

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; requiring persons who provide reports or evaluations to the court concerning the competency of a defendant to stand trial or receive pronouncement of judgment to be certified by the Division of Mental Health and Developmental Services of the Department of Human Resources; requiring the Division to adopt regulations concerning the certification of such persons; 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.



* A B 1 5 6 R 2 *

1 2. "Trial" does not include any proceeding had upon a plea of
2 guilty ~~for guilty but mentally ill~~ to determine the degree of guilt or
3 to fix the punishment.

4 **Sec. 2.** NRS 173.035 is hereby amended to read as follows:

5 173.035 1. An information may be filed against any person
6 for any offense when the person:

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

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

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

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

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

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

43 173.125 The prosecution is not required to elect between the
44 different offenses or counts set forth in the indictment or
45 information , and a plea of guilty ~~for guilty but mentally ill~~ to one



1 or more offenses charged in the indictment or information does not
2 preclude prosecution for the other offenses.

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

4 174.035 1. A defendant may plead not guilty, guilty ~~[, guilty~~
5 ~~but mentally ill]~~ or, with the consent of the court, nolo contendere.
6 The court may refuse to accept a plea of guilty . ~~[or guilty but~~
7 ~~mentally ill.]~~

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

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

23 4. ~~[A plea of guilty but mentally ill is not a defense to the~~
24 ~~alleged offense. A defendant who enters such a plea is subject to the~~
25 ~~same penalties as a defendant who pleads guilty.]~~ *The defendant*
26 *may, in the alternative or in addition to any one of the pleas*
27 *permitted by subsection 1, plead not guilty by reason of insanity. A*
28 *plea of not guilty by reason of insanity must be entered not less*
29 *than 21 days before the date set for trial. A defendant who has not*
30 *so pleaded may offer the defense of insanity during trial upon*
31 *good cause shown. Under such a plea or defense, the burden of*
32 *proof is upon the defendant to establish his insanity by a*
33 *preponderance of the evidence.*

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

37 6. A defendant may not enter a plea of guilty ~~[or guilty but~~
38 ~~mentally ill]~~ pursuant to a plea bargain for an offense punishable as
39 a felony for which:

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



1 **Sec. 5.** NRS 174.055 is hereby amended to read as follows:
2 174.055 In the justice's court, if the defendant pleads guilty ,
3 ~~[or guilty but mentally ill,]~~ the court may, before entering such a
4 plea or pronouncing judgment, examine witnesses to ascertain the
5 gravity of the offense committed. If it appears to the court that a
6 higher offense has been committed than the offense charged in the
7 complaint, the court may order the defendant to be committed or
8 admitted to bail ~~[]~~ or to answer any indictment that may be found
9 against him or any information which may be filed by the district
10 attorney.

11 **Sec. 6.** NRS 174.061 is hereby amended to read as follows:
12 174.061 1. If a prosecuting attorney enters into an agreement
13 with a defendant in which the defendant agrees to testify against
14 another defendant in exchange for a plea of guilty ~~[, guilty but~~
15 ~~mentally ill]~~ or nolo contendere to a lesser charge or for a
16 recommendation of a reduced sentence, the agreement:

17 (a) Is void if the defendant's testimony is false.
18 (b) Must be in writing and include a statement that the
19 agreement is void if the defendant's testimony is false.

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

22 (a) Limits the testimony of the defendant to a predetermined
23 formula.
24 (b) Is contingent on the testimony of the defendant contributing
25 to a specified conclusion.

26 **Sec. 7.** NRS 174.065 is hereby amended to read as follows:
27 174.065 Except as otherwise provided in NRS 174.061:

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

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

40 **Sec. 8.** NRS 174.075 is hereby amended to read as follows:
41 174.075 1. Pleadings in criminal proceedings are the
42 indictment, the information and, in justice's court, the complaint,
43 and the pleas of guilty, ~~[guilty but mentally ill,]~~ not guilty and nolo
44 contendere.



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

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

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

13 *(a) Order a peace officer to take the person into protective*
14 *custody and transport him to a forensic facility for detention*
15 *pending a hearing to determine his mental health;*

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

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

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

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

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

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

35 *3. The Administrator shall make the same reports and the*
36 *court shall proceed in the same manner in the case of a person*
37 *committed to the custody of the Division of Mental Health and*
38 *Developmental Services pursuant to this section as of a person*
39 *committed because he is incompetent to stand trial pursuant to*
40 *NRS 178.400 to 178.460, inclusive, and section 23.5 of this act,*
41 *except that the determination to be made by the Administrator and*
42 *the district judge on the question of release is whether the person*
43 *has recovered from his mental illness or has improved to such an*
44 *extent that he is no longer a mentally ill person.*



1 *4. As used in this section, unless the context otherwise*
2 *requires:*

3 (a) *“Division facility” has the meaning ascribed to it in NRS*
4 *433.094.*

5 (b) *“Forensic facility” means a secure facility of the Division*
6 *of Mental Health and Developmental Services of the Department*
7 *of Human Resources for mentally disordered offenders and*
8 *defendants. The term includes, without limitation, Lakes Crossing*
9 *Center.*

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

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

13 175.282 If a prosecuting attorney enters into an agreement with
14 a defendant in which the defendant agrees to testify against another
15 defendant in exchange for a plea of guilty ~~[, guilty but mentally ill]~~
16 or nolo contendere to a lesser charge or for a recommendation of a
17 reduced sentence, the court shall:

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

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

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

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

27 175.552 1. Except as otherwise provided in subsection 2, in
28 every case in which there is a finding that a defendant is guilty of
29 murder of the first degree, whether or not the death penalty is
30 sought, the court shall conduct a separate penalty hearing. The
31 separate penalty hearing must be conducted as follows:

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

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

39 (c) If the finding is made upon a plea of guilty ~~[or guilty but~~
40 ~~mentally ill]~~ or a trial without a jury and the death penalty is not
41 sought, the separate penalty hearing must be conducted before the
42 judge who conducted the trial or who accepted the plea ~~[]~~ *of guilty,*
43 as soon as practicable.



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

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

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

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

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

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

37 176.059 1. Except as otherwise provided in subsection 2,
38 when a defendant pleads guilty ~~for guilty but mentally ill~~ or is
39 found guilty of a misdemeanor, including the violation of any
40 municipal ordinance, the justice or judge shall include in the
41 sentence the sum prescribed by the following schedule as an
42 administrative assessment and render a judgment against the
43 defendant for the assessment:



1	Fine	Assessment
2	\$5 to \$49.....	\$15
3	50 to 59.....	30
4	60 to 69.....	35
5	70 to 79.....	40
6	80 to 89.....	45
7	90 to 99.....	50
8	100 to 199.....	60
9	200 to 299.....	\$70
10	300 to 399.....	80
11	400 to 499.....	90
12	500 to 1,000.....	105

13

14 2. The provisions of subsection 1 do not apply to:

15 (a) An ordinance regulating metered parking; or

16 (b) An ordinance which is specifically designated as imposing a

17 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

18 3. The money collected for an administrative assessment must

19 not be deducted from the fine imposed by the justice or judge but

20 must be taxed against the defendant in addition to the fine. The

21 money collected for an administrative assessment must be stated

22 separately on the court's docket and must be included in the amount

23 posted for bail. If the defendant is found not guilty or the charges

24 are dismissed, the money deposited with the court must be returned

25 to the defendant. If the justice or judge cancels a fine because the

26 fine has been determined to be uncollectible, any balance of the fine

27 and the administrative assessment remaining unpaid shall be

28 deemed to be uncollectible and the defendant is not required to pay

29 it. If a fine is determined to be uncollectible, the defendant is not

30 entitled to a refund of the fine or administrative assessment he has

31 paid and the justice or judge shall not recalculate the administrative

32 assessment.

33 4. If the justice or judge permits the fine and administrative

34 assessment to be paid in installments, the payments must be first

35 applied to the unpaid balance of the administrative assessment. The

36 city treasurer shall distribute partially collected administrative

37 assessments in accordance with the requirements of subsection 5.

38 The county treasurer shall distribute partially collected

39 administrative assessments in accordance with the requirements of

40 subsection 6.

41 5. The money collected for administrative assessments in

42 municipal court must be paid by the clerk of the court to the city

43 treasurer on or before the fifth day of each month for the preceding

44 month. The city treasurer shall distribute, on or before the 15th day



1 of that month, the money received in the following amounts for each
2 assessment received:

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

11 (b) Seven dollars for credit to a special revenue fund for the use
12 of the municipal courts. Any money remaining in the special
13 revenue fund after 2 fiscal years must be deposited in the municipal
14 general fund if it has not been committed for expenditure. The city
15 treasurer shall provide, upon request by a municipal court, monthly
16 reports of the revenue credited to and expenditures made from the
17 special revenue fund.

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

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

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

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

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

42 7. The money apportioned to a juvenile court, a justice's court
43 or a municipal court pursuant to this section must be used, in
44 addition to providing services to juvenile offenders in the juvenile
45 court, to improve the operations of the court, or to acquire



1 appropriate advanced technology or the use of such technology, or
2 both. Money used to improve the operations of the court may
3 include expenditures for:

- 4 (a) Training and education of personnel;
- 5 (b) Acquisition of capital goods;
- 6 (c) Management and operational studies; or
- 7 (d) Audits.

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

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

14 (1) Eighteen and one-half percent of the amount distributed
15 to the Office of the Court Administrator for the administration of the
16 courts.

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

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

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

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

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

29 (1) The Central Repository for Nevada Records of Criminal
30 History;

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

32 (3) The operation by the Nevada Highway Patrol of a
33 computerized switching system for information related to law
34 enforcement;

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

36 (5) The Advisory Council for Prosecuting Attorneys.

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

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

41 (b) In any other judicial district, the juvenile division of the
42 district court.

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

44 176.0611 1. A county or a city, upon recommendation of the
45 appropriate court, may, by ordinance, authorize the justices or



1 judges of the justices' or municipal courts within its jurisdiction to
2 impose for not longer than 25 years, in addition to an administrative
3 assessment imposed pursuant to NRS 176.059, an administrative
4 assessment for the provision of court facilities.

