient to support an  
33 adjudication of habitually fraudulent felon.  
34 4. Nothing in the provisions of this section, NRS 207.010,  
35 207.012 or 207.014 limits the prosecution in introducing evidence  
36 of prior convictions for purposes of impeachment.  
37 5. For the purposes of NRS 207.010, 207.012 and 207.014, a  
38 certified copy of a felony conviction is prima facie evidence of  
39 conviction of a prior felony.  
40 6. Nothing in the provisions of this section, NRS 207.010,  
41 207.012 or 207.014 prohibits a court from imposing an adjudication  
42 of habitual criminality, adjudication of habitual felon or adjudication  
43 of habitually fraudulent felon based upon a stipulation of the parties.



1       **Sec. 42.** NRS 207.193 is hereby amended to read as follows:  
2       207.193 1. Except as otherwise provided in subsection 4, if a  
3 person is convicted of coercion or attempted coercion in violation of  
4 paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the  
5 request of the prosecuting attorney, conduct a separate hearing to  
6 determine whether the offense was sexually motivated. A request  
7 for such a hearing may not be submitted to the court unless the  
8 prosecuting attorney, not less than 72 hours before the  
9 commencement of the trial, files and serves upon the defendant a  
10 written notice of his intention to request such a hearing.

11       2. A hearing requested pursuant to subsection 1 must be  
12 conducted before:

- 13       (a) The court imposes its sentence; or
  - 14       (b) A separate penalty hearing is conducted.
- 15       3. At the hearing, only evidence concerning the question of  
16 whether the offense was sexually motivated may be presented. The  
17 prosecuting attorney must prove beyond a reasonable doubt that the  
18 offense was sexually motivated.

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

- 23       5. The court shall enter in the record:
- 24       (a) Its finding from a hearing held pursuant to subsection 1; or
  - 25       (b) A stipulation made pursuant to subsection 4.

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

29       **Sec. 43.** NRS 212.189 is hereby amended to read as follows:  
30       212.189 1. Except as otherwise provided in subsection 9, a  
31 prisoner who is in lawful custody or confinement, other than  
32 residential confinement, shall not knowingly:

- 33       (a) Store or stockpile any human excrement or bodily fluid;
- 34       (b) Sell, supply or provide any human excrement or bodily fluid  
35 to any other person;
- 36       (c) Buy, receive or acquire any human excrement or bodily fluid  
37 from any other person; or
- 38       (d) Use, propel, discharge, spread or conceal, or cause to be  
39 used, propelled, discharged, spread or concealed, any human  
40 excrement or bodily fluid:

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



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

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

11 3. If a prisoner violates any provision of paragraph (d) of  
12 subsection 1 and, at the time of the offense, the prisoner knew that  
13 any portion of the excrement or bodily fluid involved in the offense  
14 contained a communicable disease that causes or is reasonably  
15 likely to cause substantial bodily harm, whether or not the  
16 communicable disease was transmitted to a victim as a result of the  
17 offense, the prisoner is guilty of a category A felony and shall be  
18 punished by imprisonment in the state prison:

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

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

24 4. A sentence imposed upon a prisoner pursuant to  
25 subsection 2 or 3:

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

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

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

35 (a) Conducted pursuant to paragraphs (a) and (b) of  
36 subsection 7; or

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

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

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



1 (a) Each prisoner believed to have committed the act or to have  
2 been the bodily source of any portion of the excrement or bodily  
3 fluid involved in the act must submit to any appropriate  
4 examinations and testing to determine whether each such prisoner  
5 has any communicable disease.

6 (b) If possible, a sample of the excrement or bodily fluid  
7 involved in the act must be recovered and tested to determine  
8 whether any communicable disease is present in the excrement or  
9 bodily fluid.

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

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

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

21 (d) The results of the investigation conducted pursuant to  
22 subsection 6 and the results of any examinations or testing  
23 conducted pursuant to paragraphs (a) and (b) must be submitted to  
24 the district attorney of the county in which the act was committed or  
25 to the office of the Attorney General for possible prosecution of  
26 each prisoner who committed the act.

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

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

37 (a) Is otherwise lawful and is authorized by the warden, sheriff,  
38 administrator or other person responsible for administering the  
39 prison, or his designee, and the prisoner performs the act in  
40 accordance with the directions or instructions given to him by that  
41 person;

42 (b) Involves the discharge of human excrement or bodily fluid  
43 directly from the body of the prisoner and the discharge is the direct  
44 result of a temporary or permanent injury, disease or medical  
45 condition afflicting the prisoner that prevents the prisoner from



1 having physical control over the discharge of his own excrement or  
2 bodily fluid; or

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

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

6 453.3363 1. If a person who has not previously been  
7 convicted of any offense pursuant to NRS 453.011 to 453.552,  
8 inclusive, or pursuant to any statute of the United States or of any  
9 state relating to narcotic drugs, marijuana, or stimulant, depressant  
10 or hallucinogenic substances tenders a plea of guilty, ~~guilty but~~  
11 ~~mentally ill,~~ nolo contendere or similar plea to a charge pursuant to  
12 subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is  
13 found guilty of one of those charges, the court, without entering a  
14 judgment of conviction and with the consent of the accused, may  
15 suspend further proceedings and place him on probation upon terms  
16 and conditions that must include attendance and successful  
17 completion of an educational program or, in the case of a person  
18 dependent upon drugs, of a program of treatment and rehabilitation  
19 pursuant to NRS 453.580.

20 2. Upon violation of a term or condition, the court may enter a  
21 judgment of conviction and proceed as provided in the section  
22 pursuant to which the accused was charged. Notwithstanding the  
23 provisions of paragraph (e) of subsection 2 of NRS 193.130, upon  
24 violation of a term or condition, the court may order the person to  
25 the custody of the Department of Corrections.

