

*Drug and Alcohol Abuse
Among Criminal Offenders*



*Legislative Counsel
Bureau*

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**DRUG AND ALCOHOL ABUSE
AMONG CRIMINAL OFFENDERS**

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SUMMARY OF RECOMMENDATIONS

The following recommendations for legislation or subcommittee action were adopted by the Legislative Commission's Subcommittee to Study Drug and Alcohol Abuse Among Criminal Offenders (A.C.R. 71) at its work session of May 23, 1994.

Substance Abuse Detection and Reporting

1. a. Amend Chapter 179A of the *Nevada Revised Statutes* (NRS), and other chapters as necessary, to:
 - (1) Include among the definitions of "record of criminal history" information gathered by an agency of criminal justice concerning the use of alcohol or controlled substances by persons arrested or found guilty of a felony or gross misdemeanor; and
 - (2) Include information concerning the use of alcohol or controlled substances by persons arrested or found guilty of a felony or gross misdemeanor submitted by agencies of criminal justice among that information that the Nevada Highway Patrol Division, which administers the Central Repository for Nevada Records of Criminal History, is required to collect, maintain, and arrange.
- b.
 - (1) Require an arresting officer to indicate on the arrest report his assessment of whether or not the offender was under the influence of controlled substances or alcohol at the time of commission of the crime for which he was arrested, if the officer witnessed the crime, or if the offender exhibits signs of being under the influence;
 - (2) Stipulate that the officer shall indicate on the report how the assessment was made (observation or urinalysis, for example); and
 - (3) Provide that the assessment is to be reported to the Central Repository for Nevada Records of Criminal History.
2. Amend Chapter 481 of the NRS to require the Peace Officer Standards and Training Committee to adopt regulations providing for training in the detection of use and abuse of alcohol or controlled substances.

Civil Commitment and Drug Courts

3. Amend NRS 458.300, which sets forth eligibility for civil commitment, and related provisions as necessary, to delete the following restrictions on eligibility:
 - a. Subsection 4 (certain previous felony and gross misdemeanor convictions, including trafficking); and
 - b. Subsection 7 (previous election and admittance to civil commitment).
4.
 - a. Amend Subsection 3 of NRS 458.320 to require, rather than allow, the court, in the case of a person who has satisfied all other conditions, to defer sentencing upon the person, impose conditions related to the treatment and probation, and place the person under the supervision of an approved facility for treatment.
 - b. Stipulate that the person shall pay for the cost of treatment to the extent of his financial resources. If the person has insufficient resources to pay the cost of treatment, provide that the court shall, to the extent possible, assign him to a program with sufficient state or federal funding to defray the costs of his treatment.
5. Amend NRS 453.3363, 453.3405, and related provisions as necessary, to allow the court to include among those persons against whom proceedings may be suspended:
 - a. Persons who have been previously convicted of drug and Driving Under the Influence (DUI) of Alcohol or Controlled Substance offenses; and
 - b. Persons charged with unlawful possession for sale (NRS 453.337 and NRS 453.338).
6.
 - a. Appropriate from the State General Fund the amount of \$90,000, of which \$10,000 must be distributed to the court administrator of each district court that establishes or has established a treatment program pursuant to NRS 453.580.
 - b. Provide that if a district court, with a program established before January 1, 1994, receives an additional and separate appropriation of

money from the State General Fund, then that district court is not eligible for funds under this recommendation.

7. Appropriate \$250,000 to the court administrator of the Eighth Judicial District for the expansion of its program of deferred prosecution established pursuant to NRS 453.580. Stipulate that the funds are to supplement and not replace funds currently utilized by the court for the program.
8.
 - a. Authorize counties to establish a program for deferred prosecution for persons charged with a first or second offense of NRS 484.379 (non-felony DUI). Such a program must:
 - (1) Be at least 1-year in duration;
 - (2) Include treatment for, and education, and counseling about substance abuse;
 - (3) Include regular court appearances, as determined by the court;
 - (4) Require a participant to pay the cost of treatment to the extent of his financial resources. If the person has insufficient resources to pay the cost of treatment, provide that the court shall, to the extent possible, assign him to a program with sufficient state or federal funding to defray the costs of his treatment; and
 - (5) Stipulate that proceedings shall resume against a participant who does not successfully complete the program, the terms and conditions of which shall be set by the court.
 - b. Appropriate from the State General Fund the amount of \$85,000, of which \$5,000 may be transferred to the county treasurer of each county that establishes such a program. Further provide that any money not distributed at the end of the biennium must be divided equally among all counties that have established such a program, except that no county shall receive more than one-quarter of the entire amount.
9. Require that, in a deferred prosecution pursuant to NRS 453.3363, NRS 453.580, or recommendation 8, the offender shall:
 - a. Agree to waive preliminary proceedings; and

- b. Agree to stipulated set of facts, which will be admissible in a court of law if the person fails satisfactorily to complete the program, before the court suspends proceedings.

Sentencing for Drug and Alcohol Offenses

- 10. Amend NRS 484.3792 and NRS 484.3794 to require the court to allow a person found guilty of a first violation of NRS 484.379 (DUI not involving substantial bodily harm) to undergo treatment as set forth in those provisions.
- 11. Eliminate the mandatory minimum sentence for unlawful use of a controlled substance (NRS 453.411). Provide that the crime is still deemed a felony for purposes of all other statutes.

Substance Abuse Treatment and Counseling in Local Detention Facilities and Courts

- 12. a. Amend Chapters 369 and 458 of the NRS, and other chapters or provisions as necessary, to:
 - (1) Increase the excise taxes listed in NRS 369.330 and 369.333 by 10 percent; and
 - (2) Provide that the additional revenue generated by this recommendation be distributed to the Bureau of Alcohol and Drug Abuse (BADA).
- b. (1) Require the BADA to utilize 80 percent of the additional revenue generated by this recommendation to:
 - (a) Hire or contract the services of substance abuse counselors, who shall be assigned to courts and local detention facilities and who shall assess the need for treatment for persons detained in facilities, on parole or probation, or otherwise under a court's jurisdiction; and

- (b) Contract substance abuse treatment services for persons incarcerated in local detention facilities or released, either pending trial or on parole or probation, from local detention facilities; and
 - (2) Stipulate that the BADA shall allocate the services of counselors and treatment programs as necessary, to the extent of revenue available, with the goal of assisting as many courts and detention facilities as possible and making services available to as many substance abusers as possible; and
 - (3) Provide that the BADA shall use the revenue generated by this recommendation to supplement, not replace, funds currently utilized for this purpose. Further stipulate that allocation of services and treatment provided by this recommendation is contingent upon a court or local detention facility's maintenance of levels of similar service or treatment that were in existence as of July 1, 1994.
- c. Require the BADA to utilize 20 percent of the additional revenue generated by this recommendation to provide similar services, as outlined in Section b, to juvenile offenders under the jurisdiction of juvenile courts and detention facilities.

Changes to The "305" Program

13. Amend Chapters 209 and 213 of the NRS to make the following changes to the program for the treatment of abusers of alcohol and drugs established pursuant to NRS 209.425:
- a. Require, before assigning an offender to the program:
 - (1) The Department of Prisons (DOP) to determine, to the extent possible, the length of time remaining on an offender's sentence, taking into consideration sentence credits; and
 - (2) The Division of Parole and Probation to determine, to the extent possible, whether residential, employment, and other requirements for Phase II will be met.

- b. Provide that the DOP shall not assign an offender to the treatment program unless it is determined, to the extent possible, that both Phase I and Phase II may reasonably be completed by the offender, either in prison, if the offender's circumstances preclude residential confinement, or in prison and then residential confinement. Further provide that an offender may not be assigned to the treatment program unless he agrees to complete Phase II.
- c. Stipulate that an offender who meets the residential, employment, and other requirements, and who has sufficient time remaining on his sentence for completion of Phase II, shall be required to enroll in Phase II and complete his sentence and treatment in residential confinement.

Juvenile Drug and Alcohol Offenses

- 14. Adopt a resolution, directed to all law enforcement agencies and juvenile courts in Nevada, encouraging police officers to detect and arrest juvenile drug and alcohol offenders and the judiciary to impose meaningful and consistent sanctions upon these offenders. Include in the resolution the subcommittee's conclusion that:
 - a. The majority of drug and alcohol abusers begin substance abuse at an early age;
 - b. Early intervention, before a prolonged period of abuse and incarceration, is more successful at combatting substance abuse and related crime than later intervention;
 - c. Early intervention is only possible if the problem is *identified* early;
 - d. Law enforcement shares the responsibility with schools and parents to identify substance abuse, since many abusers do not acknowledge their abuse until forced to by a crisis such as an arrest; and
 - e. Prompt and consistent sanctions at the first offense are most effective to "scare straight" juvenile offenders.
- 15. Provide that, for a person under 18 years of age, a first violation of NRS 484.379 (non-felony DUI) is punishable by a mandatory 6-month

driver's license revocation, in addition to any other penalties provided by law.

16. Provide that a DUI offense for a person under 18 years of age must be included on that person's adult driving record for 7 years after the date of the offense.
17. a. Require a person under 21 years of age who is found guilty of any DUI violation to undergo an evaluation to determine if he is an abuser of alcohol or drugs. Further provide that:
 - (1) The evaluation be conducted at an evaluation center, as that term is defined in NRS 484.3793, and that the center shall report the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required by the offender; and
 - (2) The offender be enrolled in a program for drug and alcohol abusers conducted by a treatment facility, as defined in NRS 484.3793.
- b. Provide that the court shall order the offender, or his parent or guardian if he is under the age of 18 years and not emancipated, to pay the costs of:
 - (1) The evaluation; and
 - (2) The treatment, if recommended.
- c. Stipulate that if the offender, or his parent or guardian, if applicable, does not have the financial resources to pay all of those costs, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.
18. Amend NRS 62.226 and NRS 202.020 to require that, in addition to any other penalties provided by law, the unlawful purchase, consumption, or possession of an alcoholic beverage by a minor 16 years of age or older is punishable by a mandatory 90-day driver's license revocation.
19. Amend NRS 62.226 and NRS 202.020 to require that, in addition to any other penalties provided by law, the unlawful purchase, consumption, or

possession of an alcoholic beverage by a child under 16 years of age is punishable by a mandatory 6-month delay in his eligibility for a driver's license.

*Miscellaneous Recommendations for Legislation Concerning
Drug and Alcohol Abuse among Criminal Offenders*

20. Create the position of substance abuse program director within the DOP. Stipulate that the duties of the director include, but are not limited to:
 - a. Coordinating and overseeing the administration of all substance abuse programs operated or contracted by the DOP;
 - b. Supervising all department personnel assigned to the administration of substance abuse programs; and
 - c. Planning, initiating, and evaluating substance abuse programs.
21. Adopt a resolution, directed to the President and Congress of the United States Congress, opposing the legalization of drugs. Include in the resolution the subcommittee's conclusion that:
 - a. Use of the nation's two legal drugs, alcohol and tobacco, illustrates the effect that legalization would have upon use of drugs currently illegal;
 - b. Studies estimate that 10 times more Americans use alcohol and 5 times more use tobacco than use illicit drugs;
 - c. Legalization of drugs would thus increase their usage, as the experience of Italy and the Netherlands shows;
 - d. Drug use has been linked to many violent crimes, including domestic abuse, and the increased usage of drugs would thus increase the amount of crime committed while under their influence; and
 - e. Health care costs and economic productivity losses associated with drug addiction would increase dramatically.
22. a. Appropriate \$100,000 from the State General Fund to the BADA to conduct a study of the success of treatment programs for drug and

alcohol abuse in Nevada. Stipulate that the study must include, at a minimum, information concerning whether substance abusers enrolled in treatment programs have:

- (1) Continued to abuse or remained free of alcohol or drug abuse;
 - (2) Completed educational or vocational programs;
 - (3) Obtained employment; or
 - (4) Been arrested or re-incarcerated.
- b. Further require that the study must differentiate, as much as feasible, between types and length of treatment received, and that the success rate of treated abusers must be compared, as much as feasible, to that of substance abusers receiving no treatment.
 - c. Require the bureau to report the results of its findings to the 1997 Legislature. Stipulate that the report must include a plan to encourage the use, through education or preferred funding, of those programs found to be most successful.

Recommendations for Subcommittee Action

23. Direct a letter from the subcommittee to the President of the United States and Nevada's Congressional Delegation expressing support for the following:
 - a. Continuance of Federal Substance Abuse Block Grants and their expansion to include prison populations; and
 - b. Continuance of Federal funding for certain anti-drug programs, such as the Edward Byrne Memorial Anti-Drug Use Grant Fund, that may be slated for elimination.
24. Direct a letter from the subcommittee to the BADA encouraging the bureau to evaluate the desirability of increasing the percentage of its total funding devoted to substance abuse treatment programs at facilities that provide such services to the indigent or persons placed there under civil protective custody pursuant to NRS 458.270.

25. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$1,200,000 for the establishment of a substance abuse camp for drug- and alcohol-abusing offenders and urging the 1995 Nevada Legislature to approve such a budget item.
26. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$110,000 for the position of substance abuse program director and urging the 1995 Nevada Legislature to approve such a budget item.
27. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$850,000 for the establishment of a preassessment and lifeskills center in Reno for substance-abusing parolees and probationers and urging the 1995 Nevada Legislature to approve such a budget item.
28. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget for the BADA the expenditure of \$150,000 for aftercare services and urging the 1995 Nevada Legislature to approve such a budget item.

**REPORT TO THE 68TH SESSION OF THE
NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY DRUG AND ALCOHOL ABUSE
AMONG CRIMINAL OFFENDERS**

I. INTRODUCTION

The 67th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 71 (File No. 177, *Statutes of Nevada 1993*, pages 3121-3122), which directed the Legislative Commission to conduct an interim study of drug and alcohol abuse among criminal offenders. See Appendix A. The resolution specified that the study was to include a review of state laws concerning drug- and alcohol-related offenses and an evaluation of possible treatment programs that might be implemented either in lieu of, or concurrent with, incarceration.

The Legislative Commission appointed a subcommittee to conduct the study and compile recommendations. The following legislators were members of the subcommittee:

Assemblyman Bernie Anderson, Chairman
Senator Joseph M. Neal, Jr., Vice Chairman
Senator Matthew Q. Callister
Senator Mike McGinness
Assemblywoman Vonne Chowning
Assemblyman David E. Humke
Assemblyman Richard Perkins
Assemblyman Louis A. Toomin

Legislative Counsel Bureau staff services were provided by Denice L. Miller of the Research Division (principal staff); Jan K. Needham and Susan Gardner of the Legal Division (legal counsel); and Gloria Johnson of the Research Division (subcommittee secretary).

The subcommittee held three meetings in Las Vegas and two in Carson City. The third meeting, at which broader issues related to judicial procedures were discussed, was conducted jointly with the Legislative Commission's

Subcommittee to Study the Criminal Justice System in Nevada (A.C.R. 76 of the 1993 Legislative Session).

Testimony during the study included the concerns and recommendations of State and local agencies involved with criminal justice and substance abuse, treatment providers, nationally-known experts in corrections and treatment, and the public.

A great amount of data, much of it provided in exhibits that are part of the minutes of the subcommittee's meetings, was gathered during the course of the study. Only information bearing directly upon the scope of the study and the subcommittee's recommendations is included in this report. All other supporting documents and minutes of meetings are on file in the Research Library of the Legislative Counsel Bureau.

The subcommittee adopted 28 recommendations. The subjects of these proposals include: substance abuse detection and reporting; civil commitment and drug courts; in-prison treatment programs; sentencing for drug and alcohol offenses; treatment and counseling in local detention facilities and courts; and juvenile drug and alcohol offenses. Refer to Appendix I for the bill drafts of suggested legislation.

II. OVERVIEW OF ISSUES

Assembly Concurrent Resolution No. 71 addressed a growing problem faced by Nevada and the entire nation: the devastating cycle of substance abuse, crime, and incarceration. In the preamble, legislators recognized the high percentage of inmates in Nevada prisons who have a substance abuse problem; the number who commit crimes while under the influence of alcohol or a controlled substance; and the overwhelming increase in total costs of incarceration. Further, lawmakers emphasized that incarceration alone could not bring about rehabilitation: treatment would be needed to close the "revolving door" between prison and substance abuse.

Testimony at each of the subcommittee's five meetings supported the ideas contained in the enabling legislation. Representatives of all elements of the criminal justice system--law enforcement, the judiciary, treatment providers and prison officials, among others--identified the need to introduce treatment into the

system. The type and length of treatment, and when in the criminal justice system it should occur, became the focus of the subcommittee's deliberations.

The A.C.R. 71 Subcommittee also questioned the fiscal impact of existing and suggested programs and compared that impact to the "cost" of taking no action. At one meeting, legislators reviewed the cost-benefit analysis of treatment versus incarceration alone; and some recommendations carried the support of projected savings, to the State and local governments, through reduced recidivism.

Finally, the importance of aftercare and other elements of rehabilitation, such as education and employment, were considered. Subcommittee members expressed their intermediate goal of reallocating to treatment a portion of funds currently spent on incarceration; the long-term goal was an increase in spending on education and other preventative social programs, made possible by a future decrease in needed prison beds.

The problem addressed by A.C.R. 71 was not new to legislators, however, nor was the concept of treatment as a solution. Legislation was enacted during both the 1991 and 1993 Legislative Sessions to combat the circular link between substance abuse and crime.

III. THE 1991 AND 1993 LEGISLATIVE SESSIONS

The A.C.R. 71 Subcommittee considered testimony and recommendations concerning many new programs for substance abuse treatment. Legislators and witnesses began their discussions with *existing* law and programs, however, and some of the recommendations adopted by the subcommittee were adaptations or expansions of these. A discussion of pertinent legislation from earlier sessions follows.

Assembly Bill 305 (1991)

Throughout the study, subcommittee members reviewed information concerning the "305" program. This program, authorized by A.B. 305 of the 1991 Legislative Session,¹ mandates treatment for persons found guilty of felony DUI (driving under the influence of alcohol or a controlled substance).

¹ Chapter 297, *Statutes of Nevada 1991*, pages 778-784.

Assembly Bill 305 originated with a 1991 study of prison overcrowding conducted by an Executive-Legislative Blue Ribbon Committee. Among the conclusions reached by the committee was that the state lacked a substance abuse treatment program for criminal offenders. To address that need, the governor's committee recommended that the Department of Prisons create a program of treatment for DUI offenders that would include 30 days of intensive treatment, followed by outpatient treatment in conjunction with work release or house arrest.²

Assembly Bill 222 (1991)

Deferred prosecution was another idea that received considerable discussion during 1991. Also known as "diversion," deferred prosecution was authorized by A.B. 222,³ which revised the Uniform Controlled Substances Act (UCSA) to incorporate the 1990 changes recommended by the National Conference of Commissioners on Uniform State Laws.

The law in existence prior to the passage of A.B. 222 allowed a court to suspend the sentence of, and place on probation, a first-time offender guilty of possession of controlled substances not for sale, with terms and conditions that included substance abuse treatment. The 1990 revisions to UCSA, however, included a *diversion* statute, which allowed persons charged with a first-time possession offense to be placed on probation and entered into treatment *before* going to trial.

Assembly Bill 463 (1993)

Two years after the passage of A.B. 222, testimony indicated that diversionary treatment programs for first-time offenders were successful in reducing dependency among drug- and alcohol-abusers. Lawmakers responded with the passage of A.B. 463.⁴

² See *Punishment Choices: Addressing Prison Growth*, Report of the Governor's Executive-Legislative Blue Ribbon Committee to Responsibly Address Prison Crowding, 1991.

³ Chapter 523, *Statutes of Nevada 1991*, pages 1643-1666.

⁴ Chapter 395, *Statutes of Nevada 1993*, pages 1233-1235.

Supporting arguments for the bill centered upon the initial successes of a program for certain drug offenders that was initiated in the Ninth Judicial District Court in October of 1993. Modeled upon "drug courts" operating in Florida, the Las Vegas program was founded by District Court Judge Jack Lehman. Witnesses testified that drug offenders received needed treatment at a cost significantly below that of incarceration. Further, the recidivism rate for successful participants was lower than that of offenders who were incarcerated only, rather than treated.

Assembly Bill 463 provided further statutory authority, in addition to the diversion statute enacted in 1991, for the drug court. The bill authorized a court to establish "an appropriate treatment program" to which it might assign certain offenders pursuant to NRS 453.3363 or 458.300.

The bill also expanded the circumstances under which a court may suspend proceedings (NRS 453.3363), to include the unlawful use of a controlled substance. Further, eligibility to elect treatment before sentencing, in the case of a person already adjudicated (NRS 458.300), was extended to those guilty of selling, possessing for sale, or conspiring to sell, traffic, or possess for sale, a controlled substance.

Assembly Bill 499 (1993)

During the 1991 Session, lawmakers targeted for treatment not only felony DUI offenders (A.B. 305), but also those guilty of misdemeanor DUI (A.B. 491). Assembly Bill 491, was vetoed by Governor Robert J. Miller. The Governor objected to a provision of the bill that would have given a treatment facility, rather than a judge, the authority to confine an offender to the facility.

Assembly Bill 499⁵ is a revision and expansion of A.B. 491. The 1993 bill established an assessment procedure to determine whether a DUI offender is an abuser of alcohol or drugs. Its provisions apply to first-offenders whose blood alcohol content (BAC) was .18 percent or more and to persons guilty of a second DUI violation within 7 years. In those cases, the court is required to order an evaluation to determine if the offender is a substance abuser. The results of the evaluation and a recommendation for the length and type of treatment must be submitted to the court.

⁵ Chapter 668, *Statutes of Nevada 1993*, pages 2890-2896.

The bill also authorized courts to place an offender under the supervision of a treatment facility for up to 6 months. The person may be either confined to the facility or released into the community for treatment.

IV. SUBSTANCE ABUSE AND CRIME

Obviously, the link between substance abuse and crime is not unique to Nevada; the problem exists in and is addressed by all 50 states, to greater or lesser degree. At the subcommittee's first meeting, however, lawmakers were informed that Nevada ranks high in the nation for alcohol consumption, number of hard-core cocaine addicts per capita, and number of drug-related arrests.⁶

In addition, members learned that approximately half the adults admitted to treatment programs funded by the Bureau of Alcohol and Drug Abuse (BADA) list alcohol as their primary substance addiction. Further, alcohol continues to be the "drug of choice" at all grade levels in Nevada public schools.

At the first meeting, lawmakers requested information concerning the extent of substance abuse in Nevada's incarcerated population. The subcommittee received updates throughout the study.

While these figures change continuously, as some inmates are released and others are admitted, the following tables together provide an estimate of the number and type of substance abusers in Nevada's prisons. Furnished by Nevada's Department of Prisons (DOP), the information is derived from self-reporting by offenders and a review of criminal justice records including pre-sentence investigations. The data is reported for the prison population as of January 28, 1994.

⁶ Cited from the Bureau of Alcohol and Drug Abuse's 1991-1992 State Plan, statistics included that Nevada has in the past been ranked second in wine consumption and number of cocaine addicts and third in drug-related arrests. Witnesses and legislators noted that, while useful as a point of reference, such statistics are limited in application and should be used cautiously, given the large number of transient residents and visitors to Nevada.

ANALYSIS OF INMATE POPULATION BY ABUSE CATEGORY

(Source: Nevada Department of Prisons - February 1994)

| Age Group | Classification of inmate by codes: 0-9 (See description of codes and category percentages of the whole which follow)* | | | | | | | | | | Total Sample |
|-----------|---|-----|-----|-----|-----|----|-----|-----|------|-----|--------------|
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | |
| <=19 | 96 | 2 | 4 | 3 | 2 | 1 | 6 | 16 | 13 | 4 | 147 |
| 20-24 | 409 | 28 | 24 | 25 | 7 | 13 | 9 | 99 | 202 | 54 | 870 |
| 25-29 | 412 | 79 | 59 | 19 | 8 | 20 | 8 | 136 | 334 | 54 | 1129 |
| 30-34 | 466 | 188 | 65 | 37 | 13 | 19 | 7 | 176 | 308 | 74 | 1353 |
| 35-39 | 324 | 164 | 44 | 13 | 8 | 8 | 4 | 120 | 218 | 59 | 962 |
| 40-44 | 228 | 138 | 24 | 12 | 9 | 10 | 9 | 84 | 140 | 32 | 686 |
| 45-60 | 338 | 175 | 15 | 10 | 4 | 0 | 4 | 129 | 113 | 21 | 809 |
| >=60 | 66 | 29 | 2 | 2 | 0 | 1 | 1 | 13 | 5 | 0 | 119 |
| TOTAL | 2339 | 803 | 237 | 121 | 51 | 72 | 48 | 773 | 1333 | 298 | 6075 |
| Percent | 39 | 13 | 4 | 2 | .08 | 1 | .08 | 13 | 22 | 5 | 100 |

* Each inmate is placed in the single category which most closely describes his or her abuse.