5 2. Except as otherwise provided in subsection 3, in any
6 jurisdiction in which an administrative assessment for the provision
7 of court facilities has been authorized, when a defendant pleads
8 guilty ~~for guilty but mentally ill~~ or is found guilty of a
9 misdemeanor, including the violation of any municipal ordinance,
10 the justice or judge shall include in the sentence the sum of \$10 as
11 an administrative assessment for the provision of court facilities and
12 render a judgment against the defendant for the assessment.

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

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

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

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

- 35 (a) To pay the unpaid balance of an administrative assessment
36 imposed pursuant to NRS 176.059;
- 37 (b) To pay the unpaid balance of an administrative assessment
38 for the provision of court facilities pursuant to this section; and
- 39 (c) To pay the fine.

40 6. The money collected for administrative assessments for the
41 provision of court facilities in municipal courts must be paid by the
42 clerk of the court to the city treasurer on or before the fifth day of
43 each month for the preceding month. The city treasurer shall deposit
44 the money received in a special revenue fund. The city may use the
45 money in the special revenue fund only to:



1 (a) Acquire land on which to construct additional facilities for
2 the municipal courts or a regional justice center that includes the
3 municipal courts.

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

6 (c) Renovate or remodel existing facilities for the municipal
7 courts.

8 (d) Acquire furniture, fixtures and equipment necessitated by the
9 construction or acquisition of additional facilities or the renovation
10 of an existing facility for the municipal courts or a regional justice
11 center that includes the municipal courts. This paragraph does not
12 authorize the expenditure of money from the fund for furniture,
13 fixtures or equipment for judicial chambers.

14 (e) Acquire advanced technology for use in the additional or
15 renovated facilities.

16 (f) Pay debt service on any bonds issued pursuant to
17 subsection 3 of NRS 350.020 for the acquisition of land or facilities
18 or the construction or renovation of facilities for the municipal
19 courts or a regional justice center that includes the municipal
20 courts.

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

29 7. The money collected for administrative assessments for the
30 provision of court facilities in justices' courts must be paid by the
31 clerk of the court to the county treasurer on or before the fifth day of
32 each month for the preceding month. The county treasurer shall
33 deposit the money received to a special revenue fund. The county
34 may use the money in the special revenue fund only to:

35 (a) Acquire land on which to construct additional facilities for
36 the justices' courts or a regional justice center that includes the
37 justices' courts.

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

40 (c) Renovate or remodel existing facilities for the justices'
41 courts.

42 (d) Acquire furniture, fixtures and equipment necessitated by the
43 construction or acquisition of additional facilities or the renovation
44 of an existing facility for the justices' courts or a regional justice
45 center that includes the justices' courts. This paragraph does not



1 authorize the expenditure of money from the fund for furniture,
2 fixtures or equipment for judicial chambers.

3 (e) Acquire advanced technology for use in the additional or
4 renovated facilities.

5 (f) Pay debt service on any bonds issued pursuant to
6 subsection 3 of NRS 350.020 for the acquisition of land or facilities
7 or the construction or renovation of facilities for the justices' courts
8 or a regional justice center that includes the justices'
9 courts.

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

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

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

26 176.062 1. When a defendant pleads guilty ~~for guilty but~~
27 ~~mentally ill~~ or is found guilty of a felony or gross misdemeanor, the
28 judge shall include in the sentence the sum of \$25 as an
29 administrative assessment and render a judgment against the
30 defendant for the assessment.

31 2. The money collected for an administrative assessment:

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

33 (b) Must be taxed against the defendant in addition to the fine;
34 and

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

36 3. The money collected for administrative assessments in
37 district courts must be paid by the clerk of the court to the county
38 treasurer on or before the fifth day of each month for the preceding
39 month. The county treasurer shall distribute, on or before the 15th
40 day of that month, the money received in the following amounts for
41 each assessment received:

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

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



1 4. The State Controller shall credit the money received
2 pursuant to subsection 3 to a special account for the assistance of
3 criminal justice in the State General Fund, and distribute the money
4 from the account to the Attorney General as authorized by the
5 Legislature. Any amount received in excess of the amount
6 authorized by the Legislature for distribution must remain in the
7 account.

8 **Sec. 16.** NRS 176.135 is hereby amended to read as follows:
9 176.135 1. Except as otherwise provided in this section and
10 NRS 176.151, the Division shall make a presentence investigation
11 and report to the court on each defendant who pleads guilty ~~[, guilty~~
12 ~~but mentally ill]~~ or nolo contendere to or is found guilty of a felony.

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

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

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

20 3. If a defendant is convicted of a felony other than a sexual
21 offense, the presentence investigation and report must be made
22 before the imposition of sentence or the granting of probation
23 unless:

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

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

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

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

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

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

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



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

6 (a) Any prior criminal record of the defendant;
7 (b) Information concerning the characteristics of the defendant,
8 the circumstances affecting his behavior and the circumstances of
9 his offense that may be helpful to persons responsible for the
10 supervision or correctional treatment of the defendant;

11 (c) Information concerning the effect that the offense committed
12 by the defendant has had upon the victim, including, without
13 limitation, any physical or psychological harm or financial loss
14 suffered by the victim, to the extent that such information is
15 available from the victim or other sources, but the provisions of this
16 paragraph do not require any particular examination or testing of
17 the victim, and the extent of any investigation or examination and
18 the extent of the information included in the report is solely at the
19 discretion of the Division;

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

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

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

27 176.165 Except as otherwise provided in this section, a motion
28 to withdraw a plea of guilty [~~guilty but mentally ill~~] or nolo
29 contendere may be made only before sentence is imposed or
30 imposition of sentence is suspended. To correct manifest injustice,
31 the court after sentence may set aside the judgment of conviction
32 and permit the defendant to withdraw his plea.

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

34 176A.255 1. A justice's court or a municipal court may, upon
35 approval of the district court, transfer original jurisdiction to the
36 district court of a case involving an eligible defendant.

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

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

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

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



1 **Sec. 20.** NRS 176A.260 is hereby amended to read as follows:
2 176A.260 1. Except as otherwise provided in subsection 2, if
3 a defendant who suffers from mental illness tenders a plea of guilty
4 ~~[, guilty but mentally ill]~~ or nolo contendere to, or is found guilty of,
5 any offense for which the suspension of sentence or the granting of
6 probation is not prohibited by statute, the court may, without
7 entering a judgment of conviction and with the consent of the
8 defendant, suspend further proceedings and place the defendant on
9 probation upon terms and conditions that must include attendance
10 and successful completion of a program established pursuant to
11 NRS 176A.250.

12 2. If the offense committed by the defendant involved the use
13 or threatened use of force or violence or if the defendant was
14 previously convicted in this state or in any other jurisdiction of a
15 felony that involved the use or threatened use of force or violence,
16 the court may not assign the defendant to the program unless the
17 prosecuting attorney stipulates to the assignment.

18 3. Upon violation of a term or condition:

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

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

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

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

42 177.015 The party aggrieved in a criminal action may appeal
43 only as follows:

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



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

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

6 2. The State may, upon good cause shown, appeal to the
7 Supreme Court from a pretrial order of the district court granting or
8 denying a motion to suppress evidence made pursuant to NRS
9 174.125. Notice of the appeal must be filed with the clerk of the
10 district court within 2 judicial days and with the Clerk of the
11 Supreme Court within 5 judicial days after the ruling by the district
12 court. The clerk of the district court shall notify counsel for the
13 defendant or, in the case of a defendant without counsel, the
14 defendant within 2 judicial days after the filing of the notice of
15 appeal. The Supreme Court may establish such procedures as it
16 determines proper in requiring the appellant to make a preliminary
17 showing of the propriety of the appeal and whether there may be a
18 miscarriage of justice if the appeal is not entertained. If the Supreme
19 Court entertains the appeal, or if it otherwise appears necessary, it
20 may enter an order staying the trial for such time as may be
21 required.

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

24 4. Except as otherwise provided in subsection 3 of NRS
25 174.035, the defendant in a criminal case shall not appeal a final
26 judgment or verdict resulting from a plea of guilty ~~[guilty but~~
27 ~~mentally ill]~~ or nolo contendere that the defendant entered into
28 voluntarily and with a full understanding of the nature of the charge
29 and the consequences of the plea, unless the appeal is based upon
30 reasonable constitutional, jurisdictional or other grounds that
31 challenge the legality of the proceedings. The Supreme Court may
32 establish procedures to require the defendant to make a preliminary
33 showing of the propriety of the appeal.

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

35 177.055 1. When upon a plea of not guilty *or not guilty by*
36 *reason of insanity* a judgment of death is entered, an appeal is
37 deemed automatically taken by the defendant without any action by
38 him or his counsel, unless the defendant or his counsel affirmatively
39 waives the appeal within 30 days after the rendition of the judgment.

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

44 (a) Any errors enumerated by way of appeal;



- 1 (b) Whether the evidence supports the finding of an aggravating
- 2 circumstance or circumstances;
- 3 (c) Whether the sentence of death was imposed under the
- 4 influence of passion, prejudice or any arbitrary factor; and
- 5 (d) Whether the sentence of death is excessive, considering both
- 6 the crime and the defendant.
- 7 3. The Supreme Court, when reviewing a death sentence, may:
- 8 (a) Affirm the sentence of death;
- 9 (b) Set the sentence aside and remand the case for a new penalty
- 10 hearing:
- 11 (1) If the original penalty hearing was before a jury, before a
- 12 newly impaneled jury; or
- 13 (2) If the original penalty hearing was before a panel of
- 14 judges, before a panel of three district judges which must consist,
- 15 insofar as possible, of the members of the original panel; or
- 16 (c) Set aside the sentence of death and impose the sentence of
- 17 imprisonment for life without possibility of parole.
- 18 **Sec. 23.** NRS 177.075 is hereby amended to read as follows:
- 19 177.075 1. Except where appeal is automatic, an appeal from
- 20 a district court to the Supreme Court is taken by filing a notice of
- 21 appeal with the clerk of the district court. Bills of exception and
- 22 assignments of error in cases governed by this chapter are abolished.
- 23 2. When a court imposes sentence upon a defendant who has
- 24 not pleaded guilty ~~for guilty but mentally ill~~ and who is without
- 25 counsel, the court shall advise the defendant of his right to appeal,
- 26 and if he so requests, the clerk shall prepare and file forthwith a
- 27 notice of appeal on his behalf.
- 28 3. A notice of appeal must be signed:
- 29 (a) By the appellant or appellant's attorney; or
- 30 (b) By the clerk if prepared by him.
- 31 **Sec. 23.5.** Chapter 178 of NRS is hereby amended by adding
- 32 thereto a new section to read as follows:
- 33 *1. A person may not provide a report or an evaluation*
- 34 *concerning the competency of a defendant to stand trial or receive*
- 35 *pronouncement of judgment pursuant to this section and NRS*
- 36 *178.400 to 178.460, inclusive, unless the person is certified by the*
- 37 *Division of Mental Health and Developmental Services of the*
- 38 *Department of Human Resources for that purpose.*
- 39 *2. The Division of Mental Health and Developmental*
- 40 *Services shall adopt regulations to establish:*
- 41 *(a) Requirements for certification of a person who provides*
- 42 *reports and evaluations concerning the competency of a defendant*
- 43 *pursuant to this section and NRS 178.400 to 178.460, inclusive;*
- 44 *(b) Reasonable fees for issuing and renewing such certificates;*
- 45 *and*