26 3. Upon fulfillment of the terms and conditions, the court shall  
27 discharge the accused and dismiss the proceedings against him. A  
28 nonpublic record of the dismissal must be transmitted to and  
29 retained by the Division of Parole and Probation of the Department  
30 of Public Safety solely for the use of the courts in determining  
31 whether, in later proceedings, the person qualifies under this section.

32 4. Except as otherwise provided in subsection 5, discharge and  
33 dismissal under this section is without adjudication of guilt and is  
34 not a conviction for purposes of this section or for purposes of  
35 employment, civil rights or any statute or regulation or license or  
36 questionnaire or for any other public or private purpose, but is a  
37 conviction for the purpose of additional penalties imposed for  
38 second or subsequent convictions or the setting of bail. Discharge  
39 and dismissal restores the person discharged, in the contemplation  
40 of the law, to the status occupied before the arrest, indictment or  
41 information. He may not be held thereafter under any law to be  
42 guilty of perjury or otherwise giving a false statement by reason of  
43 failure to recite or acknowledge that arrest, indictment, information  
44 or trial in response to an inquiry made of him for any purpose.



1 Discharge and dismissal under this section may occur only once  
2 with respect to any person.

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

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

9 453.348 In any proceeding brought under NRS 453.316,  
10 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401,  
11 any previous convictions of the offender for a felony relating to  
12 controlled substances must be alleged in the indictment or  
13 information charging the primary offense, but the conviction may  
14 not be alluded to on the trial of the primary offense nor may any  
15 evidence of the previous offense be produced in the presence of the  
16 jury except as otherwise prescribed by law. If the offender pleads  
17 guilty ~~for guilty but mentally ill~~ to or is convicted of the primary  
18 offense but denies any previous conviction charged, the court shall  
19 determine the issue after hearing all relevant evidence. A certified  
20 copy of a conviction of a felony is prima facie evidence of the  
21 conviction.

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

23 453.575 1. If a defendant pleads guilty ~~for guilty but~~  
24 ~~mentally ill to,~~ to or is found guilty of ~~it~~ any violation of this  
25 chapter and an analysis of a controlled substance or other substance  
26 or drug was performed in relation to his case, the court shall include  
27 in the sentence an order that the defendant pay the sum of \$60 as a  
28 fee for the analysis of the controlled substance or other substance or  
29 drug.

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

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

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

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

41 4. The board of county commissioners of each county shall by  
42 ordinance create in the county treasury a fund to be designated as  
43 the fund for forensic services. The governing body of each city shall  
44 create in the city treasury a fund to be designated as the fund for  
45 forensic services. Upon receipt, the county or city treasurer, as



1 appropriate, shall deposit any fee for the analyses of controlled  
2 substances or other substances or drugs in the fund. The money  
3 from such deposits must be accounted for separately within the  
4 fund.

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

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

14 (a) To pay for the analyses of controlled substances or other  
15 substances or drugs performed in connection with criminal  
16 investigations within the county;

17 (b) To purchase and maintain equipment to conduct these  
18 analyses; and

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

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

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

26 454.358 1. When a defendant pleads guilty ~~for guilty but~~  
27 ~~mentally ill to,~~ *to* or is found guilty of ~~[.]~~ any violation of this  
28 chapter and an analysis of a dangerous drug was performed in  
29 relation to his case, the justice or judge shall include in the sentence  
30 the sum of \$50 as a fee for the analysis of the dangerous drug.

31 2. The money collected for such an analysis must not be  
32 deducted from the fine imposed by the justice or judge, but must be  
33 taxed against the defendant in addition to the fine. The money  
34 collected for such an analysis must be stated separately on the  
35 court's docket and must be included in the amount posted for bail. If  
36 the defendant is found not guilty or the charges are dropped, the  
37 money deposited with the court must be returned to the defendant.

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

42 4. The money collected pursuant to subsection 1 in justices'  
43 courts must be paid by the clerk of the court to the county treasurer  
44 on or before the ~~[5th]~~ *fifth* day of each month for the preceding  
45 month.





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

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

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

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

16 (b) To purchase and maintain equipment to conduct these  
17 analyses; and

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

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

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

25 483.560 1. Except as otherwise provided in subsection 2, any  
26 person who drives a motor vehicle on a highway or on premises to  
27 which the public has access at a time when his driver's license has  
28 been cancelled, revoked or suspended is guilty of a misdemeanor.

29 2. Except as otherwise provided in this subsection, if the  
30 license of the person was suspended, revoked or restricted  
31 because of:

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

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

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

40 the person shall be punished by imprisonment in jail for not less  
41 than 30 days nor more than 6 months or by serving a term of  
42 residential confinement for not less than 60 days nor more than 6  
43 months, and shall be further punished by a fine of not less than \$500  
44 nor more than \$1,000. A person who is punished pursuant to this  
45 subsection may not be granted probation, and a sentence imposed



1 for such a violation may not be suspended. A prosecutor may not  
2 dismiss a charge of such a violation in exchange for a plea of guilty  
3 ~~[, of guilty but mentally ill]~~ or of nolo contendere to a lesser charge  
4 or for any other reason, unless in his judgment the charge is not  
5 supported by probable cause or cannot be proved at trial. The  
6 provisions of this subsection do not apply if the period of revocation  
7 has expired but the person has not reinstated his license.

8 3. A term of imprisonment imposed pursuant to the provisions  
9 of this section may be served intermittently at the discretion of the  
10 judge or justice of the peace. This discretion must be exercised after  
11 considering all the circumstances surrounding the offense, and the  
12 family and employment of the person convicted. However, the full  
13 term of imprisonment must be served within 6 months after the date  
14 of conviction, and any segment of time the person is imprisoned  
15 must not consist of less than 24 hours.