Code:

Percentage
of Population

| | |
|---|-----|
| 0 - No substance abuse history | 39 |
| 1 - Alcohol Abuse (Occasional legal and social problems related to alcohol) | 13 |
| 2 - Drug Abuse (Occasional legal and social problems related to drugs) | 4 |
| 3 - Alcohol/Drug Abuse (Occasional legal and social problems related to such use) | 2 |
| 4 - Serious Alcohol Abuse | .08 |
| 5 - Serious Drug Abuse | 1 |
| 6 - Serious Alcohol and Drug Abuse | .08 |
| 7 - Alcohol Factor in Crime | 13 |
| 8 - Drugs Factor in Crime | 22 |
| 9 - Alcohol and Drugs Factor in Crime | 5 |

In addition, legislators were informed early in the study that drugs and alcohol were a factor not only in the commission of crime, but also in revocations of parole and probation. For example, representatives of the Division of Parole and Probation (DPP) testified at the October 19, 1993, meeting that 85 to 90 percent of all probation and parole revocations involve substance abuse.

Finally, lawmakers and other study participants attempted to quantify the importance of substance abuse in rearrests. Recidivism, and the effects of treatment upon recidivism, was the focal point of each meeting and most of the subcommittee's deliberations.

The following table contains information on the assessment of prison populations provided by the DOP at the subcommittee's December 13, 1993, meeting:

| Prison Population Assessed By: (Data Source: Dept. of Prisons, Briefing Statement, December 13, 1993) | | | | | | | | | | |
|---|-----------------|--------|-------------|--------|-------------------|--------|-------------|--------|--------|--------|
| | Male Population | | | | Female Population | | | | Totals | |
| | No. | % | No. | % | No. | % | No. | % | No. | % |
| Gender | 1314 | 88.20 | | | 175 | 11.80 | | | 1489 | 100.00 |
| Substance Abuse and Age | Drug Related | | DUI Related | | Drug Related | | DUI Related | | | |
| Less Than 19 | 9 | .10 | 2 | .70 | 0 | .00 | 1 | 3.80 | | |
| 20-24 | 168 | 16.60 | 24 | 7.90 | 14 | 9.30 | 1 | 3.80 | | |
| 25-29 | 217 | 21.50 | 48 | 15.80 | 45 | 30.20 | 4 | 15.40 | | |
| 30-34 | 230 | 22.80 | 74 | 24.40 | 44 | 29.60 | 10 | 38.50 | | |
| 35-39 | 152 | 15.80 | 56 | 18.40 | 27 | 18.10 | 6 | 23.10 | | |
| 40-44 | 110 | 10.9 | 35 | 11.50 | 11 | 7.40 | 8 | 15.40 | | |
| 45-60 | 113 | 11.20 | 58 | 19.00 | 8 | 5.40 | 0 | | | |
| 61 and over | 9 | .90 | 7 | 2.30 | 0 | | 0 | | | |
| No Data | 2 | .20 | | | | | | | | |
| Totals | 1010 | 100.00 | 304 | 100.00 | 149 | 100.00 | 26 | 100.00 | | |
| Substance Abuse Offense Distribution: | | | | | | | | | | |
| DUI Causing Death | 41 | 3.10 | | | 5 | 2.90 | | | 46 | 3.10 |
| DUI | 218 | 16.50 | | | 16 | 9.10 | | | 234 | 15.90 |
| Leaving Accident Scene | 5 | .40 | | | 0 | | | | 5 | .40 |
| Reckless Driving | 5 | .40 | | | 0 | | | | 5 | .40 |
| DUI-Substantial Bodily Harm | 35 | 2.70 | | | 5 | 2.90 | | | 40 | 2.70 |
| Obtaining Controlled Substances under False Pretenses | 1 | .10 | | | 2 | 1.10 | | | 3 | .20 |
| Controlled Substances/Possession with Intent to Sell | 130 | 9.90 | | | 19 | 10.90 | | | 149 | 10.00 |
| Controlled Substances-Sale of | 127 | 9.70 | | | 12 | 6.90 | | | 139 | 9.30 |
| Conspiracy | 7 | .50 | | | 0 | | | | 7 | .50 |
| Controlled Substances-Furnish | 3 | .20 | | | 0 | | | | 3 | .20 |
| Controlled Substances-Possess | 312 | 23.70 | | | 72 | 41.10 | | | 384 | 25.40 |
| Trafficking | 428 | 32.60 | | | 44 | 25.10 | | | 472 | 31.70 |
| Controlled Substances-Manuf. | 2 | .20 | | | 0 | | | | 2 | .20 |
| Totals | 1314 | 100.00 | | | 175 | 100.00 | | | 1489 | 100.00 |
| Average Length of Stay in Months for Drug and DUI Offenders (Sentence Development Incomplete) | | | | | | | | | | |
| | No. | Stay | | | No. | Stay | | | No. | Stay |
| Drugs | 968 | 16.59 | | | 144 | 12.15 | | | 1112 | |
| DUI | 281 | 12.01 | | | 24 | 18.49 | | | 305 | |
| | 1249 | 15.56 | | | 168 | 15.56 | | | 1417 | 15.27 |

Again, reported numbers of recidivists varied throughout the study. The following information indicates that approximately 30 percent of incarcerated drug and alcohol offenders have a prior felony conviction.

| Prison Population Assessed By: | | (Data Source: Dept. of Prisons, Briefing Statement, December 13, 1993) | | | | | | | |
|--|-----------------|--|--|--|-------------------|--------|--|--|-------------|
| Drug and DUI Offenders Who Have One or More Prior Felony Convictions By Number of Priors (Including all felonies.) | Male Population | | | | Female Population | | | | Totals |
| | | | | | | | | | |
| 0 | 900 | 68.60 | | | 137 | 78.30 | | | 1037 69.60 |
| 1 | 195 | 14.80 | | | 25 | 14.30 | | | 220 14.80 |
| 2 | 98 | 7.50 | | | 6 | 3.40 | | | 104 7.00 |
| 3 | 62 | 4.70 | | | 6 | 3.40 | | | 68 4.60 |
| 4 | 24 | 1.80 | | | 0 | | | | 24 1.70 |
| 5 | 15 | 1.10 | | | 1 | .60 | | | 16 1.30 |
| 6 or more | 20 | 1.50 | | | 0 | | | | 20 1.50 |
| Totals | 1314 | 100.00 | | | 175 | 100.00 | | | 1489 100.00 |

V. DISCUSSION OF RECOMMENDATIONS

The subcommittee adopted 28 recommendations. The majority are recommendations for legislation; listed below, these are followed by the Bill Draft Request (BDR) number at the end of each. Also approved were recommendations for action by the subcommittee, which are discussed at the end of this section.

Substance Abuse Detection and Reporting

One problem identified early in the study was the lack of current statistics specific to Nevada concerning substance abuse and recidivism. Legislators questioned whether treated offenders were tracked, by either governmental agencies or treatment providers, to determine how many re-offended; the information could be used to justify expenditures for treatment and to assess the relative success of different programs. Members also were interested in estimating the number of crimes committed while under the influence. Thus, the subcommittee voted to:

- a. Amend Chapter 179A of the *Nevada Revised Statutes* (NRS), and other chapters as necessary, to:
 - (1) Include among the definitions of "record of criminal history" information gathered by an agency of criminal justice concerning the use of alcohol or controlled substances by persons arrested or found guilty of a felony or gross misdemeanor; and
 - (2) Include information concerning the use of alcohol or controlled substances by persons arrested or found guilty of a felony or gross misdemeanor submitted by agencies of criminal justice among that information that the Nevada Highway Patrol Division, which administers the Central Repository for Nevada Records of Criminal History, is required to collect, maintain, and arrange.
(BDR 14-232)
- b. (1) Require an arresting officer to indicate on the arrest report his assessment of whether or not the offender was under the influence of controlled substances or alcohol at the time of commission of the crime for which he was arrested, if the officer witnessed the crime, or if the offender exhibits signs of being under the influence;
- (2) Stipulate that the officer shall indicate on the report how the assessment was made (observation or urinalysis, for example); and
- (3) Provide that the assessment is to be reported to the Central Repository for Nevada Records of Criminal History.
(BDR 14-232)
- c. Amend Chapter 481 of the NRS to require the Peace Officer Standards and Training Committee to adopt regulations providing for training in the detection of use and abuse of alcohol or controlled substances. (BDR 43-233)

Civil Commitment and Drug Courts

Several witnesses testified concerning the success of civil commitment and diversionary programs. According to their reports, not only do offenders receive needed treatment, criminal justice costs (for prosecution and incarceration, for example) are reduced significantly. Many speakers recommended expanding the programs either through additional funding or by easing the eligibility requirements. Members agreed that participants in treatment programs should, to the extent possible, pay the associated costs.

It was also suggested that the civil commitment statutes are not uniformly applied throughout the state and their use should be encouraged, particularly in the rural areas of the state. The reasons cited for lower utilization of civil commitment include the high cost of required treatment for individuals in rural areas and a perceived "toughness" in sentencing for drug and alcohol offenses in these areas, resulting in a reluctance to request civil commitment.⁷

To increase the use of civil commitment, legislators recommended that eligibility be expanded and that existing permissive language in statute be changed to mandatory:

- **Amend NRS 458.300, which sets forth eligibility for civil commitment, and related provisions as necessary, to delete the following restrictions on eligibility:**
 - a. **Subsection 4 (certain previous felony and gross misdemeanor convictions, including trafficking); and**
 - b. **Subsection 7 (previous election and admittance to civil commitment).**
(BDR 40-234)
- a. **Amend Subsection 3 of NRS 458.320 to require, rather than allow, the court, in the case of a person who has satisfied all other conditions, to defer sentencing upon the person, impose conditions related to the treatment and probation, and place the person under the supervision of an approved facility for treatment.**

⁷ Letter dated April 8, 1994, from James J. Jackson, State Public Defender, to Assemblyman Bernie Anderson, Chairman of the A.C.R. 71 Subcommittee. See Appendix B for complete text.

- b. Stipulate that the person shall pay for the cost of treatment to the extent of his financial resources. If the person has insufficient resources to pay the cost of treatment, provide that the court shall, to the extent possible, assign him to a program with sufficient state or federal funding to defray the costs of his treatment.**

(BDR 40-235)

The effectiveness of treatment was emphasized by several witnesses. During the study, the subcommittee addressed the issue of *when* in the criminal justice process treatment should occur. Treatment may occur after a judgment of guilt but before sentencing, as in the civil commitment statutes, and it may take place while the offender is serving a sentence, as in the case of the "305" program. Finally, treatment may take place *before* criminal proceedings begin--known as "diversion"--as it does in a drug court program.

Supporters of diversionary programs emphasized the potential for savings in money (the program's cost is substantially less than that of prosecution and subsequent incarceration) and time (an offender begins treatment immediately). In addition, a study of the drug court in Dade County, Florida (one of the longest operating in the United States), revealed that program participants had fewer cases dropped, lower incarceration rates, less frequent rearrests, and longer times to rearrest.⁸

The Las Vegas drug court program was initiated in October, 1992. Testimony at the subcommittee's December 13, 1993, meeting indicated that the Las Vegas program, though successful, is limited in scope due to lack of funding. Although participants are assessed a fee, the amount is based upon their financial resources and administrative and treatment costs generally exceed that fee. Thus, lawmakers approved the following recommendation:

- Appropriate \$250,000 to the court administrator of the Eighth Judicial District for the expansion of its program of deferred prosecution established pursuant to NRS 453.580. Stipulate that the funds are to supplement and not replace funds currently utilized by the court for the program. (BDR S-238)**

⁸ "Assessing the Impact of Dade County's Felony Drug Court," by John S. Goldkamp and Doris Weiland. A National Institute of Justice evaluation bulletin, December 1993. The study followed more than 6,000 defendants over an 18-month period. The results of those admitted to the drug court program were compared to those of non-admitted defendants facing similar charges.

Representatives of the legal, correctional, and treatment communities stressed the need for a drug court program in the state's other population center, Washoe County. During the subcommittee's work session, testimony supported the feasibility and desirability of a Washoe County drug court. In addition, witnesses testified that there was interest on the part of the Second Judicial District Court for such a program. Thus, legislators voted to:

- a. **Appropriate from the State General Fund the amount of \$90,000, of which \$10,000 must be distributed to the court administrator of each district court that establishes or has established a treatment program pursuant to NRS 453.580.**
- b. **Provide that if a district court, with a program established before January 1, 1994, receives an additional and separate appropriation of money from the State General Fund, then that district court is not eligible for funds under this recommendation.**
(BDR S-237)

In addition, to address suggestions that eligibility be expanded to maximize the benefits of the program, the subcommittee approved the following proposal:

- **Amend NRS 453.3363, 453.3405, and related provisions as necessary, to allow the court to include among those persons against whom proceedings may be suspended:**
 - a. **Persons who have been previously convicted of drug and DUI offenses; and**
 - b. **Persons charged with unlawful possession for sale (NRS 453.337 and NRS 453.338).**
(BDR 40-236)

Out-of-state experts at the subcommittee's February meeting discussed the use of the drug court model in other criminal justice situations. In some jurisdictions, basic elements of the model, such as diversion from prosecution, treatment and counseling, and frequent court appearances, are applied to other types of offenses or offenders. A domestic violence court, for example, operates in Florida. Another program in Kalamazoo, Michigan, is designed specifically for female drug- and alcohol-abusers.