1 (c) *Requirements for continuing education for the renewal of*
2 *a certificate.*

3 3. *The fees so collected must be used only to:*

4 (a) *Defray the cost of issuing and renewing certificates; and*

5 (b) *Pay any other expenses incurred by the Division of Mental*
6 *Health and Developmental Services in carrying out its duties*
7 *pursuant to this section.*

8 4. *The Division of Mental Health and Developmental*
9 *Services shall establish and administer examinations to determine*
10 *the eligibility of any person who applies for certification. An*
11 *applicant is entitled to certification upon satisfaction of the*
12 *requirements of the Division of Mental Health and Developmental*
13 *Services. The Division of Mental Health and Developmental*
14 *Services may enter into a contract with another person,*
15 *organization or agency to carry out or assist in carrying out the*
16 *provisions of this subsection.*

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

18 178.388 1. Except as otherwise provided in this title, the
19 defendant must be present at the arraignment, at every stage of
20 the trial including the impaneling of the jury and the return of the
21 verdict, and at the imposition of sentence. A corporation may appear
22 by counsel for all purposes.

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

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

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

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

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

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

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



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

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

10 **Sec. 24.5.** NRS 178.415 is hereby amended to read as follows:

11 178.415 1. Except as otherwise provided in this subsection,
12 the court shall appoint two psychiatrists, two psychologists, or one
13 psychiatrist and one psychologist, to examine the defendant. If the
14 defendant is accused of a misdemeanor, the court of jurisdiction
15 shall appoint a psychiatric social worker, or other person who is
16 especially qualified by the Division of Mental Health and
17 Developmental Services of the Department of Human Resources, to
18 examine the defendant.

19 2. At a hearing in open court, the judge shall receive the report
20 of the examination and shall permit counsel for both sides to
21 examine the person or persons appointed to examine the defendant.
22 The prosecuting attorney and the defendant may introduce other
23 evidence and cross-examine one another's witnesses.

24 3. The court shall then make and enter its finding of
25 competence or incompetence.

26 *4. The court shall not appoint a person to provide a report or*
27 *an evaluation pursuant to this section, unless the person is*
28 *certified by the Division of Mental Health and Developmental*
29 *Services pursuant to section 23.5 of this act.*

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

31 **Sec. 25.5.** NRS 178.455 is hereby amended to read as follows:

32 178.455 1. Except as otherwise provided for persons charged
33 with or convicted of a misdemeanor, the Administrator of the
34 Division of Mental Health and Developmental Services of the
35 Department of Human Resources or his designee shall appoint a
36 licensed psychiatrist and a licensed psychologist from the treatment
37 team *who is certified pursuant to section 23.5 of this act* to
38 evaluate the defendant. The Administrator or his designee shall also
39 appoint a third evaluator who must be a licensed psychiatrist or
40 psychologist, *must be certified pursuant to section 23.5 of this act*
41 and *must not be* a member of the treatment team. Upon the
42 completion of the evaluation and treatment of the defendant, the
43 Administrator or his designee shall report to the court in writing his
44 specific findings and opinion upon:



- 1 (a) Whether the person is of sufficient mentality to understand
- 2 the nature of the offense charged;
- 3 (b) Whether the person is of sufficient mentality to aid and assist
- 4 counsel in the defense of the offense charged, or to show cause why
- 5 judgment should not be pronounced; and
- 6 (c) If the person is not of sufficient mentality pursuant to
- 7 paragraphs (a) and (b) to be placed upon trial or receive
- 8 pronouncement of judgment, whether there is a substantial
- 9 probability that he will attain competency in the foreseeable future.
- 10 2. A copy of the report must be:
- 11 (a) Maintained by the Administrator of the Division of Mental
- 12 Health and Developmental Services or his designee and
- 13 incorporated in the medical record of the person; and
- 14 (b) Sent to the office of the district attorney and to the counsel
- 15 for the outpatient or person committed.
- 16 3. In the case of a person charged with or convicted of a
- 17 misdemeanor, the judge shall, upon receipt of the report set forth in
- 18 NRS 178.450 from the Administrator of the Division of Mental
- 19 Health and Developmental Services or his designee:
- 20 (a) Send a copy of the report by the Administrator or his
- 21 designee to the prosecuting attorney and to the defendant's counsel;
- 22 (b) Hold a hearing, if one is requested within 10 days after the
- 23 report is sent pursuant to paragraph (a), at which the attorneys may
- 24 examine the Administrator or his designee or the members of the
- 25 defendant's treatment team on the determination of the report; and
- 26 (c) Within 10 days after the hearing, if any, or 20 days after the
- 27 report is sent if no hearing is requested, enter his finding of
- 28 competence or incompetence in the manner set forth in subsection 4
- 29 of NRS 178.460.
- 30 **Sec. 26.** NRS 178.460 is hereby amended to read as follows:
- 31 178.460 1. If requested by the district attorney or counsel for
- 32 the defendant within 10 days after the report by the Administrator or
- 33 his designee is sent to them, the judge shall hold a hearing within 10
- 34 days after the request at which the district attorney and the defense
- 35 counsel may examine the members of the treatment team on their
- 36 report.
- 37 2. If the judge orders the appointment of a licensed psychiatrist
- 38 or psychologist who is not employed by the Division of Mental
- 39 Health and Developmental Services of the Department of Human
- 40 Resources to perform an additional evaluation and report concerning
- 41 the defendant, the cost of the additional evaluation and report is a
- 42 charge against the county.
- 43 3. Within 10 days after the hearing or 20 days after the report is
- 44 sent, if no hearing is requested, the judge shall make and enter his



1 finding of competence or incompetence, and if he finds the
2 defendant to be incompetent:

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

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

8 4. If the judge finds the defendant:

9 (a) Competent, the judge shall, within 10 days, forward his
10 finding to the prosecuting attorney and counsel for the defendant.
11 Upon receipt thereof, the prosecuting attorney shall notify the
12 sheriff of the county or chief of police of the city that the defendant
13 has been found competent and prearrange with the facility for the
14 return of the defendant to that county or city for trial upon the
15 offense there charged or the pronouncement of judgment, as the case
16 may be.

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

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

27 (d) Incompetent, with no substantial probability of attaining
28 competency in the foreseeable future, the judge shall order the
29 defendant released from custody or if the defendant is an outpatient,
30 released from his obligations as an outpatient if, within 10 days, a
31 petition is not filed to commit the person pursuant to NRS
32 433A.200. After the initial 10 days, the defendant may remain an
33 outpatient or in custody under the provisions of this chapter only as
34 long as the petition is pending unless the defendant is involuntarily
35 committed pursuant to chapter 433A of NRS.

36 5. No person who is committed under the provisions of this
37 chapter may be held in the custody of the Administrator of the
38 Division of Mental Health and Developmental Services of the
39 Department of Human Resources or his designee longer than
40 the longest period of incarceration provided for the crime or crimes
41 with which he is charged ~~or~~ *or 10 years, whichever period is*
42 *shorter*. Upon expiration of the *applicable* period, the defendant
43 must be returned to the committing court for a determination as to
44 whether or not involuntary commitment pursuant to chapter 433A of
45 NRS is required.



1 **Sec. 27.** NRS 179.225 is hereby amended to read as follows:
2 179.225 1. If the punishment of the crime is the confinement
3 of the criminal in prison, the expenses must be paid from money
4 appropriated to the Office of the Attorney General for that purpose,
5 upon approval by the State Board of Examiners. After the
6 appropriation is exhausted, the expenses must be paid from
7 the Reserve for Statutory Contingency Account upon approval by
8 the State Board of Examiners. In all other cases, they must be paid
9 out of the county treasury in the county wherein the crime is alleged
10 to have been committed. The expenses are:

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

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

17 (c) If the prisoner is temporarily returned for prosecution to this
18 state from another state pursuant to this chapter or chapter 178 of
19 NRS and is then returned to the sending state upon completion of
20 the prosecution, the fees paid to the officers and agents of this
21 state,
22 and the necessary traveling expenses and subsistence allowances in
23 the amounts authorized by NRS 281.160 incurred in returning the
24 prisoner.

25 2. If a person is returned to this state pursuant to this chapter or
26 chapter 178 of NRS and is convicted of, or pleads guilty ~~[, guilty but~~
27 ~~mentally ill]~~ or nolo contendere to the criminal charge for which he
28 was returned or a lesser criminal charge, the court shall conduct an
29 investigation of the financial status of the person to determine his
30 ability to make restitution. In conducting the investigation, the court
31 shall determine if the person is able to pay any existing obligations
32 for:

33 (a) Child support;

34 (b) Restitution to victims of crimes; and

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

37 3. If the court determines that the person is financially able to
38 pay the obligations described in subsection 2, it shall, in addition to
39 any other sentence it may impose, order the person to make
40 restitution for the expenses incurred by the Attorney General or
41 other governmental entity in returning him to this state. The court
42 shall not order the person to make restitution if payment of
43 restitution will prevent him from paying any existing obligations
44 described in subsection 2. Any amount of restitution remaining



1 unpaid constitutes a civil liability arising upon the date of the
2 completion of his sentence.

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

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

6 34.735 A petition must be in substantially the following form,
7 with appropriate modifications if the petition is filed in the Supreme
8 Court:

9
10 Case No.

11 Dept. No.

12
13 IN THE JUDICIAL DISTRICT COURT OF THE
14 STATE OF NEVADA IN AND FOR THE COUNTY OF.....