16 4. Jail sentences simultaneously imposed pursuant to this  
17 section and NRS 484.3792, 484.37937 or 484.3794 must run  
18 consecutively.

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

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

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

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

30 (d) Suspended or cancelled for an indefinite period, the  
31 Department shall suspend his license for an additional 6 months for  
32 the first violation and an additional 1 year for each subsequent  
33 violation.

34 6. Suspensions and revocations imposed pursuant to this  
35 section must run consecutively.

36 **Sec. 49.** NRS 484.3792 is hereby amended to read as follows:

37 484.3792 1. Unless a greater penalty is provided pursuant  
38 to NRS 484.3795, a person who violates the provisions of  
39 NRS 484.379:

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

43 (1) Except as otherwise provided in subparagraph (4) or  
44 subsection 6, order him to pay tuition for an educational course on  
45 the abuse of alcohol and controlled substances approved by the



1 Department and complete the course within the time specified in the  
2 order, and the court shall notify the Department if he fails to  
3 complete the course within the specified time;

4 (2) Unless the sentence is reduced pursuant to NRS  
5 484.37937, sentence him to imprisonment for not less than 2 days  
6 nor more than 6 months in jail, or to perform not less than 48 hours,  
7 but not more than 96 hours, of community service while dressed in  
8 distinctive garb that identifies him as having violated the provisions  
9 of NRS 484.379;

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

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

15 (b) For a second offense within 7 years, is guilty of a  
16 misdemeanor. Unless the sentence is reduced pursuant to NRS  
17 484.3794, the court shall:

18 (1) Sentence him to:

19 (I) Imprisonment for not less than 10 days nor more than  
20 6 months in jail; or

21 (II) Residential confinement for not less than 10 days nor  
22 more than 6 months, in the manner provided in NRS 4.376 to  
23 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

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

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

30 (4) Order him to attend a program of treatment for the  
31 abuse of alcohol or drugs pursuant to the provisions of  
32 NRS 484.37945.

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

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



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

11 3. A person convicted of violating the provisions of NRS  
12 484.379 must not be released on probation, and a sentence imposed  
13 for violating those provisions must not be suspended except, as  
14 provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that  
15 portion of the sentence imposed that exceeds the mandatory  
16 minimum. A prosecuting attorney shall not dismiss a charge of  
17 violating the provisions of NRS 484.379 in exchange for a plea of  
18 guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a lesser charge  
19 or for any other reason unless he knows or it is obvious that the  
20 charge is not supported by probable cause or cannot be proved at the  
21 time of trial.

22 4. A term of confinement imposed pursuant to the provisions  
23 of this section may be served intermittently at the discretion of the  
24 judge or justice of the peace, except that a person who is convicted  
25 of a second or subsequent offense within 7 years must be confined  
26 for at least one segment of not less than 48 consecutive hours. This  
27 discretion must be exercised after considering all the circumstances  
28 surrounding the offense, and the family and employment of the  
29 offender, but any sentence of 30 days or less must be served within  
30 6 months after the date of conviction or, if the offender was  
31 sentenced pursuant to NRS 484.37937 or 484.3794 and the  
32 suspension of his sentence was revoked, within 6 months after the  
33 date of revocation. Any time for which the offender is confined  
34 must consist of not less than 24 consecutive hours.

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

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

43 (a) Order the person to pay tuition for and submit evidence of  
44 completion of an educational course on the abuse of alcohol and



1 controlled substances approved by a governmental agency of the  
2 state of his residence within the time specified in the order; or

3 (b) Order him to complete an educational course by  
4 correspondence on the abuse of alcohol and controlled substances  
5 approved by the Department within the time specified in the  
6 order,

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

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

13 8. As used in this section, unless the context otherwise  
14 requires:

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

18 (b) "Offense" means:

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

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

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

27 **Sec. 50.** NRS 484.3795 is hereby amended to read as follows:

28 484.3795 1. A person who:

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

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

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

35 (d) Is under the influence of a controlled substance or is under  
36 the combined influence of intoxicating liquor and a controlled  
37 substance;

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

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



1 and does any act or neglects any duty imposed by law while driving  
2 or in actual physical control of any vehicle on or off the highways of  
3 this state, if the act or neglect of duty proximately causes the death  
4 of, or substantial bodily harm to, a person other than himself, is  
5 guilty of a category B felony and shall be punished by imprisonment  
6 in the state prison for a minimum term of not less than 2 years and a  
7 maximum term of not more than 20 years and must be further  
8 punished by a fine of not less than \$2,000 nor more than \$5,000. A  
9 person 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. A prosecuting attorney shall not dismiss a charge of  
14 violating the provisions of subsection 1 in exchange for a plea of  
15 guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a lesser charge  
16 or for any other reason unless he knows or it is obvious that the  
17 charge is not supported by probable cause or cannot be proved at the  
18 time of trial. A sentence imposed pursuant to subsection 1 may not  
19 be suspended nor may probation be granted.

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

30 4. If the defendant was transporting a person who is less than  
31 15 years of age in the motor vehicle at the time of the violation, the  
32 court shall consider that fact as an aggravating factor in determining  
33 the sentence of the defendant.