Further, witnesses emphasized that many substance abusers consider alcohol to be their primary addiction. Thus, the subcommittee approved a recommendation to enable counties to establish programs for DUI offenders that are similar to the drug court model:

- **a. Authorize counties to establish a program for deferred prosecution for persons charged with a first or second offense of NRS 484.379 (non-felony DUI). Such a program must:**
 - (1) Be at least 1-year in duration;**
 - (2) Include treatment for, and education, and counseling about substance abuse;**
 - (3) Include regular court appearances, as determined by the court;**
 - (4) Require a participant to pay the cost of treatment to the extent of his financial resources. If the person has insufficient resources to pay the cost of treatment, provide that the court shall, to the extent possible, assign him to a program with sufficient state or federal funding to defray the costs of his treatment; and**
 - (5) Stipulate that proceedings shall resume against a participant who does not successfully complete the program, the terms and conditions of which shall be set by the court.**
- b. Appropriate from the State General Fund the amount of \$85,000, of which \$5,000 may be transferred to the county treasurer of each county that establishes such a program. Further provide that any money not distributed at the end of the biennium must be divided equally among all counties that have established such a program, except that no county shall receive more than one-quarter of the entire amount. (BDR 43-239)**

The drug court concept received widespread support from a broad spectrum of public and private sector entities, including defense attorneys, the judicial community, law enforcement, and treatment providers. Prosecuting attorneys also favored the program, although concerns were raised over the possibility of

abuse of the program. Circuit Court Judge Harl Haas of Multnomah County, Oregon, testified that the program he administers requires an offender to agree to a stipulated set of facts before entering the program. Thus, to address prosecutors' concerns, the subcommittee approved the following recommendation:

- **Require that, in a deferred prosecution pursuant to NRS 453.3363, NRS 453.580, or the preceding recommendation, the offender shall:**
 - a. Agree to waive preliminary proceedings; and**
 - b. Agree to a stipulated set of facts, which will be admissible in a court of law if the person fails satisfactorily to complete the program,****before the court suspends proceedings.**
(BDR 43-239)

Sentencing for Drug and Alcohol Offenses

In addition to approving a recommendation concerning pre-trial diversion for DUI offenders, the subcommittee also reviewed existing statutes allowing treatment for persons *found guilty* of DUI. Witnesses indicated that the provisions allowing a person to petition the court to undergo treatment prior to sentencing (and receive a reduced sentence after successful completion) were not utilized fully or uniformly throughout the state. In particular, testimony indicated that offenders in rural areas were less likely to undergo treatment prior to sentencing than those in urban areas.

In addition, witnesses stressed the importance of receiving treatment after the first, misdemeanor offense, rather than receiving it in prison after a felony DUI conviction. Accordingly, members voted to amend the statutes to *require* the court to allow treatment for first-time DUI offenders:

- **Amend NRS 484.3792 and NRS 484.3794 to require the court to allow a person found guilty of a first violation of NRS 484.379 (DUI not involving substantial bodily harm) to undergo treatment as set forth in those provisions. (BDR 43-240)**

Certain members of the judicial community and representatives of trial lawyers testified regarding the disadvantages they found with mandatory minimum sentences. These witnesses, to greater or lesser degree, advocated the elimination of all mandatory minimum sentencing.

Given the scope of the study, however, the subcommittee considered only the minimum penalties for drug and alcohol offenses.⁹ Testimony indicated that certain judges are of the opinion that these minimums are "reactionary" and not realistic for every offender. Further, these judges contend that judicial discretion in sentencing is important to the independent and effective functioning of the judicial branch of government.

Nevertheless, several members argued that the severity of certain offenses, such as trafficking, made it difficult to support elimination of mandatory minimums. Thus, the subcommittee recommended eliminating the mandatory penalty for only one offense:

- **Eliminate the mandatory minimum sentence for unlawful use of a controlled substance (NRS 453.411). Provide that the crime is still deemed a felony for purposes of all other statutes. (BDR 40-241)**

Substance Abuse Treatment and Counseling in Local Detention Facilities and Courts

Dorothy B. North, Chairman of the Governor's Commission on Substance Abuse Education, Prevention, Enforcement, and Treatment, testified before the subcommittee at its fourth meeting. Ms. North proposed increasing the liquor excise tax and using the revenue generated from the increase for assessment and treatment of substance abusers in the criminal justice system.

Nevada Revised Statutes 369.330 sets forth the amount of alcohol excise tax levied upon liquor. There are four categories, each with a different rate. *Nevada Revised Statutes* 369.370 specifies that the tax is to be collected upon the

⁹ Witnesses who proposed the elimination of mandatory minimums also supported the concept of "truth in sentencing" at the same time. The subcommittee was of the opinion that, like the broader issue of elimination of all mandatory minimums, "truth in sentencing" was outside the scope of the subcommittee's jurisdiction. Therefore, members did not consider a related recommendation. See Legislative Counsel Bureau Bulletin No. 95-6, the report of the A.C.R. 76 Subcommittee on the Criminal Justice System in Nevada, for additional information concerning truth in sentencing and mandatory minimums.

"privilege of importing, possession, storing or selling liquors," and, further, that "all licensed importers and manufacturers of liquor in this state" shall pay the tax.

A portion of these funds is distributed among Carson City and the counties in proportion to their populations (NRS 369.173). There is no stipulation upon the use of these distributions. In addition, the portion of the hard liquor tax that exceeds \$1.90 per gallon (currently, \$0.15) is distributed to BADA and earmarked for substance abuse programs.¹⁰ The remainder of the liquor tax revenue goes into the State General Fund. There is no statutory provision earmarking its use.

In her remarks to the subcommittee, Ms. North noted that the targeted tax was a reasonable funding source, since the majority of alcohol sold in the state is consumed by a minority of drinkers. Further, it is this minority that is most likely to have a substance abuse problem and be in need of treatment. Ms. North estimated that a 10 percent increase in the liquor tax would raise approximately \$1 million annually.¹¹ (See Appendix C for the complete text of Ms. North's written testimony.)

Recognizing a need for substance abuse assessment, treatment, and counseling, particularly prior to or following incarceration, the subcommittee voted to recommend the liquor tax increase. The recommendation stipulates that the money be used to provide staff to as many of the state's courts and detention facilities as possible.¹²

- **a. Amend Chapters 369 and 458 of the NRS, and other chapters or provisions as necessary, to:**
 - (1) Increase the excise taxes listed in NRS 369.330 and 369.333 by 10 percent; and**

¹⁰ Nevada Revised Statutes 369.174. For FY 1993-1994, the budgeted amount was approximately \$641,000.

¹¹ Based upon collections of the past 2 bienniums, and *assuming no change in consumption levels* resulting from either the tax increase or any other factor, a 10 percent increase would generate approximately \$1.2 million annually.

¹² The original proposal would have directed a portion of the revenue increase to drug prevention programs in Nevada's public schools. Given the limits of the subcommittee's jurisdiction, however, the approved recommendation instead earmarks that portion to the state's juvenile courts and detention facilities.

- (2) Provide that the additional revenue generated by this recommendation be distributed to the Bureau of Alcohol and Drug Abuse (BADA).
 - b. (1) Require the BADA to utilize 80 percent of the additional revenue generated by this recommendation to:
 - (a) Hire or contract the services of substance abuse counselors, who shall be assigned to courts and local detention facilities and who shall assess the need for treatment for persons detained in facilities, on parole or probation, or otherwise under a court's jurisdiction; and
 - (b) Contract substance abuse treatment services for persons incarcerated in local detention facilities or released, either pending trial or on parole or probation, from local detention facilities; and
 - (2) Stipulate that the BADA shall allocate the services of counselors and treatment programs as necessary, to the extent of revenue available, with the goal of assisting as many courts and detention facilities as possible and making services available to as many substance abusers as possible; and
 - (3) Provide that the BADA shall use the revenue generated by this recommendation to supplement, not replace, funds currently utilized for this purpose. Further stipulate that allocation of services and treatment provided by this recommendation is contingent upon a court or local detention facility's maintenance of levels of similar service or treatment that were in existence as of July 1, 1994.
 - c. Require the BADA to utilize 20 percent of the additional revenue generated by this recommendation to provide similar services, as outlined in Section B, to juvenile offenders under the jurisdiction of juvenile courts and detention facilities.
- (BDR 32-242)

Changes to the "305" Program

The subcommittee members devoted considerable time and attention to the "305" program, which provides substance abuse treatment and counseling to felony DUI offenders (a third or subsequent DUI conviction within 7 years or DUI resulting in death or substantial bodily harm to another person).

To enter the program, an inmate must qualify for minimum security imprisonment.¹³ In addition, the offender must be within 18 months of parole or release from prison.

The program is completed in two phases. Phase I, which takes place within the prison facility, includes assessments, group and individual counseling, and discharge planning exercises. Phase II, which is conducted during residential confinement, is supervised by the Division of Parole and Probation.

During the study, lawmakers solicited updates from the Department of Prisons, the Division of Parole and Probation, and the BADA concerning the number of participants in the "305" program and the success of its treatment. Appendix D is the flow chart of "305" participants and their program outcomes that was presented to the subcommittee at its April 22, 1994, meeting.

Testimony indicated that "305," although relatively new, had proved to be successful in reducing recidivism. Still, witnesses discussed problems with the program and offered suggestions for its improvement. Among the criticisms of the current structure of the "305" program was that many participants who complete Phase I do not complete Phase II, either because they refuse enrollment in Phase II or because they do not meet the requirements for residential confinement. Statistics showed that offenders who complete Phase II have a much better rate of success than those who do not.

Thus, lawmakers approved a proposal requiring offenders to enroll in Phase II and stipulating that, if residential requirements cannot be met, Phase II may be completed in prison:

- **Amend Chapters 209 and 213 of the NRS to make the following changes to the program for the treatment of abusers of alcohol and drugs established pursuant to NRS 209.425:**

¹³ Requirements include no serious rule infractions while incarcerated; no convictions for sexual offenses; no serious violence during the previous year; and no history of escape attempts.

- a. **Require, before assigning an offender to the program:**
- (1) The Department of Prisons (DOP) to determine, to the extent possible, the length of time remaining on an offender's sentence, taking into consideration sentence credits; and**
 - (2) The Division of Parole and Probation to determine, to the extent possible, whether residential, employment, and other requirements for Phase II will be met.**
- b. **Provide that the DOP shall not assign an offender to the treatment program unless it is determined, to the extent possible, that both Phase I and Phase II may reasonably be completed by the offender, either in prison, if the offender's circumstances preclude residential confinement, or in prison and then residential confinement. Further provide that an offender may not be assigned to the treatment program unless he agrees to complete Phase II.**
- c. **Stipulate that an offender who meets the residential, employment, and other requirements, and who has sufficient time remaining on his sentence for completion of Phase II, shall be required to enroll in Phase II and complete his sentence and treatment in residential confinement.**
- (BDR 16-243)**

Juvenile Drug and Alcohol Offenses

Representatives of the Lyon County chapter of Mothers Against Drunk Driving (MADD) offered several proposals related to substance abuse among youthful offenders. Their testimony indicated that, since the pattern of substance abuse is formed early, early intervention is the best prevention against continuing substance abuse in adulthood.