15
16

17 Petitioner,

18 v.

19

20

21

22 Respondent.

23

24 INSTRUCTIONS:

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

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

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

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

43 (5) You must include all grounds or claims for relief which you
44 may have regarding your conviction or sentence. Failure to raise all



1 grounds in this petition may preclude you from filing future
2 petitions challenging your conviction and sentence.

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

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

18
19 PETITION
20

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

24
25 2. Name and location of court which entered the judgment of
26 conviction under attack:

27
28 3. Date of judgment of conviction:

29 4. Case number:

30 5. (a) Length of sentence:

31

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

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

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

38

39

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

42

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

44 (a) Not guilty

45 (b) Guilty



- 1 (c) ~~[Guilty but mentally ill]~~
- 2 ~~—(d)~~ Nolo contendere
- 3 9. If you entered a plea of guilty ~~[or guilty but mentally ill]~~ to
- 4 one count of an indictment or information, and a plea of not guilty
- 5 to another count of an indictment or information, or if a plea of
- 6 guilty ~~[or guilty but mentally ill]~~ was negotiated, give details:
- 7
- 8
- 9 10. If you were found guilty after a plea of not guilty, was the
- 10 finding made by: (check one)
- 11 (a) Jury
- 12 (b) Judge without a jury
- 13 11. Did you testify at the trial? Yes No
- 14 12. Did you appeal from the judgment of conviction? Yes
- 15 No
- 16 13. If you did appeal, answer the following:
- 17 (a) Name of court:
- 18 (b) Case number or citation:
- 19 (c) Result:
- 20 (d) Date of result:
- 21 (Attach copy of order or decision, if available.)
- 22 14. If you did not appeal, explain briefly why you did not:
- 23
- 24
- 25 15. Other than a direct appeal from the judgment of conviction
- 26 and sentence, have you previously filed any petitions, applications
- 27 or motions with respect to this judgment in any court, state or
- 28 federal? Yes No
- 29 16. If your answer to No. 15 was "yes," give the following
- 30 information:
- 31 (a) (1) Name of court:
- 32 (2) Nature of proceeding:
- 33
- 34 (3) Grounds raised:
- 35
- 36
- 37 (4) Did you receive an evidentiary hearing on your petition,
- 38 application or motion? Yes No
- 39 (5) Result:
- 40 (6) Date of result:
- 41 (7) If known, citations of any written opinion or date of
- 42 orders entered pursuant to such result:
- 43



1 (b) As to any second petition, application or motion, give the
2 same information:
3 (1) Name of court:
4 (2) Nature of proceeding:
5 (3) Grounds raised:
6 (4) Did you receive an evidentiary hearing on your petition,
7 application or motion? Yes No
8 (5) Result:
9 (6) Date of result:
10 (7) If known, citations of any written opinion or date of
11 orders entered pursuant to such result:
12
13 (c) As to any third or subsequent additional applications or
14 motions, give the same information as above, list them on a separate
15 sheet and attach.
16 (d) Did you appeal to the highest state or federal court having
17 jurisdiction, the result or action taken on any petition, application or
18 motion?
19 (1) First petition, application or motion? Yes No
20 Citation or date of decision:
21 (2) Second petition, application or motion? Yes
22 No
23 Citation or date of decision:
24 (3) Third or subsequent petitions, applications or motions?
25 Yes No
26 Citation or date of decision:
27 (e) If you did not appeal from the adverse action on any petition,
28 application or motion, explain briefly why you did not. (You must
29 relate specific facts in response to this question. Your response may
30 be included on paper which is 8 1/2 by 11 inches attached to the
31 petition. Your response may not exceed five handwritten or
32 typewritten pages in length.)
33
34
35 17. Has any ground being raised in this petition been
36 previously presented to this or any other court by way of petition for
37 habeas corpus, motion, application or any other postconviction
38 proceeding? If so, identify:
39 (a) Which of the grounds is the same:
40
41 (b) The proceedings in which these grounds were raised:
42
43 (c) Briefly explain why you are again raising these grounds.
44 (You must relate specific facts in response to this question. Your
45 response may be included on paper which is 8 1/2 by 11 inches



1 attached to the petition. Your response may not exceed five
2 handwritten or typewritten pages in length.)

3
4 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d),
5 or listed on any additional pages you have attached, were not
6 previously presented in any other court, state or federal, list briefly
7 what grounds were not so presented, and give your reasons for not
8 presenting them. (You must relate specific facts in response to this
9 question. Your response may be included on paper which is 8 1/2 by
10 11 inches attached to the petition. Your response may not exceed
11 five handwritten or typewritten pages in length.)

12
13 19. Are you filing this petition more than 1 year following the
14 filing of the judgment of conviction or the filing of a decision on
15 direct appeal? If so, state briefly the reasons for the delay. (You
16 must relate specific facts in response to this question. Your response
17 may be included on paper which is 8 1/2 by 11 inches attached to
18 the petition. Your response may not exceed five handwritten or
19 typewritten pages in length.)

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

24 If yes, state what court and the case number:

25
26 21. Give the name of each attorney who represented you in the
27 proceeding resulting in your conviction and on direct appeal:

28
29 22. Do you have any future sentences to serve after you
30 complete the sentence imposed by the judgment under attack?

31 Yes No

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

33
34 23. State concisely every ground on which you claim that you
35 are being held unlawfully. Summarize briefly the facts supporting
36 each ground. If necessary you may attach pages stating additional
37 grounds and facts supporting same.

38 (a) Ground one:

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

42

43

44 (b) Ground two:

45



1 Supporting FACTS (Tell your story briefly without citing cases or
2 law.):

3

4

5 (c) Ground three:

6

7 Supporting FACTS (Tell your story briefly without citing cases or
8 law.):

9

10

11 (d) Ground four:

12

13 Supporting FACTS (Tell your story briefly without citing cases or
14 law.):

15

16

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

19 EXECUTED at on the day of the month of
20 of the year

21

22 Signature of petitioner

23

24 Address

25

26 Signature of attorney (if any)

27

28 Attorney for petitioner

29

30 Address

31

32 VERIFICATION

33

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

39

40 Petitioner

41

42 Attorney for petitioner

43



CERTIFICATE OF SERVICE BY MAIL

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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

.....
Address

.....
Signature of Petitioner

Sec. 29. NRS 34.810 is hereby amended to read as follows:
34.810 1. The court shall dismiss a petition if the court determines that:

(a) The petitioner's conviction was upon a plea of guilty ~~for guilty but mentally ill~~ and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel.

(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

- (1) Presented to the trial court;
- (2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or
- (3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence, unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice



1 finds that the failure of the petitioner to assert those grounds in a
2 prior petition constituted an abuse of the writ.

3 3. Pursuant to subsections 1 and 2, the petitioner has the
4 burden of pleading and proving specific facts that demonstrate:

5 (a) Good cause for the petitioner's failure to present the claim or
6 for presenting the claim again; and

7 (b) Actual prejudice to the petitioner.

8 The petitioner shall include in the petition all prior proceedings in
9 which he challenged the same conviction or sentence.

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

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

15 41B.070 "Convicted" and "conviction" mean a judgment based
16 upon:

17 1. A plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere;

18 2. A finding of guilt by a jury or a court sitting without a jury;

19 3. An adjudication of delinquency or finding of guilt by a court
20 having jurisdiction over juveniles; or

21 4. Any other admission or finding of guilt in a criminal action
22 or a proceeding in a court having jurisdiction over juveniles.

23 **Sec. 31.** NRS 48.061 is hereby amended to read as follows:

24 48.061 Evidence of domestic violence as defined in NRS
25 33.018 and expert testimony concerning the effect of domestic
26 violence on the beliefs, behavior and perception of the person
27 alleging the domestic violence is admissible in chief and in rebuttal,
28 when determining:

29 1. Whether a person is excepted from criminal liability
30 pursuant to subsection ~~[6]~~ 7 of NRS 194.010, to show the state of
31 mind of the defendant.

32 2. Whether a person in accordance with NRS 200.200 has
33 killed another in self-defense, toward the establishment of the legal
34 defense.

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

36 48.125 1. Evidence of a plea of guilty ~~for guilty but mentally~~
37 ~~ill],~~ later withdrawn, or of an offer to plead guilty ~~for guilty but~~
38 ~~mentally ill]~~ to the crime charged or any other crime is not
39 admissible in a criminal proceeding involving the person who made
40 the plea or offer.

41 2. Evidence of a plea of nolo contendere or of an offer to plead
42 nolo contendere to the crime charged or any other crime is not
43 admissible in a civil or criminal proceeding involving the person
44 who made the plea or offer.



1 **Sec. 33.** NRS 50.068 is hereby amended to read as follows:
2 50.068 1. A defendant is not incompetent to be a witness
3 solely by reason of the fact that he enters into an agreement with the
4 prosecuting attorney in which he agrees to testify against another
5 defendant in exchange for a plea of guilty ~~[, guilty but mentally ill]~~
6 or nolo contendere to a lesser charge or for a recommendation of a
7 reduced sentence.

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

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

12 51.295 1. Evidence of a final judgment, entered after trial or
13 upon a plea of guilty, ~~[, for guilty but mentally ill,]~~ but not upon a
14 plea of nolo contendere, adjudging a person guilty of a crime
15 punishable by death or imprisonment in excess of 1 year, is not
16 inadmissible under the hearsay rule to prove any fact essential to
17 sustain the judgment.

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

21 3. The pendency of an appeal may be shown but does not affect
22 admissibility.

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

24 193.210 A person is of sound mind who *is not affected with*
25 *insanity and who* has arrived at the age of 14 years, or before that
26 age if he knew the distinction between good and evil.

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

28 193.220 No act committed by a person while in a state of
29 ~~[insanity or]~~ voluntary intoxication shall be deemed less criminal by
30 reason of his condition, but whenever the actual existence of any
31 particular purpose, motive or intent is a necessary element to
32 constitute a particular species or degree of crime, the fact of his
33 ~~[insanity or]~~ intoxication may be taken into consideration in
34 determining the purpose, motive or intent.