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

35 484.3797 1. The judge or judges in each judicial district shall  
36 cause the preparation and maintenance of a list of the panels of  
37 persons who:

38 (a) Have been injured or had members of their families or close  
39 friends injured or killed by a person who was driving or in actual  
40 physical control of a vehicle while under the influence of  
41 intoxicating liquor or a controlled substance or who was engaging in  
42 any other conduct prohibited by NRS 484.379 or 484.3795 or a law  
43 of any other jurisdiction that prohibits the same or similar conduct;  
44 and



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

4 The list must include the name and telephone number of the person  
5 to be contacted regarding each such panel and a schedule of times  
6 and locations of the meetings of each such panel. The judge or  
7 judges shall establish, in cooperation with representatives of the  
8 members of the panels, a fee, if any, to be paid by defendants who  
9 are ordered to attend a meeting of the panel. The amount of the fee,  
10 if any, must be reasonable. The panel may not be operated for profit.

11 2. Except as otherwise provided in this subsection, if a  
12 defendant pleads guilty ~~for guilty but mentally ill to,~~ to or is found  
13 guilty of ~~any~~ violation of NRS 484.379 or 484.3795, the court  
14 shall, in addition to imposing any other penalties provided by law,  
15 order the defendant to:

16 (a) Attend, at the defendant's expense, a meeting of a panel of  
17 persons who have been injured or had members of their families or  
18 close friends injured or killed by a person who was driving or in  
19 actual physical control of a vehicle while under the influence of  
20 intoxicating liquor or a controlled substance or who was engaging in  
21 any other conduct prohibited by NRS 484.379 or 484.3795 or a law  
22 of any other jurisdiction that prohibits the same or similar conduct,  
23 in order to have the defendant understand the effect such a crime has  
24 on other persons; and

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

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

30 3. A person ordered to attend a meeting pursuant to subsection  
31 2 shall, after attending the meeting, present evidence or other  
32 documentation satisfactory to the court that he attended the meeting  
33 and remained for its entirety.

34 **Sec. 52.** NRS 484.3798 is hereby amended to read as follows:

35 484.3798 1. If a defendant pleads guilty ~~for guilty but~~  
36 ~~mentally ill to,~~ to or is found guilty of ~~any~~ violation of NRS  
37 484.379 or 484.3795 and a chemical analysis of his blood, urine,  
38 breath or other bodily substance was conducted, the court shall, in  
39 addition to any penalty provided by law, order the defendant to pay  
40 the sum of \$60 as a fee for the chemical analysis. Except as  
41 otherwise provided in this subsection, any money collected for the  
42 chemical analysis must not be deducted from, and is in addition to,  
43 any fine otherwise imposed by the court and must be:

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



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

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

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

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

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

- 20 (a) Except as otherwise provided in paragraph (b), must be:  
21 (1) Expended to pay for the chemical analyses performed  
22 within the county;  
23 (2) Expended to purchase and maintain equipment to conduct  
24 such analyses;  
25 (3) Expended for the training and continuing education of the  
26 employees who conduct such analyses; and  
27 (4) Paid to law enforcement agencies which conduct such  
28 analyses to be used by those agencies in the manner provided in this  
29 subsection.

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

34 **Sec. 53.** NRS 484.3945 is hereby amended to read as follows:

35 484.3945 1. A person required to install a device pursuant to  
36 NRS 484.3943 shall not operate a motor vehicle without a device or  
37 tamper with the device.

38 2. A person who violates any provision of subsection 1:

39 (a) Must have his driving privilege revoked in the manner set  
40 forth in subsection 4 of NRS 483.460; and

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





1 (2) Sentenced to a term of not less than 60 days in residential  
2 confinement nor more than 6 months, and by a fine of not less than  
3 \$500 nor more than \$1,000.  
4 No person who is punished pursuant to this section may be granted  
5 probation, and no sentence imposed for such a violation may be  
6 suspended. No prosecutor may dismiss a charge of such a violation  
7 in exchange for a plea of guilty [~~of guilty but mentally ill~~] or of  
8 nolo contendere to a lesser charge or for any other reason unless, in  
9 his judgment, the charge is not supported by probable cause or  
10 cannot be proved at trial.

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

12 488.420 1. A person who:

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

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

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

20 (d) Is under the influence of a controlled substance or is under  
21 the combined influence of intoxicating liquor and a controlled  
22 substance;

23 (e) Inhales, ingests, applies or otherwise uses any chemical,  
24 poison or organic solvent, or any compound or combination of any  
25 of these, to a degree which renders him incapable of safely  
26 operating or being in actual physical control of a vessel under power  
27 or sail; or

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

31 and does any act or neglects any duty imposed by law while  
32 operating or being in actual physical control of any vessel under  
33 power or sail, if the act or neglect of duty proximately causes the  
34 death of, or substantial bodily harm to, a person other than himself,  
35 is guilty of a category B felony and shall be punished by  
36 imprisonment in the state prison for a minimum term of not less  
37 than 2 years and a maximum term of not more than 20 years and  
38 shall be further punished by a fine of not less than \$2,000 nor more  
39 than \$5,000. A person so imprisoned must, insofar as practicable, be  
40 segregated from offenders whose crimes were violent and, insofar as  
41 practicable, be assigned to an institution or facility of minimum  
42 security.

43 2. A prosecuting attorney shall not dismiss a charge of  
44 violating the provisions of subsection 1 in exchange for a plea of  
45 guilty [~~of guilty but mentally ill~~] or nolo contendere to a lesser charge



1 or for any other reason unless he knows or it is obvious that the  
2 charge is not supported by probable cause or cannot be proved at the  
3 time of trial. A sentence imposed pursuant to subsection 1 must not  
4 be suspended, and probation must not be granted.