Accordingly, the subcommittee approved the following recommendation for a legislative resolution:

- Adopt a resolution, directed to all law enforcement agencies and juvenile courts in Nevada, encouraging police officers to detect and arrest juvenile drug and alcohol offenders and the judiciary to**

impose meaningful and consistent sanctions upon these offenders. Include in the resolution the subcommittee's conclusion that:

- a. The majority of drug and alcohol abusers begin substance abuse at an early age;**
 - b. Early intervention, before a prolonged period of abuse and incarceration, is more successful at combatting substance abuse and related crime than later intervention;**
 - c. Early intervention is only possible if the problem is *identified* early;**
 - d. Law enforcement shares the responsibility with schools and parents to identify substance abuse, since many abusers do not acknowledge their abuse until forced to by a crisis such as an arrest; and**
 - e. Prompt and consistent sanctions at the first offense are most effective to "scare straight" juvenile offenders.**
- (BDR R-244)**

In addition, MADD representatives testified that driver's license revocations or other restrictions are effective deterrents for youthful DUI offenders. Their proposals strengthened existing sanctions. The subcommittee approved the following:

- Provide that, for a person under 18 years of age, a first violation of NRS 484.379 (non-felony DUI) is punishable by a mandatory 6-month driver's license revocation, in addition to any other penalties provided by law. (BDR 5-245)**
- Provide that a DUI offense for a person under 18 years of age must be included on that person's adult driving record for 7 years after the date of the offense. (BDR 43-246)**
- Amend NRS 62.226 and NRS 202.020 to require that, in addition to any other penalties provided by law, the unlawful purchase, consumption, or possession of an alcoholic beverage by a minor**

16 years of age or older is punishable by a mandatory 90-day driver's license revocation. (BDR 5-248)

- **Amend NRS 62.226 and NRS 202.020 to require that, in addition to any other penalties provided by law, the unlawful purchase, consumption, or possession of an alcoholic beverage by a child under 16 years of age is punishable by a mandatory 6-month delay in his eligibility for a driver's license. (BDR 5-248)**

Again in response to testimony that early intervention is more effective than later sanctions, the subcommittee approved a recommendation requiring a DUI offender under 21 years of age to undergo an evaluation to determine if he is a substance abuser:

- **a. Require a person under 21 years of age who is found guilty of any DUI violation to undergo an evaluation to determine if he is an abuser of alcohol or drugs. Further provide that:**
 - (1) The evaluation be conducted at an evaluation center, as that term is defined in NRS 484.3793, and that the center shall report the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required by the offender; and**
 - (2) The offender be enrolled in a program for drug and alcohol abusers conducted by a treatment facility, as defined in NRS 484.3793.**
- b. (1) Provide that the court shall order the offender, or his parent or guardian if he is under the age of 18 years and not emancipated, to pay the costs of:**
 - (a) The evaluation; and**
 - (b) The treatment, if recommended.**
- (2) Stipulate that, if the offender or his parent or guardian, if applicable, does not have the financial resources to pay all of those costs, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a**

**treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.
(BDR 43-247)**

Miscellaneous Recommendations for Legislation

Representatives of the Department of Prisons requested legislative support for the creation and funding of the position of substance abuse director within the department. The position had previously been funded by a federal grant, but the grant will not be renewed. Urging approval of the position, the department testified that a concerted, coordinated effort to administer substance abuse programs was necessary to maximize the state's limited resources.

Thus, the subcommittee approved the statutory creation of substance abuse program director. A related recommendation, which urges the Governor of Nevada to include funding for the position in the next Executive Budget, is included in the section of this report that contains recommendations for subcommittee action.

- **Create the position of substance abuse program director within the Department of Prisons (DOP). Stipulate that the duties of the director include, but are not limited to:**
 - a. Coordinating and overseeing the administration of all substance abuse programs operated or contracted by the DOP;**
 - b. Supervising all department personnel assigned to the administration of substance abuse programs; and**
 - c. Planning, initiating, and evaluating substance abuse programs.
(BDR 16-249)**

At one meeting, a witness suggested that legalization of controlled substances would result in less drug-related, violent crime. Subsequently, a representative of the Department of Employment, Rehabilitation, and Training argued that legalization of drugs would *increase* their use, and, thus, drug-related crime and substance addiction would *increase*. The subcommittee recommended the following recommendation for a legislative resolution:

- **Adopt a resolution, directed to the President and the United States Congress, opposing the legalization of drugs. Include in the resolution the subcommittee's conclusion that:**
 - a. **Use of the nation's two legal drugs, alcohol and tobacco, illustrates the effect that legalization would have upon use of drugs currently illegal;**
 - b. **Studies estimate that 10 times more Americans use alcohol and five times more use tobacco than use illicit drugs;**
 - c. **Legalization of drugs would thus increase their usage, as the experience of Italy and the Netherlands shows;**
 - d. **Drug use has been linked to many violent crimes, including domestic abuse, and the increased usage of drugs would thus increase the amount of crime committed while under their influence; and**
 - e. **Health care costs and economic productivity losses associated with drug addiction would increase dramatically.**
- (BDR R-250)**

In its consideration of an earlier proposal to increase data collected by law enforcement, the subcommittee emphasized the importance of determining which treatment programs are the most effective. Again, legislators were concerned that a lack of data hindered the state's efforts to control substance abuse. The subcommittee noted that the more successful programs could be slated for more funding.

While recognizing that recidivism is only one element of measuring the success--or failure--of treatment, members recommended the following appropriation to study the progress of treated substance abusers:

- a. **(1) Appropriate \$100,000 from the State General Fund to the Bureau of Alcohol and Drug Abuse to conduct a study of the success of treatment programs for drug and alcohol abuse in Nevada. Stipulate that the study must include, at a minimum, information concerning whether substance abusers enrolled in treatment programs have:**

- (a) Continued to abuse or remained free of alcohol or drug abuse;
 - (b) Completed educational or vocational programs;
 - (c) Obtained employment; or
 - (d) Been arrested or re-incarcerated.
- (2) Further require that the study must differentiate, as much as feasible, between types and length of treatment received, and that the success rate of treated abusers must be compared, as much as feasible, to that of substance abusers receiving no treatment.
- b. Require the bureau to report the results of its findings to the 1997 Legislature. Stipulate that the report must include a plan to encourage the use, through education or preferred funding, of those programs found to be most successful. (BDR S-251)

Recommendations for Subcommittee Action

The subcommittee considered several proposals for subcommittee action. Generally, these proposals dealt with areas of concern that the members found to be: technically outside the scope of the study, and thus not appropriately considered for legislation; better handled by subcommittee action because of time constraints; or more properly and effectively addressed by the Executive Branch.

During the study's February 1994 meeting, witnesses testified concerning the availability of Federal funds for substance abuse treatment and counseling. Two sources of such funds, Federal block grants and Edward Byrne Memorial grants, will be examined by the 104th Congress of the United States. Thus, the subcommittee voted to:

- Direct a letter from the subcommittee to the President of the United States and Nevada's Congressional Delegation expressing support for the following:

- a. **Continuance of Federal Substance Abuse Block Grants and their expansion to include prison populations; and**
- b. **Continuance of Federal funding for certain anti-drug programs, such as the Edward Byrne Memorial Anti-Drug Use Grant Fund, that may be slated for elimination.**

Throughout the study, legislators and other study participants noted the interdependence of certain elements of the substance abuse problem. In some cases, the subcommittee members invited presentations to increase their understanding of related issues, such as mandatory minimums or the impact health care reform, that did not fall directly within the scope of the study but had implications for the subcommittee's work.

In other cases, the subcommittee asked for additional information for inclusion in its report. One of these issues, that of funding programs for the indigent or persons placed in civil protective custody (CPC), was considered to be of particular importance.¹⁴

Accordingly, the subcommittee voted to:

- **Direct a letter from the subcommittee to the Bureau of Alcohol and Drug Abuse encouraging the bureau to evaluate the desirability of increasing the percentage of its total funding devoted to substance abuse treatment programs at facilities that provide such services to the indigent or persons placed there under civil protective custody pursuant to NRS 458.270.**

In response to the subcommittee's letter, the BADA reviewed existing funding for indigent and CPC programs and made certain recommendations. The bureau suggested that state funding for alcohol and drug abuse be concentrated in two areas: treatment of chronic alcoholics and capital improvements.¹⁵

¹⁴ *Nevada Revised Statutes* 458.250-458.280, inclusive, describe the intent of and procedures for CPC. The provisions are "intended to transfer the handling of public intoxication from statutes providing criminal sanctions * * * to statutes providing for civil protective custody." Absent another offense, a person under the influence of alcohol in a public place is placed in CPC by a peace officer. The person may be placed within either a licensed treatment facility or in a local detention facility.

¹⁵ The reasons for these recommendations are cited in a July 20, 1994 letter from Elizabeth M. Breshears, Chief of the BADA, to Denice L. Miller, principal staff to the A.C.R. 71 Subcommittee. See Appendix E for the complete text.

The final four recommendations relate to funding issues. In each case, the subcommittee considered the option of requesting a bill draft that included an appropriation. During discussion at the work session, however, members determined that the Executive Budget was the preferred vehicle to further these programs. Accordingly, the subcommittee voted to send a letter to Governor Robert J. Miller and to the Nevada Legislature's Legislative Commission expressing its support for the four programs.¹⁶

The first of the programs addressed in the subcommittee's letter is a substance abuse camp for drug- and alcohol-abusing offenders. The substance abuse camp, proposed by the DOP, is similar to residential therapeutic communities operating in other jurisdictions such as New Jersey, New York, Oregon, and Texas. Testimony from both the DOP and out-of-state witnesses indicated that treatment is significantly more effective when the eligible substance-abusing inmates (the therapeutic community) are separated from the general prison population.

In its presentation to the subcommittee, the DOP proposed to convert the Jean Conservation Camp into a substance abuse camp for both drug and alcohol offenders. While recognizing the benefits of treatment, the department's representatives noted that it currently cannot provide any formal substance abuse treatment other than the "305" program. The estimated cost of the substance abuse camp (not including normal costs of imprisonment) is \$600,000 annually.¹⁷

Although the subcommittee agreed that in-prison drug treatment was valuable and approved the concept of the dedicated camp, lawmakers decided that the appropriate action was to send a letter of support for the DOP's proposal to the Governor and the Legislative Commission:

- **Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$1,200,000 for the establishment of a substance abuse camp for drug- and alcohol-abusing offenders and urging the 1995 Nevada Legislature to approve such a budget item.**

¹⁶ See Appendix F for text of letters dated June 20, 1994 from Assemblyman Bernie Anderson, Chairman of the A.C.R. 71 Subcommittee, to Nevada Governor Robert J. Miller and to the Chairman and Members of the Legislative Commission.

¹⁷ A sample budget, submitted during the subcommittee's work session, is included as Appendix G to this report.

An earlier recommendation addressed the statutory creation of the position of substance abuse program director in the Department of Prisons. The subcommittee voted to include in its letter to the Governor and to the Legislative Commission its support of funding for the position:

- **Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$110,000 for the position of substance abuse program director and urging the 1995 Nevada Legislature to approve such a budget item.**

The third recommendation for funding concerns a proposal submitted by the Division of Parole and Probation. The proposal resulted from research conducted by the division at the request of the A.C.R. 71 subcommittee. In its review of parole and probation in other jurisdictions, the DPP identified successful approaches in Colorado and Oregon that it incorporated in its proposal to the subcommittee.

The DPP recommended a two-year pilot project, to be located in Washoe County, which would establish an assessment and "lifeskills" center for offenders with significant substance abuse and other problems.

According to representatives of the DPP, the center would provide a variety of programs including substance abuse counseling and treatment, education (particularly literacy), and job development. The project would combine the efforts of other community programs and public agencies in a comprehensive approach to assisting offenders. Day reporting, in which offenders report to staff on a daily basis and submit detailed, 24-hour schedules, would be an important element of the program.¹⁸

Testimony during the subcommittee's work session indicated that a successful program such as those operated in Oregon and Colorado could save taxpayers over \$1 million in a 2-year period. Savings would result from offenders remaining in the community, thus enabling them to seek employment, rather than being incarcerated at approximately \$60 a day in Washoe County Jail or \$38 a day in the state prison system.¹⁹ In addition, family groups are more apt to be preserved if the offender remains in the community and employed, thus reducing

¹⁸ See Appendix H, the DPP's Executive Summary of the proposed project, for additional information.

¹⁹ Costs of detention are cited in the DPP's Executive Summary.

the likelihood of dependent spouses and children needing social services. Finally, a lowered rate of recidivism would contribute to additional savings in the future.

Accordingly, the subcommittee voted to:

- **Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$850,000 for the establishment of a preassessment and lifeskills center in Reno for substance-abusing parolees and probationers and urging the 1995 Nevada Legislature to approve such a budget item.**

Out-of-state experts, treatment providers, and representatives of BADA all testified that substance abuse was a "relapsing" condition, often requiring multiple treatment episodes. Witnesses emphasized the importance of aftercare services to improve success rates of treatment.

According to information provided to the subcommittee by BADA, the bureau had requested \$200,000 per year for aftercare services for the 1991-1993 biennium, but the 1991 Nevada Legislature approved only \$150,000 annually. The program was initiated in Fiscal Year 1992, but the state's fiscal situation during the 1991-1993 biennium, which required the agency to reduce certain expenditures, forced its cancellation. Citing continued budgetary limitations, the agency did not request reinstatement of aftercare funding for the 1993-1995 biennium.