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

36 194.010 All persons are liable to punishment except those
37 belonging to the following classes:

- 38 1. Children under the age of 8 years.
- 39 2. Children between the ages of 8 years and 14 years, in the
40 absence of clear proof that at the time of committing the act charged
41 against them they knew its wrongfulness.
- 42 3. *Persons who committed the act charged or made the*
43 *omission charged in a state of insanity.*
- 44 4. Persons who committed the act or made the omission
45 charged under an ignorance or mistake of fact, which disproves any



1 criminal intent, where a specific intent is required to constitute the
2 offense.

3 ~~[4.]~~ 5. Persons who committed the act charged without being
4 conscious thereof.

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

8 ~~[6.]~~ 7. Persons, unless the crime is punishable with death, who
9 committed the act or made the omission charged under threats or
10 menaces sufficient to show that they had reasonable cause to
11 believe, and did believe, their lives would be endangered if they
12 refused, or that they would suffer great bodily harm.

13 **Sec. 38.** NRS 200.485 is hereby amended to read as follows:
14 200.485 1. Unless a greater penalty is provided pursuant to
15 NRS 200.481, a person convicted of a battery that constitutes
16 domestic violence pursuant to NRS 33.018:

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

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

21 (2) Perform not less than 48 hours, but not more than
22 120 hours, of community service.

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

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

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

34 (2) Perform not less than 100 hours, but not more than
35 200 hours, of community service.

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

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

41 2. In addition to any other penalty, if a person is convicted of a
42 battery which constitutes domestic violence pursuant to NRS
43 33.018, the court shall:

44 (a) For the first offense within 7 years, require him to participate
45 in weekly counseling sessions of not less than 1 1/2 hours per week



1 for not less than 6 months, but not more than 12 months, at his
2 expense, in a program for the treatment of persons who commit
3 domestic violence that has been certified pursuant to NRS 228.470.

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

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

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

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

29 6. If it appears from information presented to the court that a
30 child under the age of 18 years may need counseling as a result of
31 the commission of a battery which constitutes domestic violence
32 pursuant to NRS 33.018, the court may refer the child to an agency
33 which provides child welfare services. If the court refers a child to
34 an agency which provides child welfare services, the court shall
35 require the person convicted of a battery which constitutes domestic
36 violence pursuant to NRS 33.018 to reimburse the agency for the
37 costs of any services provided, to the extent of his ability to pay.

38 7. If a person is charged with committing a battery which
39 constitutes domestic violence pursuant to NRS 33.018, a
40 prosecuting attorney shall not dismiss such a charge in exchange for
41 a plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere to a
42 lesser charge or for any other reason unless he knows, or it is
43 obvious, that the charge is not supported by probable cause or
44 cannot be proved at the time of trial. A court shall not grant



1 probation to and, except as otherwise provided in NRS 4.373 and
2 5.055, a court shall not suspend the sentence of such a person.

3 8. As used in this section:

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

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

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

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

12 202.270 1. A person who destroys, or attempts to destroy,
13 with dynamite, nitroglycerine, gunpowder or other high explosive,
14 any dwelling house or other building, knowing or having reason to
15 believe that a human being is therein at the time, is guilty of a
16 category A felony and shall be punished by imprisonment in the
17 state prison:

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

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

21 (c) For a definite term of 25 years, with eligibility for parole
22 beginning when a minimum of 10 years has been served,
23 in the discretion of the jury, or of the court upon a plea of guilty. ~~for~~
24 ~~guilty but mentally ill.]~~

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

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

28 202.885 1. A person may not be prosecuted or convicted
29 pursuant to NRS 202.882 unless a court in this state or any other
30 jurisdiction has entered a judgment of conviction against a culpable
31 actor for:

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

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

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

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

41 (b) The violation is discovered,
42 whichever occurs later.

43 3. For the purposes of this section:



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

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

5 (1) A plea of guilty [~~guilty but mentally ill~~] or nolo
6 contendere;

7 (2) A finding of guilt by a jury or a court sitting without a
8 jury;

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

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

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

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

18 (2) The person has exercised any right to appeal the
19 conviction.

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

21 (1) Causes or perpetrates an unlawful act;

22 (2) Aids, abets, commands, counsels, encourages, hires,
23 induces, procures or solicits another person to cause or perpetrate an
24 unlawful act; or

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

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

28 207.016 1. A conviction pursuant to NRS 207.010, 207.012
29 or 207.014 operates only to increase, not to reduce, the sentence
30 otherwise provided by law for the principal crime.

31 2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is
32 included in an information charging the primary offense, each
33 previous conviction must be alleged in the accusatory pleading, but
34 no such conviction may be alluded to on trial of the primary offense,
35 nor may any allegation of the conviction be read in the presence of a
36 jury trying the offense or a grand jury considering an indictment for
37 the offense. A count pursuant to NRS 207.010, 207.012 or 207.014
38 may be separately filed after conviction of the primary offense, but
39 if it is so filed, sentence must not be imposed, or the hearing
40 required by subsection 3 held, until 15 days after the separate filing.

41 3. If a defendant charged pursuant to NRS 207.010, 207.012 or
42 207.014 pleads guilty [~~or guilty but mentally ill to,~~] *to* or is found
43 guilty of [~~]~~ the primary offense [~~]~~ but denies any previous
44 conviction charged, the court shall determine the issue of the
45 previous conviction after hearing all relevant evidence presented on



1 the issue by the prosecution and the defendant. At such a hearing,
2 the defendant may not challenge the validity of a previous
3 conviction. The court shall impose sentence:

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

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

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

13 4. Nothing in the provisions of this section, NRS 207.010,
14 207.012 or 207.014 limits the prosecution in introducing evidence
15 of prior convictions for purposes of impeachment.

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

19 6. Nothing in the provisions of this section, NRS 207.010,
20 207.012 or 207.014 prohibits a court from imposing an adjudication
21 of habitual criminality, adjudication of habitual felon or adjudication
22 of habitually fraudulent felon based upon a stipulation of the parties.

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

24 207.193 1. Except as otherwise provided in subsection 4, if a
25 person is convicted of coercion or attempted coercion in violation of
26 paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the
27 request of the prosecuting attorney, conduct a separate hearing to
28 determine whether the offense was sexually motivated. A request
29 for such a hearing may not be submitted to the court unless the
30 prosecuting attorney, not less than 72 hours before the
31 commencement of the trial, files and serves upon the defendant a
32 written notice of his intention to request such a hearing.

33 2. A hearing requested pursuant to subsection 1 must be
34 conducted before:

35 (a) The court imposes its sentence; or

36 (b) A separate penalty hearing is conducted.

37 3. At the hearing, only evidence concerning the question of
38 whether the offense was sexually motivated may be presented. The
39 prosecuting attorney must prove beyond a reasonable doubt that the
40 offense was sexually motivated.

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

45 5. The court shall enter in the record:



- 1 (a) Its finding from a hearing held pursuant to subsection 1; or
- 2 (b) A stipulation made pursuant to subsection 4.
- 3 6. For the purposes of this section, an offense is “sexually
- 4 motivated” if one of the purposes for which the person committed
- 5 the offense was his sexual gratification.

6 **Sec. 43.** NRS 212.189 is hereby amended to read as follows:
7 212.189 1. Except as otherwise provided in subsection 9, a
8 prisoner who is in lawful custody or confinement, other than
9 residential confinement, shall not knowingly:

- 10 (a) Store or stockpile any human excrement or bodily fluid;
- 11 (b) Sell, supply or provide any human excrement or bodily fluid
- 12 to any other person;
- 13 (c) Buy, receive or acquire any human excrement or bodily fluid
- 14 from any other person; or
- 15 (d) Use, propel, discharge, spread or conceal, or cause to be
- 16 used, propelled, discharged, spread or concealed, any human
- 17 excrement or bodily fluid:

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

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

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

32 3. If a prisoner violates any provision of paragraph (d) of
33 subsection 1 and, at the time of the offense, the prisoner knew that
34 any portion of the excrement or bodily fluid involved in the offense
35 contained a communicable disease that causes or is reasonably
36 likely to cause substantial bodily harm, whether or not the
37 communicable disease was transmitted to a victim as a result of the
38 offense, the prisoner is guilty of a category A felony and shall be
39 punished by imprisonment in the state prison:

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

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



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

- 3 (a) Is not subject to suspension or the granting of probation; and
4 (b) Must run consecutively after the prisoner has served any
5 sentences imposed upon him for the offense or offenses for which
6 the prisoner was in lawful custody or confinement when he violated
7 the provisions of subsection 1.

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

- 12 (a) Conducted pursuant to paragraphs (a) and (b) of
13 subsection 7; or
14 (b) Paid for pursuant to subparagraph (2) of paragraph (c) of
15 subsection 7.

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

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

22 (a) Each prisoner believed to have committed the act or to have
23 been the bodily source of any portion of the excrement or bodily
24 fluid involved in the act must submit to any appropriate
25 examinations and testing to determine whether each such prisoner
26 has any communicable disease.

27 (b) If possible, a sample of the excrement or bodily fluid
28 involved in the act must be recovered and tested to determine
29 whether any communicable disease is present in the excrement or
30 bodily fluid.

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

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

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

42 (d) The results of the investigation conducted pursuant to
43 subsection 6 and the results of any examinations or testing
44 conducted pursuant to paragraphs (a) and (b) must be submitted to
45 the district attorney of the county in which the act was committed or



1 to the office of the Attorney General for possible prosecution of
2 each prisoner who committed the act.

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

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

13 (a) Is otherwise lawful and is authorized by the warden, sheriff,
14 administrator or other person responsible for administering the
15 prison, or his designee, and the prisoner performs the act in
16 accordance with the directions or instructions given to him by that
17 person;

18 (b) Involves the discharge of human excrement or bodily fluid
19 directly from the body of the prisoner and the discharge is the direct
20 result of a temporary or permanent injury, disease or medical
21 condition afflicting the prisoner that prevents the prisoner from
22 having physical control over the discharge of his own excrement or
23 bodily fluid; or

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

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

27 453.3363 1. If a person who has not previously been
28 convicted of any offense pursuant to NRS 453.011 to 453.552,
29 inclusive, or pursuant to any statute of the United States or of any
30 state relating to narcotic drugs, marijuana, or stimulant, depressant
31 or hallucinogenic substances tenders a plea of guilty, ~~[, guilty but~~
32 ~~mentally ill,]~~ nolo contendere or similar plea to a charge pursuant to
33 subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is
34 found guilty of one of those charges, the court, without entering a
35 judgment of conviction and with the consent of the accused, may
36 suspend further proceedings and place him on probation upon terms
37 and conditions that must include attendance and successful
38 completion of an educational program or, in the case of a person
39 dependent upon drugs, of a program of treatment and rehabilitation
40 pursuant to NRS 453.580.