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

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

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

19 488.440 1. If a defendant pleads guilty ~~for guilty but~~  
20 ~~mentally ill to,~~ *to* or is found guilty of, a violation of NRS 488.410  
21 or 488.420 and a chemical analysis of his blood, urine, breath or  
22 other bodily substance was conducted, the court shall, in addition to  
23 any penalty provided by law, order the defendant to pay the sum of  
24 \$60 as a fee for the chemical analysis. Except as otherwise provided  
25 in this subsection, any money collected for the chemical analysis  
26 must not be deducted from, and is in addition to, any fine otherwise  
27 imposed by the court and must be:

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

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

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

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

41 4. Except as otherwise provided in subsection 5, each month  
42 the treasurer shall, from the money credited to the fund pursuant to  
43 subsection 3, pay any amount owed for forensic services and deposit  
44 any remaining money in the county or city general fund, as  
45 appropriate.



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

- 4 (a) Except as otherwise provided in paragraph (b), must be:  
5 (1) Expended to pay for the chemical analyses performed  
6 within the county;  
7 (2) Expended to purchase and maintain equipment to conduct  
8 such analyses;  
9 (3) Expended for the training and continuing education of the  
10 employees who conduct such analyses; and  
11 (4) Paid to law enforcement agencies which conduct such  
12 analyses to be used by those agencies in the manner provided in this  
13 subsection.

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

18 **Sec. 56.** NRS 489.421 is hereby amended to read as follows:  
19 489.421 The following grounds, among others, constitute  
20 grounds for disciplinary action under NRS 489.381:

- 21 1. Revocation or denial of a license issued pursuant to this  
22 chapter or an equivalent license in any other state, territory or  
23 country.  
24 2. Failure of the licensee to maintain any other license required  
25 by any political subdivision of this state.  
26 3. Failure to respond to a notice served by the Division as  
27 provided by law within the time specified in the notice.  
28 4. Failure to take the corrective action required in a notice of  
29 violation issued pursuant to NRS 489.291.  
30 5. Failure or refusing to permit access by the Administrator to  
31 documentary materials set forth in NRS 489.231.  
32 6. Disregarding or violating any order of the Administrator,  
33 any agreement with the Division, or any provision of this chapter or  
34 any regulation adopted under it.  
35 7. Conviction of a misdemeanor for violation of any of the  
36 provisions of this chapter.  
37 8. Conviction of or entering a plea of guilty ~~[, guilty but~~  
38 ~~mentally ill]~~ or nolo contendere to a felony or a crime of moral  
39 turpitude in this state or any other state, territory or country.  
40 9. Any other conduct that constitutes deceitful, fraudulent or  
41 dishonest dealing.

42 **Sec. 57.** NRS 616A.250 is hereby amended to read as follows:  
43 616A.250 "Incarcerated" means confined in:



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

4 2. Any institution or facility for the mentally ill as a result  
5 of a *plea of not guilty by reason of insanity in a* criminal  
6 proceeding,  
7 in this state, another state or a foreign country.

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

9 624.265 1. An applicant for a contractor's license or a  
10 licensed contractor and each officer, director, partner and associate  
11 thereof must possess good character. Lack of character may be  
12 established by showing that the applicant or licensed contractor, or  
13 any officer, director, partner or associate thereof, has:

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

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

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

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

26 2. Upon the request of the Board, an applicant for a  
27 contractor's license, and any officer, director, partner or associate of  
28 the applicant, must submit to the Board completed fingerprint cards  
29 and a form authorizing an investigation of the applicant's  
30 background and the submission of his fingerprints to the Central  
31 Repository for Nevada Records of Criminal History and the Federal  
32 Bureau of Investigation. The fingerprint cards and authorization  
33 form submitted must be those that are provided to the applicant by  
34 the Board. The applicant's fingerprints may be taken by an agent of  
35 the Board or an agency of law enforcement.

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

38 4. The Board shall establish by regulation the fee for  
39 processing the fingerprints to be paid by the applicant. The fee must  
40 not exceed the sum of the amounts charged by the Central  
41 Repository for Nevada Records of Criminal History and the Federal  
42 Bureau of Investigation for processing the fingerprints.

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



- 1 (a) Arrests;
- 2 (b) Guilty pleas;
- 3 (c) Sentencing;
- 4 (d) Probation;
- 5 (e) Parole;
- 6 (f) Bail;
- 7 (g) Complaints; and
- 8 (h) Final dispositions,
- 9 for the investigation of a licensee or an applicant for a contractor's
- 10 license.

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

12 632.320 The Board may deny, revoke or suspend any license  
13 or certificate applied for or issued pursuant to this chapter, or take  
14 other disciplinary action against a licensee or holder of a certificate,  
15 upon determining that he:

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

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

19 (a) Involving moral turpitude; or

20 (b) Related to the qualifications, functions or duties of a licensee  
21 or holder of a certificate,  
22 in which case the record of conviction is conclusive evidence  
23 thereof.

24 3. Has been convicted of violating any of the provisions of  
25 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,  
26 inclusive.

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

29 5. Uses any controlled substance, dangerous drug as defined in  
30 chapter 454 of NRS, or intoxicating liquor to an extent or in a  
31 manner which is dangerous or injurious to any other person or  
32 which impairs his ability to conduct the practice authorized by his  
33 license or certificate.

34 6. Is mentally incompetent.

35 7. Is guilty of unprofessional conduct, which includes, but is  
36 not limited to, the following:

37 (a) Conviction of practicing medicine without a license in  
38 violation of chapter 630 of NRS, in which case the record of  
39 conviction is conclusive evidence thereof.

40 (b) Impersonating any applicant or acting as proxy for an  
41 applicant in any examination required pursuant to this chapter for  
42 the issuance of a license or certificate.

43 (c) Impersonating another licensed practitioner or holder of a  
44 certificate.



1 (d) Permitting or allowing another person to use his license or  
2 certificate to practice as a licensed practical nurse, registered nurse  
3 or nursing assistant.