In consideration of growing evidence that treatment is cost-effective, however, and that aftercare services greatly enhance the success of treatment, the subcommittee approved a recommendation to express its support of aftercare funding to the Governor and to the Legislative Commission:

- **Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget for the Bureau of Alcohol and Drug Abuse the expenditure of \$150,000 for aftercare services and urging the 1995 Nevada Legislature to approve such a budget item.**

VI. CONCLUSION

Estimates of the number of substance-abusing Nevadans vary, as do statistics related to the costs of substance abuse and crime and the effectiveness of treatment. No one disputes, however, that the problem of substance abuse is growing and that its effect on crime is significant.

Similarly, there was widespread agreement during the A.C.R. 71 study that substance abuse treatment is effective and, in fact, cost-effective. *Measuring* that cost-effectiveness is, however, a difficult task. For example, the economic and societal savings associated with rehabilitation rather than future incarceration are nearly impossible to quantify. Further, since substance abuse is a relapsing condition, the results of treatment need to be reevaluated almost continuously. Finally, the state's growing population may camouflage the positive effects of any enacted legislation or funded programs.

Those limitations notwithstanding, the A.C.R. 71 Subcommittee is of the opinion that the recommendations contained in this report constitute valuable tools in the State's efforts to combat drug and alcohol-related crime. Further, lawmakers expect that the combined package of treatment and criminal justice alternatives will, ultimately, produce savings to Nevada taxpayers.

The subcommittee is grateful for the support and cooperation of the many participants who contributed their time, expertise, and suggestions to the study. A remarkable coalition of prosecutors, defense attorneys, the judiciary, treatment providers, corrections officials, and the community provided invaluable assistance to lawmakers. The recommendations considered and ultimately adopted by the members reflect the commitment to ending substance abuse that was shared by all who participated.

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APPENDIX A

Assembly Concurrent Resolution No. 71—Committee on Judiciary

FILE NUMBER 177

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of drug and alcohol abuse among criminal offenders.

WHEREAS, The rate of incarceration per capita in Nevada consistently ranks among the highest in the nation; and

WHEREAS, The average offender population of the Nevada state prison system increased from 1,843 in fiscal year 1980-1981 to 4,753 in fiscal year 1991-1992, an increase of 212 percent; and

WHEREAS, The average cost to house a Nevada offender was \$14,672 and total expenditures for the Department of Prisons was approximately \$110,000,000 in fiscal year 1991-1992; and

WHEREAS, National studies show that 80 percent of males who are arrested and 75 percent of females who are arrested test positive for illegal drugs; and

WHEREAS, Over 50 percent of prison offenders nationwide were under the influence of drugs or alcohol, or both, at the time they committed the offense for which they were incarcerated; and

WHEREAS, Over 13 percent of convicted offenders nationwide said they committed their offense to obtain money for drugs; and

WHEREAS, As many as 60 percent of Nevada offenders are estimated to have drug or alcohol problems; and

WHEREAS, The incarceration of offenders with drug or alcohol addiction contributes significantly to the overcrowding of the Nevada prison system and, thus, the early release of violent offenders; and

WHEREAS, Incarceration in Nevada constitutes custodial care rather than rehabilitation; and

WHEREAS, A drug or alcohol abuser who does not receive treatment in prison is still an abuser upon release and therefore at greater risk of recidivism; and

WHEREAS, Many drug treatment options have been studied and carried out nationwide; and

WHEREAS, The benefit-cost ratio of drug treatment programs is estimated to be 11.54, which means that substance abuse treatment saves society \$11.54 for every dollar invested; and

WHEREAS, Many nonviolent offenders could be diverted from the prison system to a mandated treatment program, reducing costs of incarceration and increasing the offenders' chance of becoming rehabilitated and contributing members of society; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of drug and alcohol abuse among criminal offenders in Nevada; and be it further

RESOLVED, That the study include an evaluation of possible treatment programs either in lieu of or concurrent with incarceration, and a review of state laws relating to drug- and alcohol-related offenses; and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 68th session of the Nevada Legislature.

APPENDIX B

Letter from James J. Jackson,
Nevada State Public Defender,
to A.C.R. 71 Subcommittee
Dated April 8, 1994



NEVADA STATE PUBLIC DEFENDER

JAMES J. JACKSON
STATE PUBLIC DEFENDER

April 8, 1994

303 E. PROCTOR STREET
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
TELEPHONE (702) 687-4880

Honorable Bernie Anderson, Assemblyman
Chairman, Nevada Legislature's Subcommittee
to Study Drug and Alcohol Abuse Among
Criminal Offenders
Nevada State Legislature
Capitol Complex
Carson City, Nevada 89710

Dear Assemblyman Anderson and Subcommittee Members:

This letter is in follow up to my comments made during the December 13, 1993 hearing in Las Vegas, regarding deferred prosecution, also known as the civil commitment statutes.

Specifically, I was requested by Senator McGinness to determine the frequency that these statutes are utilized in the rural areas of Nevada.

In that regard, I have personally contacted public defenders and private attorneys, experienced and familiar with the practices of the courts in various counties. In all, I obtained information covering twelve of the rural counties, and relied on past experiences regarding the other three not contacted. Washoe and Clark Counties were excluded from my research since both counties addressed their approaches before the subcommittee.

In general, the overall utilization of deferred adjudication/civil commitment under NRS 453 and 458 should be described as minimal at best. The First Judicial District (Carson City and Storey Counties), which I discussed in my December 13, 1993 testimony, and the Ninth Judicial District (Douglas County), are by far the leading "users" of these statutes. Douglas County apparently uses these statutes with a similar frequency as Carson City, as discussed in my December 13, 1993 testimony.

In all other counties, the utilization of either statute was universally described as being used sparingly, with

Honorable Bernie Anderson, Assemblyman
April 8, 1984
Page Two

deferred adjudication/civil commitment being requested only in 5 - 10% of all cases involving drugs or alcohol. This level of utilization has remained the same, despite statutory changes by the Nevada Legislature in 1993 expanding the persons eligible for consideration for deferred adjudication/civil commitment.

The most common reason cited for the low utilization of these statutes was the disparity of sentencing between Nevada's rural counties and urban centers of Reno, Las Vegas, and to a lesser degree Carson City. Attorneys described a much more hostile attitude in the rural counties toward even minor drug offenders than in the more populated areas, with one stating, "In [this county], a guy busted with two joints is treated like Jesse James."

Because of this perceived hostility, or "tough on drugs" attitude, the majority of the attorneys reported the deferments/commitments are simply not requested because it is pointless to ask. In one judicial district, in the 5 - 10% of the cases deferment/commitment is requested, it is only granted in approximately fifty percent of those cases. In yet another jurisdiction, the District Court will not even consider a NRS 453 or 458 request absent the agreement of the District Attorney; the chances of an agreement are dubious at best, resulting in, again, only a 5% utilization. The good news, however, is that when an agreement to recommend deferment/commitment is reached, the request is almost always granted.

Finally, a lesser stated reason for the low utilization of these statutes is the cost to the individual defendant. The courts generally require the cost of evaluation and treatment to be borne by the defendant to include probation supervision fees and the costs of testing for the presence of alcohol or drugs. Coupled with the requirement to repay substantial costs of receiving court-appointed counsel, sometimes as much as \$2,000, the financial commitment in one jurisdiction is such that many defendants simply cannot afford to pursue a deferment/commitment request.

In conclusion, it is obvious that in the rural counties of Nevada, deferred adjudication/civil commitment statutes are utilized in the vast minority of cases. Compared to the resources and programs available in Las Vegas and Reno, it does appear that some disparity in sentencing practices does exist between the urban and rural counties.

Honorable Bernie Anderson, Assemblyman
April 8, 1994
Page Three

To alleviate this, and because rural counties typically do not have either the funds or the caseload to justify creation of special programs, such as a "Drug Court," attorneys surveyed felt mandatory deferred adjudication/civil commitment would be appropriate for first time offenders. This would result only if the person, pursuant to an evaluation by a certified substance abuse counselor, is found to be suitable for and amenable to treatment. Further, the individual would also have to meet the current requirements for eligibility under NRS 453.3363 and 458. By such a change, a person would first have to choose treatment, be deemed suitable, and undergo the treatment and pay all of the costs of the program; if successful, the individual is able to keep his or her record "clean," while addressing their substance abuse problem. Further, such a change will alleviate, to a great extent, the perceived disparity between sentencing practices between urban and rural courts.

I hope this has satisfactorily answered your concerns. As always, please do not hesitate to contact me should you have any questions or require further information.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Jackson", followed by a horizontal line.

JAMES J. JACKSON
Nevada State Public Defender

JJJ/kd

APPENDIX C

Written Testimony of
Dorothy B. North, Chairman,
Commission on Substance Abuse Education,
Prevention, Enforcement, and Treatment
Submitted April 22, 1994

TESTIMONY

DELIVERED ON APRIL 22, 1994

TO:

**NEVADA LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY
DRUG AND ALCOHOL ABUSE AMONG CRIMINAL OFFENDERS
(A.C.R. 71)**

TESTIMONY DELIVERED BY:

**Dorothy B. North
Chairman
Commission on Substance Abuse Education,
Prevention, Enforcement and Treatment
Post Office Box 2580
Elko, Nevada 89803
(702) 738-8004**

Mr. Chairman, members of the Committee. For the record, my name is Dorothy North and I am Chairman of the Commission on Substance Abuse Education, Prevention, Enforcement and Treatment.

I address my remarks today toward possible solutions. Through four hearings you've heard a lot of testimony concerning the severity of the alcohol and drug problem in Nevada as it concerns criminal offenders. Earlier testimony today has discussed current funding levels for alcohol and drug treatment and the cost benefits. Nevada is fortunate to have a broad network of community based treatment programs. These programs are the first line of defense in lowering the number of incarcerated alcohol and drug offenders in Nevada. However, recent federal mandates for specific set asides in the federal allocation for treatment have resulted in an unfunded mandate that has shifted existing resources while providing no additional funds to meet the set asides.

In 1990, when the first Master Plan for this commission was introduced, Nevada's contribution per capita in plain dollars and cents was \$2.24. At that time, Nevada ranked 29th among the lower 48 states in per capita state dollars contributed, while the average contribution for other states in 1990 was \$4.17 per capita. In 1992, Nevada's contribution was still only \$2.45 per capita, a 21 cent increase from 1990. During the same time period Nevada dropped to 37th in the 50 states in per capita state dollars spent on substance abuse programs. Currently, approximately 43% of admissions in publicly funded treatment programs in Nevada come from the criminal justice system. However, resources are limited and most programs are at capacity with a waiting list. In order to provide adequate treatment on demand for criminal justice system clients, the present treatment system needs additional revenue.

I have some figures on the cost for augmenting existing services and, although the numbers probably seem large, it is still a much cheaper alternative than incarceration, which ranges from \$23,000 to \$30,000 per year per inmate.

For approximately \$1,000,000 a substance abuse counselor could be assigned through the publicly funded treatment system to work with every jail and justice court statewide. These costs include fringes, travel and administrative support. Averaging the last four years in gross excise liquor tax revenue in Nevada, an increase of 10% across the board on beer, wine and liquor would provide at a minimum approximately \$1,000,000 in increased revenue to the state. \$750,000 could be specifically earmarked for assessment and treatment of court-ordered, parole and probation, and incarcerated clients. The additional \$250,000 could be earmarked for the 17 school districts to fund alcohol and drug prevention programs, kindergarten through 12th grade. As you may already be aware, the schools have lost the biggest portion of the drug-free schools money that funded prevention activities.

Why target the liquor tax? Very simple. If you line up 10 drinks on the bar, seven of them will be consumed by one person. Putting it another way, over half of all the liquor that's consumed is

consumed by only 20% of the people that drink. These people are also the ones who will progress, if left untreated, to DUI's, felony DUI's, incarceration, increased medical costs, etc. Ipso facto - raising state revenue from this source will insure that the people who most need the treatment will pay for it themselves. Public testimony received by the Commission on Substance Abuse Education, Prevention, Enforcement and Treatment over the last couple of years indicates that the public has more of an appetite for this type of solution than in previous years.

According to 15 years of research on treatment outcomes done by NASADAD (National Association of State Alcohol and Drug Abuse Directors), for every dollar spent on alcohol and drug treatment society saves \$11.54 in other social costs. Treatment works and the success rate with the criminal justice system population may be even higher than the general population. The reduction in criminal activity and subsequent incarceration alone create an enormous cost savings.

I recommend that this Committee make a plan for pursuing a course of action that would increase the state's contribution to the existing treatment system, and I further recommend that the money be earmarked specifically for court-ordered, parole and probation, incarcerated clients and prevention programs, kindergarten through 12th grade. If the additional funding is provided in the 1995 legislative session, I further recommend that the Bureau of Alcohol and Drug Abuse present a report to the 1997 legislature concerning numbers of criminal justice system people treated and how many were successful. Success in this instance would be based on the clients's lack of further involvement with the criminal justice system, completion of treatment and participation in aftercare. I am sure that the numbers represented will justify the money spent at the front-end of the problem rather than at the level of repeated incarceration where it is most expensive.