41 2. Upon violation of a term or condition, the court may enter a
42 judgment of conviction and proceed as provided in the section
43 pursuant to which the accused was charged. Notwithstanding the
44 provisions of paragraph (e) of subsection 2 of NRS 193.130, upon



1 violation of a term or condition, the court may order the person to
2 the custody of the Department of Corrections.

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

9 4. Except as otherwise provided in subsection 5, discharge and
10 dismissal under this section is without adjudication of guilt and is
11 not a conviction for purposes of this section or for purposes of
12 employment, civil rights or any statute or regulation or license or
13 questionnaire or for any other public or private purpose, but is a
14 conviction for the purpose of additional penalties imposed for
15 second or subsequent convictions or the setting of bail. Discharge
16 and dismissal restores the person discharged, in the contemplation
17 of the law, to the status occupied before the arrest, indictment or
18 information. He may not be held thereafter under any law to be
19 guilty of perjury or otherwise giving a false statement by reason of
20 failure to recite or acknowledge that arrest, indictment, information
21 or trial in response to an inquiry made of him for any purpose.
22 Discharge and dismissal under this section may occur only once
23 with respect to any person.

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

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

30 453.348 In any proceeding brought under NRS 453.316,
31 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401,
32 any previous convictions of the offender for a felony relating to
33 controlled substances must be alleged in the indictment or
34 information charging the primary offense, but the conviction may
35 not be alluded to on the trial of the primary offense nor may any
36 evidence of the previous offense be produced in the presence of the
37 jury except as otherwise prescribed by law. If the offender pleads
38 guilty ~~{or guilty but mentally ill}~~ to or is convicted of the primary
39 offense but denies any previous conviction charged, the court shall
40 determine the issue after hearing all relevant evidence. A certified
41 copy of a conviction of a felony is prima facie evidence of the
42 conviction.

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

44 453.575 1. If a defendant pleads guilty ~~{or guilty but~~
45 ~~mentally ill to,}~~ **to** or is found guilty of ~~{,}~~ any violation of this



1 chapter and an analysis of a controlled substance or other substance
2 or drug was performed in relation to his case, the court shall include
3 in the sentence an order that the defendant pay the sum of \$60 as a
4 fee for the analysis of the controlled substance or other substance or
5 drug.

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

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

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

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

17 4. The board of county commissioners of each county shall by
18 ordinance create in the county treasury a fund to be designated as
19 the fund for forensic services. The governing body of each city shall
20 create in the city treasury a fund to be designated as the fund for
21 forensic services. Upon receipt, the county or city treasurer, as
22 appropriate, shall deposit any fee for the analyses of controlled
23 substances or other substances or drugs in the fund. The money
24 from such deposits must be accounted for separately within the
25 fund.

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

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

35 (a) To pay for the analyses of controlled substances or other
36 substances or drugs performed in connection with criminal
37 investigations within the county;

38 (b) To purchase and maintain equipment to conduct these
39 analyses; and

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

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



1 **Sec. 47.** NRS 454.358 is hereby amended to read as follows:
2 454.358 1. When a defendant pleads guilty ~~for guilty but~~
3 ~~mentally ill to,~~ *to* or is found guilty of ~~[.]~~ any violation of this
4 chapter and an analysis of a dangerous drug was performed in
5 relation to his case, the justice or judge shall include in the sentence
6 the sum of \$50 as a fee for the analysis of the dangerous drug.
7 2. The money collected for such an analysis must not be
8 deducted from the fine imposed by the justice or judge, but must be
9 taxed against the defendant in addition to the fine. The money
10 collected for such an analysis must be stated separately on the
11 court's docket and must be included in the amount posted for bail. If
12 the defendant is found not guilty or the charges are dropped, the
13 money deposited with the court must be returned to the defendant.
14 3. The money collected pursuant to subsection 1 in municipal
15 court must be paid by the clerk of the court to the county treasurer
16 on or before the ~~[5th]~~ *fifth* day of each month for the preceding
17 month.
18 4. The money collected pursuant to subsection 1 in justices'
19 courts must be paid by the clerk of the court to the county treasurer
20 on or before the ~~[5th]~~ *fifth* day of each month for the preceding
21 month.
22 5. The board of county commissioners of each county shall by
23 ordinance, before September 1, 1987, create in the county treasury a
24 fund to be designated as the fund for forensic services. Upon receipt,
25 the county treasurer shall deposit any fee for the analyses of
26 dangerous drugs in the fund.
27 6. In counties which receive forensic services under a contract
28 with the State, any money in the fund for forensic services must be
29 paid monthly by the county treasurer to the State Treasurer for
30 deposit in the State General Fund, after retaining 2 percent of the
31 money to cover his administrative expenses.
32 7. In counties which do not receive forensic services under a
33 contract with the State, money in the fund for forensic services must
34 be expended, except as otherwise provided in this subsection:
35 (a) To pay for the analyses of dangerous drugs performed in
36 connection with criminal investigations within the county;
37 (b) To purchase and maintain equipment to conduct these
38 analyses; and
39 (c) For the training and continuing education of the employees
40 who conduct these analyses.
41 Money from the fund must not be expended to cover the costs of
42 analyses conducted by, equipment used by or training for employees
43 of an analytical laboratory not registered with the Drug Enforcement
44 Administration of the United States Department of Justice.



1 **Sec. 48.** NRS 483.560 is hereby amended to read as follows:
2 483.560 1. Except as otherwise provided in subsection 2, any
3 person who drives a motor vehicle on a highway or on premises to
4 which the public has access at a time when his driver's license has
5 been cancelled, revoked or suspended is guilty of a misdemeanor.
6 2. Except as otherwise provided in this subsection, if the
7 license of the person was suspended, revoked or restricted
8 because of:
9 (a) A violation of NRS 484.379, 484.3795 or 484.384;
10 (b) A homicide resulting from driving or being in actual
11 physical control of a vehicle while under the influence of
12 intoxicating liquor or a controlled substance or resulting from any
13 other conduct prohibited by NRS 484.379 or 484.3795; or
14 (c) A violation of a law of any other jurisdiction that
15 prohibits the same or similar conduct as set forth in paragraph (a)
16 or (b),
17 the person shall be punished by imprisonment in jail for not less
18 than 30 days nor more than 6 months or by serving a term of
19 residential confinement for not less than 60 days nor more than 6
20 months, and shall be further punished by a fine of not less than \$500
21 nor more than \$1,000. A person who is punished pursuant to this
22 subsection may not be granted probation, and a sentence imposed
23 for such a violation may not be suspended. A prosecutor may not
24 dismiss a charge of such a violation in exchange for a plea of guilty
25 ~~[, of guilty but mentally ill]~~ or of nolo contendere to a lesser charge
26 or for any other reason, unless in his judgment the charge is not
27 supported by probable cause or cannot be proved at trial. The
28 provisions of this subsection do not apply if the period of revocation
29 has expired but the person has not reinstated his license.
30 3. A term of imprisonment imposed pursuant to the provisions
31 of this section may be served intermittently at the discretion of the
32 judge or justice of the peace. This discretion must be exercised after
33 considering all the circumstances surrounding the offense, and the
34 family and employment of the person convicted. However, the full
35 term of imprisonment must be served within 6 months after the date
36 of conviction, and any segment of time the person is imprisoned
37 must not consist of less than 24 hours.
38 4. Jail sentences simultaneously imposed pursuant to this
39 section and NRS 484.3792, 484.37937 or 484.3794 must run
40 consecutively.
41 5. If the Department receives a record of the conviction or
42 punishment of any person pursuant to this section upon a charge of
43 driving a vehicle while his license was:
44 (a) Suspended, the Department shall extend the period of the
45 suspension for an additional like period.



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

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

7 (d) Suspended or cancelled for an indefinite period, the
8 Department shall suspend his license for an additional 6 months for
9 the first violation and an additional 1 year for each subsequent
10 violation.

11 6. Suspensions and revocations imposed pursuant to this
12 section must run consecutively.

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

14 484.3792 1. Unless a greater penalty is provided pursuant
15 to NRS 484.3795, a person who violates the provisions of
16 NRS 484.379:

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

20 (1) Except as otherwise provided in subparagraph (4) or
21 subsection 6, order him to pay tuition for an educational course on
22 the abuse of alcohol and controlled substances approved by the
23 Department and complete the course within the time specified in the
24 order, and the court shall notify the Department if he fails to
25 complete the course within the specified time;

26 (2) Unless the sentence is reduced pursuant to NRS
27 484.37937, sentence him to imprisonment for not less than 2 days
28 nor more than 6 months in jail, or to perform not less than 48 hours,
29 but not more than 96 hours, of community service while dressed in
30 distinctive garb that identifies him as having violated the provisions
31 of NRS 484.379;

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

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

37 (b) For a second offense within 7 years, is guilty of a
38 misdemeanor. Unless the sentence is reduced pursuant to NRS
39 484.3794, the court shall:

40 (1) Sentence him to:

41 (I) Imprisonment for not less than 10 days nor more than
42 6 months in jail; or

43 (II) Residential confinement for not less than 10 days nor
44 more than 6 months, in the manner provided in NRS 4.376 to
45 4.3766, inclusive, or 5.0755 to 5.078, inclusive;



1 (2) Fine him not less than \$750 nor more than \$1,000;
2 (3) Order him to perform not less than 100 hours, but not
3 more than 200 hours, of community service while dressed in
4 distinctive garb that identifies him as having violated the provisions
5 of NRS 484.379, unless the court finds that extenuating
6 circumstances exist; and

7 (4) Order him to attend a program of treatment for the
8 abuse of alcohol or drugs pursuant to the provisions of
9 NRS 484.37945.

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

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

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

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

43 4. A term of confinement imposed pursuant to the provisions
44 of this section may be served intermittently at the discretion of the
45 judge or justice of the peace, except that a person who is convicted



1 of a second or subsequent offense within 7 years must be confined
2 for at least one segment of not less than 48 consecutive hours. This
3 discretion must be exercised after considering all the circumstances
4 surrounding the offense, and the family and employment of the
5 offender, but any sentence of 30 days or less must be served within
6 6 months after the date of conviction or, if the offender was
7 sentenced pursuant to NRS 484.37937 or 484.3794 and the
8 suspension of his sentence was revoked, within 6 months after the
9 date of revocation. Any time for which the offender is confined
10 must consist of not less than 24 consecutive hours.