4 (e) Repeated malpractice, which may be evidenced by claims of  
5 malpractice settled against him.

6 (f) Physical, verbal or psychological abuse of a patient.

7 (g) Conviction for the use or unlawful possession of a controlled  
8 substance or dangerous drug as defined in chapter 454 of NRS.

9 8. Has willfully or repeatedly violated the provisions of this  
10 chapter. The voluntary surrender of a license or certificate issued  
11 pursuant to this chapter is prima facie evidence that the licensee or  
12 certificate holder has committed or expects to commit a violation of  
13 this chapter.

14 9. Is guilty of aiding or abetting any person in a violation of  
15 this chapter.

16 10. Has falsified an entry on a patient's medical chart  
17 concerning a controlled substance.

18 11. Has falsified information which was given to a physician,  
19 pharmacist, podiatric physician or dentist to obtain a controlled  
20 substance.

21 12. Has been disciplined in another state in connection with a  
22 license to practice nursing or a certificate to practice as a nursing  
23 assistant or has committed an act in another state which would  
24 constitute a violation of this chapter.

25 13. Has engaged in conduct likely to deceive, defraud or  
26 endanger a patient or the general public.

27 14. Has willfully failed to comply with a regulation, subpoena  
28 or order of the Board.

29 For the purposes of this section, a plea or verdict of guilty ~~for guilty~~  
30 ~~but mentally ill~~ or a plea of nolo contendere constitutes a  
31 conviction of an offense. The Board may take disciplinary action  
32 pending the appeal of a conviction.

33 **Sec. 60.** NRS 639.006 is hereby amended to read as follows:

34 639.006 "Conviction" means a plea or verdict of guilty ~~for~~  
35 ~~guilty but mentally ill~~ or a conviction following a plea of nolo  
36 contendere to a charge of a felony, any offense involving moral  
37 turpitude or any violation of the provisions of this chapter or chapter  
38 453 or 454 of NRS.

39 **Sec. 61.** NRS 645.330 is hereby amended to read as follows:

40 645.330 1. Except as otherwise provided by specific statute,  
41 the Division may approve an application for a license for a person  
42 who meets all the following requirements:

43 (a) Has a good reputation for honesty, trustworthiness and  
44 integrity and who offers proof of those qualifications satisfactory to  
45 the Division.



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

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

6 (d) Has submitted the statement required pursuant to NRS  
7 645.358 if the person is a natural person.

8 (e) Has passed the examination.

9 2. The Division:

10 (a) May deny a license to any person who has been convicted of,  
11 or entered a plea of guilty ~~[, guilty but mentally ill]~~ or nolo  
12 contendere to, forgery, embezzlement, obtaining money under false  
13 pretenses, larceny, extortion, conspiracy to defraud, engaging in a  
14 real estate business without a license, possessing for the purpose of  
15 sale any controlled substance or any crime involving moral  
16 turpitude, in any court of competent jurisdiction in the United States  
17 or elsewhere; and

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

20 (1) The person pays any fine or restitution ordered by the  
21 court; or

22 (2) The expiration of the period of the person's parole,  
23 probation or sentence,  
24 whichever is later.

25 3. Suspension or revocation of a license pursuant to this  
26 chapter or any prior revocation or current suspension in this or any  
27 other state, district or territory of the United States or any foreign  
28 country within 10 years before the date of the application is grounds  
29 for refusal to grant a license.

30 4. A person may not be licensed as a real estate broker unless  
31 he has been actively engaged as a full-time licensed real estate  
32 broker-salesman or salesman in this state, or actively engaged as a  
33 full-time licensed real estate broker, broker-salesman or salesman in  
34 another state or the District of Columbia, for at least 2 of the 4 years  
35 immediately preceding the issuance of a broker's license.

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

37 645.350 1. An application for a license as a real estate broker,  
38 broker-salesman or salesman must be submitted in writing to the  
39 Division upon blanks prepared or furnished by the Division.

40 2. Every application for a real estate broker's, broker-  
41 salesman's or salesman's license must set forth the following  
42 information:

43 (a) The name, age and address of the applicant. If the applicant  
44 is a partnership or an association which is applying to do business as  
45 a real estate broker, the application must contain the name and



1 address of each member thereof. If the application is for a  
2 corporation which is applying to do business as a real estate  
3 salesman, real estate broker-salesman or real estate broker, the  
4 application must contain the name and address of each officer and  
5 director thereof. If the applicant is a limited-liability company which  
6 is applying to do business as a real estate broker, the company's  
7 articles of organization must designate a manager, and the name and  
8 address of the manager and each member must be listed in the  
9 application.

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

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

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

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

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

31 (g) Whether the applicant has ever been convicted of or is under  
32 indictment for a felony or has entered a plea of guilty [~~guilty but~~  
33 ~~mentally ill~~] or nolo contendere to a charge of felony, and if so, the  
34 nature of the felony.

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

40 (i) Whether the applicant has been refused a real estate broker's,  
41 broker-salesman's or salesman's license in any state, or whether his  
42 license as a broker or salesman has been revoked or suspended by  
43 any other state, district or territory of the United States or any other  
44 country.





1 (j) If the applicant is a member of a limited-liability company,  
2 partnership or association, or an officer of a corporation, the name  
3 and address of the office of the limited-liability company,  
4 partnership, association or corporation of which the applicant is a  
5 member or officer.

6 3. An applicant for a license as a broker-salesman or salesman  
7 shall provide a verified statement from the broker with whom he  
8 will be associated, expressing the intent of that broker to associate  
9 the applicant with him and to be responsible for the applicant's  
10 activities as a licensee.