Do you have any questions?

Thank you.

Attachment

Average Cost for a slot (1994) in the publicly funded BADA programs is:

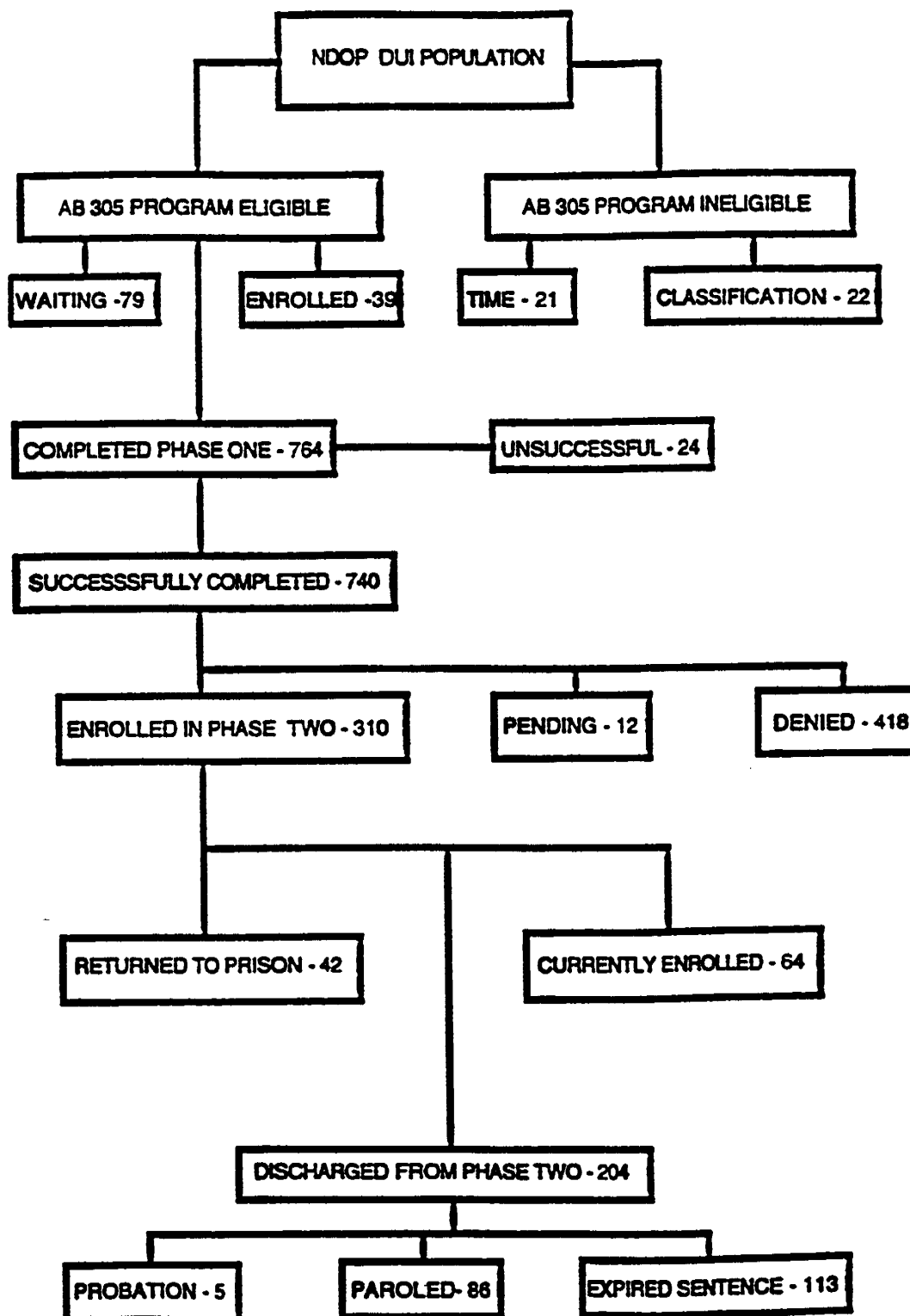
| | |
|--------------------------------------|------------------------|
| <i>Outpatient</i> | <i>\$ 1,588</i> |
| <i>Short Term Residential</i> | <i>\$12,981</i> |
| <i>Long Term Residential</i> | <i>\$11,329</i> |
| <i>Detoxification</i> | <i>\$16,322</i> |
| <i>Day Treatment</i> | <i>\$ 4,996</i> |
| <i>Intensive Outpatient</i> | <i>\$ 4,063</i> |
| <i>Methadone</i> | <i>\$ 1,828</i> |
| <i>Transitional Housing</i> | <i>\$ 5,981</i> |

Slot cost is defined as a year's worth of service no matter how many people go through treatment in that one slot.

APPENDIX D

A.B. 305 Program Flow Chart
Submitted by BADA
April 22, 1994

AB 305 PROGRAM FLOW CHART



APPENDIX E

Letter from Elizabeth M. Breshears,
Chief, Bureau of Alcohol and Drug Abuse,
to A.C.R. 71 Subcommittee
Dated July 20, 1994

BOB MILLER
Governor

STATE OF NEVADA



CAROL A. JACKSON
Director

STEPHEN A. SHAW
Administrator

DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION

REHABILITATION DIVISION

505 E. King Street, Room 500

Carson City, Nevada 89710

(702) 687-4790 • Fax (702) 687-6239

July 20, 1994

Denice Miller
Senior Research Analyst
Legislative Building
Capitol Complex
Carson City, Nevada 89710

RE: Response to Assemblyman Anderson's letter of June 14

Dear Ms. Miller:

This letter is in response to Assemblyman Anderson's request (copy attached) for information on treatment funding. Essentially, he is requesting three items:

- (1) A funding summary of indigent/homeless care
- (2) An accounting of expenditures for civil protective custody services
- (3) A discussion of future funding needs

Please forward this response to Mr. Anderson and members of the ACR 71 Subcommittee. If you need any additional information, contact me at your earliest convenience, and I will do my best to meet your requirements.

Indigent/homeless care:

The Bureau of Alcohol and Drug Abuse (BADA), combines Federal Block grant funds and state appropriations to support a system of drug and alcohol treatment facilities throughout the State. The providers are private, non-profit corporations which are specifically designed for this purpose.

BADA funding is designed to provide financial support to individuals who cannot afford to pay for treatment services. Funded programs evaluate client ability to pay, and fees are assessed on

a sliding fee scale. Even though a client may be indigent, they cannot be denied admission solely on the basis of inability to pay. This is both a condition of the funding award and a requirement for program accreditation.

During the most recent calendar year, 44% of our clients were homeless upon admission. During that same period, 17% of the individuals admitted to our treatment centers indicated that they had no source of income.

A spreadsheet of current treatment capacity and expenditures is attached for your review.

Civil Protective Custody (CPC)

NRS 458.250/.270 outlines the legislative intent and procedures for civil protective custody (CPC). NRS 458.097(2) establishes civil protective custody as a priority area of funding with monies which are allocated to the Bureau of Alcohol and Drug Abuse through the liquor tax (NRS 369.174).

During the current fiscal year, the Bureau provides \$244,462 in funding which is specifically earmarked for CPC. This funding is limited to the following treatment facilities:

| | |
|------------------------------|-----------|
| WESTCARE (Las Vegas) | \$ 58,400 |
| NASAC (Reno) | \$167,675 |
| Carson Detoxification Center | \$ 18,387 |

As referenced above, the Bureau of Alcohol and Drug Abuse provides some support to communities to conduct their civil protective custody function. However, the level of financial and in-kind support for this function varies significantly from community to community.

While some responsibility for the resolution of this matter clearly lies with the Bureau, local communities must assume a significant financial role in this activity. Civil protective custody is, by definition, a law enforcement function which is generally a local government matter. Additionally, local business establishments, particularly casinos, are generally most interested in containing public inebriates.

It is important to note that in addition to the funding for civil protective custody, the Bureau of Alcohol and Drug Abuse also provides funding for social model detoxification services in these same communities. Detoxification, while often colocated with CPC, is generally considered to be a treatment service at the entry point on the treatment continuum. The average length of stay in a detoxification setting is much longer, and the expectation is that the clients will continue to avail themselves of services.

During the current fiscal year, the Bureau provides \$516,220 in funding which is specifically earmarked for detoxification. This

funding is limited to the following treatment facilities:

| | |
|------------------------------|-----------|
| WESTCARE (Las Vegas) | \$131,400 |
| NASAC (Reno) | \$248,308 |
| Carson Detoxification Center | \$128,712 |
| Vitality Center (Elko) | \$ 52,800 |

Future funding:

The funding picture for homeless/indigent clients in the near future will be impacted by four distinct dynamics:

(1) Federal block grant mandates-

In the reorganization/reauthorization legislation which was enacted in 1991, Congress sent a clear message to the field regarding national treatment priorities. Funding mandates focus expenditures on issues which had previously been the purview of public health officials. Much of this shift in orientation has been driven by the twin epidemics of HIV disease and tuberculosis. Specifically, Federal legislation requires that the State of Nevada develop programming for these target populations and issues:

- (A) Pregnant Women and Women with dependent children -
This requirement includes prenatal care and child care services for women in treatment.
- (B) Communicable diseases-
All individuals who present for treatment must be given the opportunity to be tested for HIV and TB, including pretest and posttest counseling, and certain treatment options.
- (C) Intravenous drug users-
Individuals with a history of injection drug use rank behind only pregnant addicts in terms of treatment priority.

These programs, which are quite expensive to implement, have a profound effect upon the indigent and homeless clients that you inquired about. The Bureau of Alcohol and Drug Abuse must commit a disproportionate amount of resources to small, albeit needy, populations. As the cost for sophisticated treatment alternatives increases, the number of clients treated declines, if total expenditures are held constant. The consequence of this targeted spending approach is that some of our more traditional clients are left without treatment alternatives.

For example, in Nevada about 50% of our clients consider alcohol to be their primary addiction. Unless they are pregnant, women with dependent children or injection drug users, their access to programming is limited. The net effect of this funding artifact is a de facto deinstitutionalization of chronic alcoholics, which puts a significant strain on other social service and judicial systems.

(2) Health care reform -

As of this writing a number of possible health care reform packages are being considered by Congress. This may have a profound affect upon the indigent/homeless population, depending upon how the benefit package is constituted. For example, the President's Health Security Plan limits residential care for substance abuse to 30 days per episode and 60 days per year. Under those conditions, therapeutic community care would be excluded from coverage, as would long term residential settings such as half-way houses. The potential consequence of health care reform could again be the deinstitutionalization of the chronically dependent population. Therefore, individuals who might otherwise have treatment opportunities would become likely candidates for the criminal justice system.

(3) Growth:

The stunning growth of our state has put virtually all of the social service delivery system behind the power curve. Since drug and alcohol dependency have an immediate and direct impact on child abuse, criminal behavior, welfare and health costs, this dynamic exacerbates problems within other agencies. Absent formula modifications, the only chance that we have to meet this need is through a dramatic increase in the absolute funding level.

(4) Bricks and Mortar:

The drug and alcohol treatment community has historically performed admirably by utilizing less-than-standard physical plants within the context of social model treatment programming. However, the recent implementation of the Americans with Disabilities Act (ADA) and new OSHA requirements will require extensive modifications to existing facilities. In Reno, one facility recently closed, and another is considering dropping a service delivery component largely because of their financial inability to comply with these requirements. Our Federal funding source places significant restrictions on the building construction and rehabilitation. Unfortunately, the most affected populations are often those with chronic dependency.

SUMMARY AND RECOMMENDATIONS:

Your Subcommittee has received a tremendous amount of testimony regarding the impact of drug and alcohol abuse/dependency upon a variety of social issues, particularly within a criminal justice context. You have heard that the majority of individuals in prison have substance abuse problems. 40% of the homeless population has alcohol dependency problems, and another 20% are addicted to other drugs (NIDA, May 1992, p. 5, attached). The social ills associated with chemical dependency are legion.

We recommend that, as a general theme, state funding for alcohol and drug abuse be concentrated in two areas:

(1) Chronic alcoholics

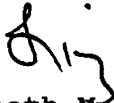
As the Federal funding focuses more upon women and injecting drug users, the responsibility for the treatment of chronic alcoholics falls to state and local officials, whether the funding mechanism is a Block Grant or a function of health care reform. State emphasis should be upon long term residential care for this population. We recommend some caution regarding the funding of CPC facilities by the state, because of the potential disincentive to local governments, where the responsibility ultimately rests.