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

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

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

23 (b) Order him to complete an educational course by
24 correspondence on the abuse of alcohol and controlled substances
25 approved by the Department within the time specified in the
26 order,

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

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

33 8. As used in this section, unless the context otherwise
34 requires:

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

38 (b) "Offense" means:

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

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



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

4 **Sec. 50.** NRS 484.3795 is hereby amended to read as follows:
5 484.3795 1. A person who:

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

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

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

12 (d) Is under the influence of a controlled substance or is under
13 the combined influence of intoxicating liquor and a controlled
14 substance;

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

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

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

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

41 3. If consumption is proven by a preponderance of the
42 evidence, it is an affirmative defense under paragraph (c) of
43 subsection 1 that the defendant consumed a sufficient quantity of
44 alcohol after driving or being in actual physical control of the
45 vehicle, and before his blood or breath was tested, to cause him to



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1 have a concentration of alcohol of 0.10 or more in his blood or
2 breath. A defendant who intends to offer this defense at a trial
3 or preliminary hearing must, not less than 14 days before the trial or
4 hearing or at such other time as the court may direct, file and serve
5 on the prosecuting attorney a written notice of that intent.

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

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

11 484.3797 1. The judge or judges in each judicial district shall
12 cause the preparation and maintenance of a list of the panels of
13 persons who:

14 (a) Have been injured or had members of their families or close
15 friends injured or killed by a person who was driving or in actual
16 physical control of a vehicle while under the influence of
17 intoxicating liquor or a controlled substance or who was engaging in
18 any other conduct prohibited by NRS 484.379 or 484.3795 or a law
19 of any other jurisdiction that prohibits the same or similar conduct;
20 and

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

24 The list must include the name and telephone number of the person
25 to be contacted regarding each such panel and a schedule of times
26 and locations of the meetings of each such panel. The judge or
27 judges shall establish, in cooperation with representatives of the
28 members of the panels, a fee, if any, to be paid by defendants who
29 are ordered to attend a meeting of the panel. The amount of the fee,
30 if any, must be reasonable. The panel may not be operated for profit.

31 2. Except as otherwise provided in this subsection, if a
32 defendant pleads guilty ~~for guilty but mentally ill to,~~ to or is found
33 guilty of ~~§~~ any violation of NRS 484.379 or 484.3795, the court
34 shall, in addition to imposing any other penalties provided by law,
35 order the defendant to:

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



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

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

6 3. A person ordered to attend a meeting pursuant to subsection
7 2 shall, after attending the meeting, present evidence or other
8 documentation satisfactory to the court that he attended the meeting
9 and remained for its entirety.

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

11 484.3798 1. If a defendant pleads guilty ~~[or guilty but~~
12 ~~mentally ill to,]~~ to or is found guilty of ~~[]~~ any violation of NRS
13 484.379 or 484.3795 and a chemical analysis of his blood, urine,
14 breath or other bodily substance was conducted, the court shall, in
15 addition to any penalty provided by law, order the defendant to pay
16 the sum of \$60 as a fee for the chemical analysis. Except as
17 otherwise provided in this subsection, any money collected for the
18 chemical analysis must not be deducted from, and is in addition to,
19 any fine otherwise imposed by the court and must be:

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

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

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

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

33 4. Except as otherwise provided in subsection 5, each month
34 the treasurer shall, from the money credited to the fund pursuant to
35 subsection 3, pay any amount owed for forensic services and deposit
36 any remaining money in the county or city general fund, as
37 appropriate.

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

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

42 (1) Expended to pay for the chemical analyses performed
43 within the county;

44 (2) Expended to purchase and maintain equipment to conduct
45 such analyses;



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

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

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

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

11 484.3945 1. A person required to install a device pursuant to
12 NRS 484.3943 shall not operate a motor vehicle without a device or
13 tamper with the device.

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

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

17 (b) Shall be:

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

20 (2) Sentenced to a term of not less than 60 days in residential
21 confinement nor more than 6 months, and by a fine of not less than
22 \$500 nor more than \$1,000.

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

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

31 488.420 1. A person who:

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

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

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

39 (d) Is under the influence of a controlled substance or is under
40 the combined influence of intoxicating liquor and a controlled
41 substance;

42 (e) Inhales, ingests, applies or otherwise uses any chemical,
43 poison or organic solvent, or any compound or combination of any
44 of these, to a degree which renders him incapable of safely



1 operating or being in actual physical control of a vessel under power
2 or sail; or

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

6 and does any act or neglects any duty imposed by law while
7 operating or being in actual physical control of any vessel under
8 power or sail, if the act or neglect of duty proximately causes the
9 death of, or substantial bodily harm to, a person other than himself,
10 is guilty of a category B felony and shall be punished by
11 imprisonment in the state prison for a minimum term of not less
12 than 2 years and a maximum term of not more than 20 years and
13 shall be further punished by a fine of not less than \$2,000 nor more
14 than \$5,000. A person so imprisoned must, insofar as practicable, be
15 segregated from offenders whose crimes were violent and, insofar as
16 practicable, be assigned to an institution or facility of minimum
17 security.

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

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

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

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

39 488.440 1. If a defendant pleads guilty ~~[or guilty but~~
40 ~~mentally ill to,]~~ **to** or is found guilty of, a violation of NRS 488.410
41 or 488.420 and a chemical analysis of his blood, urine, breath or
42 other bodily substance was conducted, the court shall, in addition to
43 any penalty provided by law, order the defendant to pay the sum of
44 \$60 as a fee for the chemical analysis. Except as otherwise provided
45 in this subsection, any money collected for the chemical analysis



1 must not be deducted from, and is in addition to, any fine otherwise
2 imposed by the court and must be:

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

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

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

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

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

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

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

25 (1) Expended to pay for the chemical analyses performed
26 within the county;

27 (2) Expended to purchase and maintain equipment to conduct
28 such analyses;

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

31 (4) Paid to law enforcement agencies which conduct such
32 analyses to be used by those agencies in the manner provided in this
33 subsection.

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

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

39 489.421 The following grounds, among others, constitute
40 grounds for disciplinary action under NRS 489.381:

41 1. Revocation or denial of a license issued pursuant to this
42 chapter or an equivalent license in any other state, territory or
43 country.

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



- 1 3. Failure to respond to a notice served by the Division as
- 2 provided by law within the time specified in the notice.
- 3 4. Failure to take the corrective action required in a notice of
- 4 violation issued pursuant to NRS 489.291.
- 5 5. Failure or refusing to permit access by the Administrator to
- 6 documentary materials set forth in NRS 489.231.
- 7 6. Disregarding or violating any order of the Administrator,
- 8 any agreement with the Division, or any provision of this chapter or
- 9 any regulation adopted under it.
- 10 7. Conviction of a misdemeanor for violation of any of the
- 11 provisions of this chapter.
- 12 8. Conviction of or entering a plea of guilty ~~[, guilty but~~
- 13 ~~mentally ill]~~ or nolo contendere to a felony or a crime of moral
- 14 turpitude in this state or any other state, territory or country.
- 15 9. Any other conduct that constitutes deceitful, fraudulent or
- 16 dishonest dealing.
- 17 **Sec. 57.** NRS 616A.250 is hereby amended to read as follows:
- 18 616A.250 "Incarcerated" means confined in:
- 19 1. Any local detention facility, county jail, state prison,
- 20 reformatory or other correctional facility as a result of a conviction
- 21 or a plea of guilty or nolo contendere in a criminal proceeding; or
- 22 2. Any institution or facility for the mentally ill as a result
- 23 of a *plea of not guilty by reason of insanity in a* criminal
- 24 proceeding,
- 25 in this state, another state or a foreign country.
- 26 **Sec. 58.** NRS 624.265 is hereby amended to read as follows:
- 27 624.265 1. An applicant for a contractor's license or a
- 28 licensed contractor and each officer, director, partner and associate
- 29 thereof must possess good character. Lack of character may be
- 30 established by showing that the applicant or licensed contractor, or
- 31 any officer, director, partner or associate thereof, has:
- 32 (a) Committed any act which would be grounds for the denial,
- 33 suspension or revocation of a contractor's license;
- 34 (b) A bad reputation for honesty and integrity;
- 35 (c) Entered a plea of nolo contendere ~~[, guilty]~~ or guilty ~~[but~~
- 36 ~~mentally ill]~~ to, been found guilty of or been convicted of a crime
- 37 arising out of, in connection with or related to the activities of such
- 38 person in such a manner as to demonstrate his unfitness to act as a
- 39 contractor, and the time for appeal has elapsed or the judgment of
- 40 conviction has been affirmed on appeal; or
- 41 (d) Had a license revoked or suspended for reasons that would
- 42 preclude the granting or renewal of a license for which the
- 43 application has been made.
- 44 2. Upon the request of the Board, an applicant for a
- 45 contractor's license, and any officer, director, partner or associate of



1 the applicant, must submit to the Board completed fingerprint cards
2 and a form authorizing an investigation of the applicant's
3 background and the submission of his fingerprints to the Central
4 Repository for Nevada Records of Criminal History and the Federal
5 Bureau of Investigation. The fingerprint cards and authorization
6 form submitted must be those that are provided to the applicant by
7 the Board. The applicant's fingerprints may be taken by an agent of
8 the Board or an agency of law enforcement.

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

11 4. The Board shall establish by regulation the fee for
12 processing the fingerprints to be paid by the applicant. The fee must
13 not exceed the sum of the amounts charged by the Central
14 Repository for Nevada Records of Criminal History and the Federal
15 Bureau of Investigation for processing the fingerprints.

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

- 19 (a) Arrests;
- 20 (b) Guilty pleas;
- 21 (c) Sentencing;
- 22 (d) Probation;
- 23 (e) Parole;
- 24 (f) Bail;
- 25 (g) Complaints; and
- 26 (h) Final dispositions,

27 for the investigation of a licensee or an applicant for a contractor's
28 license.