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

16 **Sec. 63.** NRS 645.350 is hereby amended to read as follows:  
17 645.350 1. Application for license as a real estate broker,  
18 broker-salesman or salesman must be made in writing to the  
19 Division upon blanks prepared or furnished by the Division.

20 2. Every application for a real estate broker's, broker-  
21 salesman's or salesman's license must set forth the following  
22 information:

23 (a) The name, age and address of the applicant. If the applicant  
24 is a partnership or an association which is applying to do business as  
25 a real estate broker, the application must contain the name and  
26 address of each member thereof. If the application is for a  
27 corporation which is applying to do business as a real estate  
28 salesman, real estate broker-salesman or real estate broker, the  
29 application must contain the name and address of each officer and  
30 director thereof. If the applicant is a limited-liability company which  
31 is applying to do business as a real estate broker, the company's  
32 articles of organization must designate a manager, and the name and  
33 address of the manager and each member must be listed in the  
34 application.

35 (b) In the case of a broker, the name under which the business is  
36 to be conducted. The name is a fictitious name if it does not contain  
37 the name of the applicant or the names of the members of the  
38 applicant's company, firm, partnership or association. Except as  
39 otherwise provided in NRS 645.387, a license must not be issued  
40 under a fictitious name which includes the name of a real estate  
41 salesman or broker-salesman. A license must not be issued under the  
42 same fictitious name to more than one licensee within the State. All  
43 licensees doing business under a fictitious name shall comply with  
44 other pertinent statutory regulations regarding the use of fictitious  
45 names.



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

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

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

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

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

18 (h) Whether the applicant has been refused a real estate broker's,  
19 broker-salesman's or salesman's license in any state, or whether his  
20 license as a broker or salesman has been revoked or suspended by  
21 any other state, district or territory of the United States or any other  
22 country.

23 (i) If the applicant is a member of a limited-liability company,  
24 partnership or association, or an officer of a corporation, the name  
25 and address of the office of the limited-liability company,  
26 partnership, association or corporation of which the applicant is a  
27 member or officer.

28 3. An applicant for a license as a broker-salesman or salesman  
29 shall provide a verified statement from the broker with whom he  
30 will be associated, expressing the intent of that broker to associate  
31 the applicant with him and to be responsible for the applicant's  
32 activities as a licensee.

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

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

39 645.633 1. The Commission may take action pursuant to  
40 NRS 645.630 against any person subject to that section who is  
41 guilty of:

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



- 1 (b) Violating any order of the Commission, any agreement with  
2 the Division, any of the provisions of this chapter, chapter 116, 119,  
3 119A, 119B, 645A or 645C of NRS or any regulation adopted  
4 thereunder.
- 5 (c) Paying a commission, compensation or a finder's fee to any  
6 person for performing the services of a broker, broker-salesman or  
7 salesman who has not secured his license pursuant to this chapter.  
8 This subsection does not apply to payments to a broker who is  
9 licensed in his state of residence.
- 10 (d) A felony, or has entered a plea of guilty [~~guilty but~~  
11 ~~mentally ill~~] or nolo contendere to a charge of felony or any crime  
12 involving fraud, deceit, misrepresentation or moral turpitude.
- 13 (e) Guaranteeing, or having authorized or permitted any person  
14 to guarantee, future profits which may result from the resale of real  
15 property.
- 16 (f) Failure to include a fixed date of expiration in any written  
17 brokerage agreement or to leave a copy of the brokerage agreement  
18 with the client.
- 19 (g) Accepting, giving or charging any undisclosed commission,  
20 rebate or direct profit on expenditures made for a client.
- 21 (h) Gross negligence or incompetence in performing any act for  
22 which he is required to hold a license pursuant to this chapter,  
23 chapter 119, 119A or 119B of NRS.
- 24 (i) Any other conduct which constitutes deceitful, fraudulent or  
25 dishonest dealing.
- 26 (j) Any conduct which took place before he became licensed,  
27 which was in fact unknown to the Division and which would have  
28 been grounds for denial of a license had the Division been aware of  
29 the conduct.
- 30 (k) Knowingly permitting any person whose license has been  
31 revoked or suspended to act as a real estate broker, broker-salesman  
32 or salesman, with or on behalf of the licensee.
- 33 (l) Recording or causing to be recorded a claim pursuant to the  
34 provisions of NRS 645.8701 to 645.8811, inclusive, that is  
35 determined by a district court to be frivolous and made without  
36 reasonable cause pursuant to NRS 645.8791.
- 37 2. The Commission may take action pursuant to NRS 645.630  
38 against a person who is subject to that section for the suspension or  
39 revocation of a real estate broker's, broker-salesman's or salesman's  
40 license issued to him by any other jurisdiction.
- 41 3. The Commission may take action pursuant to NRS 645.630  
42 against any person who:
- 43 (a) Holds a permit to engage in property management issued  
44 pursuant to NRS 645.6052; and



1 (b) In connection with any property for which the person has  
2 obtained a written brokerage agreement to manage the property  
3 pursuant to NRS 645.6056:

4 (1) Is convicted of violating any of the provisions of  
5 NRS 202.470;

6 (2) Has been notified in writing by the appropriate  
7 governmental agency of a potential violation of NRS 244.360,  
8 244.3603 or 268.4124, and has failed to inform the owner of the  
9 property of such notification; or

10 (3) Has been directed in writing by the owner of the property  
11 to correct a potential violation of NRS 244.360, 244.3603 or  
12 268.4124, and has failed to correct the potential violation, if such  
13 corrective action is within the scope of the person's duties pursuant  
14 to the written brokerage agreement.

15 4. The Division shall maintain a log of any complaints that it  
16 receives relating to activities for which the Commission may take  
17 action against a person holding a permit to engage in property  
18 management pursuant to subsection 3.