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

30 632.320 The Board may deny, revoke or suspend any license
31 or certificate applied for or issued pursuant to this chapter, or take
32 other disciplinary action against a licensee or holder of a certificate,
33 upon determining that he:

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

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

- 37 (a) Involving moral turpitude; or
- 38 (b) Related to the qualifications, functions or duties of a licensee
39 or holder of a certificate,

40 in which case the record of conviction is conclusive evidence
41 thereof.

42 3. Has been convicted of violating any of the provisions of
43 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
44 inclusive.



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



1 14. Has willfully failed to comply with a regulation, subpoena
2 or order of the Board.
3 For the purposes of this section, a plea or verdict of guilty ~~for guilty~~
4 ~~but mentally ill~~ or a plea of nolo contendere constitutes a
5 conviction of an offense. The Board may take disciplinary action
6 pending the appeal of a conviction.

7 **Sec. 60.** NRS 639.006 is hereby amended to read as follows:
8 639.006 "Conviction" means a plea or verdict of guilty ~~for~~
9 ~~guilty but mentally ill~~ or a conviction following a plea of nolo
10 contendere to a charge of a felony, any offense involving moral
11 turpitude or any violation of the provisions of this chapter or chapter
12 453 or 454 of NRS.

13 **Sec. 61.** NRS 645.330 is hereby amended to read as follows:
14 645.330 1. Except as otherwise provided by specific statute,
15 the Division may approve an application for a license for a person
16 who meets all the following requirements:

17 (a) Has a good reputation for honesty, trustworthiness and
18 integrity and who offers proof of those qualifications satisfactory to
19 the Division.

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

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

25 (d) Has submitted the statement required pursuant to NRS
26 645.358 if the person is a natural person.

27 (e) Has passed the examination.

28 2. The Division:

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

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

39 (1) The person pays any fine or restitution ordered by the
40 court; or

41 (2) The expiration of the period of the person's parole,
42 probation or sentence,
43 whichever is later.

44 3. Suspension or revocation of a license pursuant to this
45 chapter or any prior revocation or current suspension in this or any



1 other state, district or territory of the United States or any foreign
2 country within 10 years before the date of the application is grounds
3 for refusal to grant a license.

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

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

11 645.350 1. An application for a license as a real estate broker,
12 broker-salesman or salesman must be submitted in writing to the
13 Division upon blanks prepared or furnished by the Division.

14 2. Every application for a real estate broker's, broker-
15 salesman's or salesman's license must set forth the following
16 information:

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

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

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

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



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

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

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

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

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

20 (j) If the applicant is a member of a limited-liability company,
21 partnership or association, or an officer of a corporation, the name
22 and address of the office of the limited-liability company,
23 partnership, association or corporation of which the applicant is a
24 member or officer.

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

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

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

36 645.350 1. Application for license as a real estate broker,
37 broker-salesman or salesman must be made in writing to the
38 Division upon blanks prepared or furnished by the Division.

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

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



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

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

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

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

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

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

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

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

42 (i) If the applicant is a member of a limited-liability company,
43 partnership or association, or an officer of a corporation, the name
44 and address of the office of the limited-liability company,



1 partnership, association or corporation of which the applicant is a
2 member or officer.

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

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

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

14 645.633 1. The Commission may take action pursuant to
15 NRS 645.630 against any person subject to that section who is
16 guilty of:

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

20 (b) Violating any order of the Commission, any agreement with
21 the Division, any of the provisions of this chapter, chapter 116, 119,
22 119A, 119B, 645A or 645C of NRS or any regulation adopted
23 thereunder.

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

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

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

35 (f) Failure to include a fixed date of expiration in any written
36 brokerage agreement or to leave a copy of the brokerage agreement
37 with the client.

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

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

43 (i) Any other conduct which constitutes deceitful, fraudulent or
44 dishonest dealing.



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

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

8 (l) Recording or causing to be recorded a claim pursuant to the
9 provisions of NRS 645.8701 to 645.8811, inclusive, that is
10 determined by a district court to be frivolous and made without
11 reasonable cause pursuant to NRS 645.8791.

12 2. The Commission may take action pursuant to NRS 645.630
13 against a person who is subject to that section for the suspension or
14 revocation of a real estate broker's, broker-salesman's or salesman's
15 license issued to him by any other jurisdiction.

16 3. The Commission may take action pursuant to NRS 645.630
17 against any person who:

18 (a) Holds a permit to engage in property management issued
19 pursuant to NRS 645.6052; and

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

23 (1) Is convicted of violating any of the provisions of
24 NRS 202.470;

25 (2) Has been notified in writing by the appropriate
26 governmental agency of a potential violation of NRS 244.360,
27 244.3603 or 268.4124, and has failed to inform the owner of the
28 property of such notification; or

29 (3) Has been directed in writing by the owner of the property
30 to correct a potential violation of NRS 244.360, 244.3603 or
31 268.4124, and has failed to correct the potential violation, if such
32 corrective action is within the scope of the person's duties pursuant
33 to the written brokerage agreement.

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

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

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

43 (b) Any disciplinary actions taken by the Commission pursuant
44 to subsection 3.



1 **Sec. 65.** NRS 645C.290 is hereby amended to read as follows:
2 645C.290 An application for a certificate or license must be in
3 writing upon a form prepared and furnished by the Division. The
4 application must include the following information:

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

6 2. The place or places, including the street number, city and
7 county, where the applicant intends to conduct business as an
8 appraiser.

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

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

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

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

18 (b) Forgery, embezzlement, obtaining money under false
19 pretenses, larceny, extortion, conspiracy to defraud or any crime
20 involving moral turpitude.

21 6. Whether the applicant has ever been refused a certificate,
22 license or permit to act as an appraiser, or has ever had such a
23 certificate, license or permit suspended or revoked, in any other
24 jurisdiction.

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

28 8. Any other information the Division requires.

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

30 645C.320 1. The Administrator shall issue a certificate or
31 license, as appropriate, to any person:

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

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

35 (c) Who submits the statement required pursuant to NRS
36 645C.295; and

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

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

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



1 (b) Makes a false statement of a material fact on his application;
2 or

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

8 **Sec. 67.** NRS 645C.320 is hereby amended to read as follows:
9 645C.320 1. The Administrator shall issue a certificate or
10 license, as appropriate, to any person:

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

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

14 (c) Who, except as otherwise provided in NRS 645C.360, has
15 satisfactorily passed a written examination approved by the
16 Commission.

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

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

23 (b) Makes a false statement of a material fact on his application;
24 or

25 (c) Has had a certificate, license or registration card suspended
26 or revoked pursuant to this chapter, or a certificate, license or permit
27 to act as an appraiser suspended or revoked in any other jurisdiction,
28 within the 10 years immediately preceding the date of his
29 application.

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

31 690B.029 1. A policy of insurance against liability arising
32 out of the ownership, maintenance or use of a motor vehicle
33 delivered or issued for delivery in this state to a person who is 55
34 years of age or older must contain a provision for the reduction in
35 the premiums for 3-year periods if the insured:

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

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

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

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



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

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

6 (II) Any other conduct prohibited by NRS 484.379 or
7 484.3795 or a law of any other jurisdiction that prohibits the same or
8 similar conduct.

9 2. The reduction in the premiums provided for in subsection 1
10 must be based on the actuarial and loss experience data available to
11 each insurer and must be approved by the Commissioner. Each
12 reduction must be calculated based on the amount of the premium
13 before any reduction in that premium is made pursuant to this
14 section, and not on the amount of the premium once it has been
15 reduced.

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

19 4. The organization that offers a course of traffic safety
20 approved by the Department of Motor Vehicles shall issue a
21 certificate to each person who successfully completes the course. A
22 person must use the certificate to qualify for the reduction in the
23 premiums pursuant to this section.

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

29 **Sec. 69.** NRS 174.041, 176.127 and 176.129 are hereby
30 repealed.

31 **Sec. 70.** The Division of Mental Health and Developmental
32 Services of the Department of Human Resources shall adopt
33 regulations pursuant to section 23.5 of this act by not later than
34 December 31, 2003, and shall begin administering examinations to
35 determine eligibility for certification to provide reports and
36 evaluations concerning the competency of a defendant pursuant to
37 NRS 178.400 to 178.460, inclusive, by not later than March 1, 2004.

38 **Sec. 71.** The Legislative Counsel shall, in preparing the reprint
39 and supplements to the Nevada Revised Statutes, remove or
40 appropriately change any references to "guilty but mentally ill."

41 **Sec. 72.** 1. This section and sections 1 to 23, inclusive, 24,
42 26 to 61, inclusive, 64, 65 and 68 to 71, inclusive, of this act
43 become effective on July 1, 2003.



1 2. Section 23.5 of this act becomes effective on July 1, 2003,
2 for the purpose of adopting regulations and on July 1, 2004, for all
3 other purposes.

4 3. Sections 62 and 66 of this act become effective on July 1,
5 2003, and expire by limitation on the date of the repeal of the
6 federal law requiring each state to establish procedures for
7 withholding, suspending and restricting the professional,
8 occupational and recreational licenses for child support arrearages
9 and for noncompliance with certain processes relating to paternity or
10 child support proceedings.

11 4. Sections 24.5 and 25.5 of this act become effective on
12 July 1, 2004.

13 5. Sections 63 and 67 of this act become effective on the date
14 of the repeal of the federal law requiring each state to establish
15 procedures for withholding, suspending and restricting the
16 professional, occupational and recreational licenses for child support
17 arrearages and for noncompliance with certain processes relating to
18 paternity or child support proceedings.

TEXT OF REPEALED SECTIONS

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

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

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

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

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

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

1. If a court accepts a plea of guilty but mentally ill pursuant to NRS 174.041, the court shall, before imposing sentence, afford the defendant an opportunity to present evidence of his present mental



condition. If the defendant claims that he is mentally ill at the time of sentencing, the burden of proof is upon the defendant to establish that fact by a preponderance of the evidence.

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

3. If the court finds:

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

(b) By a preponderance of the evidence that the defendant is mentally ill at the time of sentencing, it shall impose any sentence that it is authorized to impose upon a defendant who pleads or is found guilty of the same offense and include in that sentence an order that the defendant, during the period of his confinement or probation, be given such treatment as is available for his mental illness if the court determines that the relative risks and benefits of the available treatment are such that a reasonable person would consent to such treatment. The treatment must be provided by the Department of Corrections.

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