19 5. On or before February 1 of each odd-numbered year, the  
20 Division shall submit to the Director of the Legislative Counsel  
21 Bureau a written report setting forth, for the previous biennium:

22 (a) Any complaints included in the log maintained by the  
23 Division pursuant to subsection 4; and

24 (b) Any disciplinary actions taken by the Commission pursuant  
25 to subsection 3.

26 **Sec. 65.** NRS 645C.290 is hereby amended to read as follows:

27 645C.290 An application for a certificate or license must be in  
28 writing upon a form prepared and furnished by the Division. The  
29 application must include the following information:

30 1. The name, age and address of the applicant.

31 2. The place or places, including the street number, city and  
32 county, where the applicant intends to conduct business as an  
33 appraiser.

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

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

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

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

43 (b) Forgery, embezzlement, obtaining money under false  
44 pretenses, larceny, extortion, conspiracy to defraud or any crime  
45 involving moral turpitude.



1 6. Whether the applicant has ever been refused a certificate,  
2 license or permit to act as an appraiser, or has ever had such a  
3 certificate, license or permit suspended or revoked, in any other  
4 jurisdiction.

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

8 8. Any other information the Division requires.

9 **Sec. 66.** NRS 645C.320 is hereby amended to read as follows:  
10 645C.320 1. The Administrator shall issue a certificate or  
11 license, as appropriate, to any person:

- 12 (a) Of good moral character, honesty and integrity;
- 13 (b) Who meets the educational requirements and has the  
14 experience prescribed in NRS 645C.330;
- 15 (c) Who submits the statement required pursuant to NRS  
16 645C.295; and
- 17 (d) Who, except as otherwise provided in NRS 645C.360, has  
18 satisfactorily passed a written examination approved by the  
19 Commission.

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

- 22 (a) Has been convicted of, or entered a plea of guilty ~~[, guilty~~  
23 ~~but mentally ill]~~ or nolo contendere to, forgery, embezzlement,  
24 obtaining money under false pretenses, larceny, extortion,  
25 conspiracy to defraud or any crime involving moral turpitude;
- 26 (b) Makes a false statement of a material fact on his application;  
27 or
- 28 (c) Has had a certificate, license or registration card suspended  
29 or revoked pursuant to this chapter, or a certificate, license or permit  
30 to act as an appraiser suspended or revoked in any other jurisdiction,  
31 within the 10 years immediately preceding the date of his  
32 application.

33 **Sec. 67.** NRS 645C.320 is hereby amended to read as follows:  
34 645C.320 1. The Administrator shall issue a certificate or  
35 license, as appropriate, to any person:

- 36 (a) Of good moral character, honesty and integrity;
- 37 (b) Who meets the educational requirements and has the  
38 experience prescribed in NRS 645C.330; and
- 39 (c) Who, except as otherwise provided in NRS 645C.360, has  
40 satisfactorily passed a written examination approved by the  
41 Commission.

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

- 44 (a) Has been convicted of, or entered a plea of guilty ~~[, guilty~~  
45 ~~but mentally ill]~~ or nolo contendere to, forgery, embezzlement,



1 obtaining money under false pretenses, larceny, extortion,  
2 conspiracy to defraud or any crime involving moral turpitude;

3 (b) Makes a false statement of a material fact on his application;  
4 or

5 (c) Has had a certificate, license or registration card suspended  
6 or revoked pursuant to this chapter, or a certificate, license or permit  
7 to act as an appraiser suspended or revoked in any other jurisdiction,  
8 within the 10 years immediately preceding the date of his  
9 application.

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

11 690B.029 1. A policy of insurance against liability arising  
12 out of the ownership, maintenance or use of a motor vehicle  
13 delivered or issued for delivery in this state to a person who is 55  
14 years of age or older must contain a provision for the reduction in  
15 the premiums for 3-year periods if the insured:

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

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

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

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

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

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

29 (II) Any other conduct prohibited by NRS 484.379 or  
30 484.3795 or a law of any other jurisdiction that prohibits the same or  
31 similar conduct.

32 2. The reduction in the premiums provided for in subsection 1  
33 must be based on the actuarial and loss experience data available to  
34 each insurer and must be approved by the Commissioner. Each  
35 reduction must be calculated based on the amount of the premium  
36 before any reduction in that premium is made pursuant to this  
37 section, and not on the amount of the premium once it has been  
38 reduced.

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

42 4. The organization that offers a course of traffic safety  
43 approved by the Department of Motor Vehicles shall issue a  
44 certificate to each person who successfully completes the course. A



1 person must use the certificate to qualify for the reduction in the  
2 premiums pursuant to this section.

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

8 **Sec. 69.** NRS 174.041, 176.127 and 176.129 are hereby  
9 repealed.

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

13 **Sec. 71.** 1. This section and sections 1 to 61, inclusive, 64,  
14 65, 68, 69 and 70 of this act become effective on July 1, 2003.

15 2. Sections 62 and 66 of this act become effective on July 1,  
16 2003, and expire by limitation on the date of the repeal of the  
17 federal law requiring each state to establish procedures for  
18 withholding, suspending and restricting the professional,  
19 occupational and recreational licenses for child support arrearages  
20 and for noncompliance with certain processes relating to paternity or  
21 child support proceedings.

22 3. Sections 63 and 67 of this act become effective on the date  
23 of the repeal of the federal law requiring each state to establish  
24 procedures for withholding, suspending and restricting the  
25 professional, occupational and recreational licenses for child support  
26 arrearages and for noncompliance with certain processes relating to  
27 paternity or child support proceedings.

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**TEXT OF REPEALED SECTIONS**

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**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.