(2) Capital Improvements

As referenced above, our ability to utilize Federal Block grant funds to renovate, upgrade and rehabilitate the physical plants of treatment centers is limited. This initiative is not driven by aesthetics, but rather the health and safety of clients and employees. OSHA requirements for TB control mechanisms will require some substantive modifications to existing facilities. The BADA budget proposal for the next biennium will include projected expenditures for this purpose.

I hope that this information is helpful in assisting you and your subcommittee in formulating plans for the upcoming session. Thank you for the opportunity to discuss these issues, and please call if you need additional information.

Sincerely,



Elizabeth M. Breshears, Chief
Bureau of Alcohol and Drug Abuse

encl.

SERVICES FUNDED BY BADA

| TYPE SERVICE | PROGRAM | LOCATION OF SERVICES | NUMBER OF SERVICES | FUNDING |
|-----------------------------------|-------------------|---------------------------------|-------------------------------|--------------------|
| Short term residential | NASAC | Reno | 25 Beds | \$345,000 |
| | New Frontier | Fallon | 14 Beds | \$200,000 |
| | Vitality Center | Elko | 15 Beds | \$214,581 |
| | Salvation Army | Las Vegas | 18 Beds | \$170,000 |
| | Sierra Recovery | Lake Tahoe | 1 Bed | \$ 18,000 |
| Category total | | | 73 Beds | \$947,581 |
| Long term residential | Ridge House | Reno | 10 Beds | \$ 76,500 |
| | STEP 2 | Reno | 10 Beds | \$146,238 |
| | Adolescent Care | Reno | 7 Beds | \$ 57,449 |
| | WESTCARE | Las Vegas | 72 Beds | \$789,600 |
| | EOB | Las Vegas | 30 Beds | \$269,000 |
| | Healthy Families | Las Vegas | 16 Beds | \$264,556 |
| | Vitality Center | Elko | 7 Beds | \$115,663 |
| Category Total | | | 152 Beds | \$1,719,006 |
| Day/evening treatment | WESTCARE | Las Vegas | 12 Slots | \$ 43,680 |
| | Churchill | Fallon | 6 Slots | \$ 25,000 |
| | Adolescent Care | Reno | 20 Slots | \$121,160 |
| Category Total | | | 38 Slots | \$189,840 |
| Outpatient | NASAC | Reno | 22 Slots | \$ 30,000 |
| | Adolescent Care | Reno | 25 Slots | \$ 40,091 |
| | Family Counseling | Reno | 60 Slots | \$ 99,840 |
| | Ridge House | Reno | 20 Slots | \$ 16,490 |

| | | | | |
|-----------------------------|-------------------------|---|------------------|--------------------|
| | Community Counseling | Carson City | 70 Slots | \$118,000 |
| | Lyon Council | Yerington, Dayton, S. Springs | 35 Slots | \$ 61,747 |
| | Churchill Council | Fallon, Lovelock, Yomba, Fernley | 70 Slots | \$132,000 |
| | Mineral Council | Hawthorne | 23 Slots | \$ 45,220 |
| | Vitality Center | Elko, Winnemucca, Wendover, Ely | 83 Slots | \$121,948 |
| | Bridge Counseling | Las Vegas, Laughlin | 74 Slots | \$103,402 |
| | Community Counseling | Las Vegas | 100 Slots | \$140,000 |
| | EOB | Las Vegas | 45 Slots | \$ 63,000 |
| | LVIC | Las Vegas | 22 Slots | \$ 45,000 |
| | HBFC | Las Vegas | 6 Slots | \$ 84,000 |
| | Salvation Army | Las Vegas | 44 Slots | \$ 52,801 |
| | Nevada Treatment Center | Las Vegas | 150 Slots | \$250,000 |
| Category Total | | | 849 Slots | \$1,403,539 |
| Intensive Outpatient | Bridge | Las Vegas | 32 Slots | \$130,000 |
| | Adolescent Care | Reno | 20 Slots | \$ 81,300 |
| | Nevada Treatment Center | Las Vegas | 50 Slots | \$385,000 |
| Category Total | | | 102 Slots | \$596,300 |
| Methadone | Nevada Treatment Center | Las Vegas | 320 Slots | \$585,000 |
| Category Total | | | 320 Slots | \$585,000 |

APPENDIX F

Letters from Assemblyman Bernie Anderson,
Chairman of the A.C.R. 71 Subcommittee, to
Governor Robert J. Miller
and
Assemblyman Joseph E. Dini, Jr.
Dated June 20, 1994



Nevada Legislature

SIXTY-SEVENTH SESSION

June 20, 1994

BERNIE ANDERSON
ASSEMBLYMAN
District No. 31

COMMITTEES:
Vice Chairman
Labor and Management
Member
Judiciary
Transportation

The Honorable Robert J. Miller
Governor of the State of Nevada
State Capitol Building
Carson City, Nevada 89710

Dear Governor Miller:

As chairman of the Legislative Commission's Subcommittee to Study Drug and Alcohol Abuse Among Criminal Offenders (A.C.R. 71), I am writing to express the subcommittee's support for various proposals presented during our recently completed interim study.

During its five meetings, the subcommittee enjoyed the cooperation of several state agencies, including the Bureau of Alcohol and Drug Abuse, the Division of Parole and Probation, and the Department of Prisons. Their assistance, as well as that of local agencies, organizations, and concerned citizens, contributed to a package of recommendations for legislation designed to curb the growth of crime related to substance abuse. Behind each of these recommendations is the belief shared by subcommittee members and countless study participants: that incarceration alone is not the answer, because there is no rehabilitation without treatment.

In addition to approving recommendations for legislation, the subcommittee voted to send a letter of support concerning certain proposals to your office and to the Legislative Commission. In these cases, the members determined that the appropriate vehicle for action was the Executive Budget, rather than separate legislation initiated by the subcommittee. A discussion of each proposal follows.

Substance Abuse Camp

A substance abuse camp, located at an existing facility within the Department of Prisons, would require funding of approximately \$1.2 million over a 2-year period. This amount would cover treatment services, not the costs of incarceration, which would, in any event, be expended.

Testimony concerning successful programs in other states confirmed that treatment provided in a "residential therapeutic community" setting—in which substance abusers are incarcerated in a separate facility—is significantly more effective than treatment given to an inmate housed in the general prison population.

DISTRICT OFFICE:

747 Glen Meadow Drive, Sparks, Nevada 89434 • (702) 358-8113 • Fax No. (702) 358-5825

LEGISLATIVE BUILDING:

401 S. Carson Street, Carson City, Nevada 89710 • (702) 687-3582 or 687-5739 • Fax No. (702) 687-5962

Further, recidivism rates for inmates who successfully complete a program are considerably lower than rates for inmates who receive little or no treatment. Thus, a substance abuse camp for drug and alcohol offenders will, ultimately, result in future savings to the state's taxpayers. We must recognize, however, that Nevada's population is growing; actual prison costs may rise, even as the rate of recidivism declines.

At the request of the subcommittee, the Department of Prisons submitted a preliminary budget for the substance abuse camp. The subcommittee strongly recommends that you include the proposal in the 1995-1997 Executive Budget.

Preassessment and Lifeskills Center

A preassessment and lifeskills center, proposed by the Division of Parole and Probation, would require funding of approximately \$850,000 in the next biennium. The pilot project would be established in Reno. At the end of the 2 years, the division would analyze the center's effectiveness in reducing recidivism among substance-abusing parolees and probationers.

The division's proposal was thoroughly researched and carefully structured. Supporting documents emphasized the substantial savings to taxpayers resulting from the center's work in education, counseling, and lifeskills training of offenders. Clearly, an offender who is released on parole and probation without the skills or support structure necessary to find and keep a job is likely to continue to abuse alcohol or drugs and, possibly, commit another crime. But with job training and counseling, that person can become a self-supporting, contributing member of society.

While proposed as a pilot project, we urge that the preassessment and lifeskills center be included not only in the 1995-1997 budget but in future plans as well.

Aftercare Services

A program of aftercare services for substance abusers would require funding of approximately \$150,000 per year. According to information provided by the Bureau of Alcohol and Drug Abuse, the 1991 Legislature approved such funding and the program was initiated in Fiscal Year 1992. However, the need to curtail expenditures during the state's fiscal crisis forced its cancellation.

The subcommittee heard considerable testimony concerning the results of treatment. Frequently, witnesses noted that substance abuse is a chronic, relapsing condition. Aftercare services, however, greatly improve the success rate of treatment.

Thus, we recommend that the program of aftercare services be reinstated in the Executive Budget.

Substance Abuse Program Director

The subcommittee approved a recommendation to create, in statute, the position of substance abuse program director within the Department of Prisons. The duties of the director would include the administration, planning, and evaluation of the department's substance abuse programs. The position would require funding of \$110,000 over the next biennium.

According to testimony before the subcommittee, the position had recently been funded through a Federal grant. Although the need continues, the grant will not be renewed. Thus, the subcommittee supports the inclusion of this position in the 1995-1997 budget.

As I mentioned earlier, the subcommittee is directing another letter to the Legislative Commission to urge approval of these budget items. It is our hope that Nevada's Legislative and Executive Branches will work together to solve the difficult problem of substance abuse in our state.

Sincerely,

Assemblyman Bernie Anderson
Chairman, A.C.R. 71 Subcommittee

BA/gj:40826-1.3

cc: Senator Joseph M. Neal, Jr., Vice Chairman
Senator Matthew Q. Callister
Senator Mike McGinness
Assemblywoman Vonne S. Chowning
Assemblyman David E. Humke
Assemblyman Richard D. Perkins
Assemblyman Louis A. Toomin



Nevada Legislature

SIXTY-SEVENTH SESSION

COMMITTEES:
Vice Chairman
Labor and Management
Member
Judiciary
Transportation

BERNIE ANDERSON

ASSEMBLYMAN

District No. 31

June 20, 1994

Assemblyman Joseph E. Dini, Jr.
Chairman, Legislative Commission
Nevada State Legislature
Carson City, Nevada 89710

Dear Assemblyman Dini:

As chairman of the Legislative Commission's Subcommittee to Study Drug and Alcohol Abuse Among Criminal Offenders (A.C.R. 71), I am writing to express the subcommittee's support for various proposals presented during our recently completed interim study.

During its five meetings, the subcommittee enjoyed the cooperation of several state agencies, including the Bureau of Alcohol and Drug Abuse, the Division of Parole and Probation, and the Department of Prisons. Their assistance, as well as that of local agencies, organizations, and concerned citizens, contributed to a package of recommendations for legislation designed to curb the growth of crime related to substance abuse. Behind each of these recommendations is the belief shared by subcommittee members and countless study participants: that incarceration alone is not the answer, because there is no rehabilitation without treatment.

In addition to approving recommendations for legislation, the subcommittee voted to send a letter of support concerning certain proposals to the Office of the Governor and to the Legislative Commission. In these cases, the subcommittee determined that the appropriate vehicle for action was the Executive Budget, rather than separate legislation initiated by the subcommittee. A discussion of each proposal follows.

Substance Abuse Camp

A substance abuse camp, located at an existing facility within the Department of Prisons, would require funding of approximately \$1.2 million over a 2-year period. This amount would cover treatment services, not the costs of incarceration, which would, in any event, be expended.

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Testimony concerning successful programs in other states confirmed that treatment provided in a "residential therapeutic community" setting--in which substance abusers are incarcerated in a separate facility--is significantly more effective than treatment given to an inmate housed in the general prison population.

Further, recidivism rates for inmates who successfully complete a program are considerably lower than rates for inmates who receive little or no treatment. Thus, a substance abuse camp for drug and alcohol offenders will, ultimately, result in future savings to the state's taxpayers. We must recognize, however, that Nevada's population is growing; actual prison costs may rise, even as the rate of recidivism declines.

At the request of the subcommittee, the Department of Prisons submitted a preliminary budget for the substance abuse camp. Should this item be included in the 1995-1997 Executive Budget, the subcommittee strongly recommends approval by the 1995 Nevada Legislature.

Preassessment and Lifeskills Center

A preassessment and lifeskills center, proposed by the Division of Parole and Probation, would require funding of approximately \$850,000 in the next biennium. The pilot project would be established in Reno. At the end of the 2 years, the division would analyze the center's effectiveness in reducing recidivism among substance-abusing parolees and probationers.

The division's proposal was thoroughly researched and carefully structured. Supporting documents emphasized the substantial savings to taxpayers resulting from the center's work in education, counseling, and lifeskills training of offenders. Clearly, an offender who is released on parole and probation without the skills or support structure necessary to find and keep a job is likely to continue to abuse alcohol or drugs and, possibly, commit another crime. But with job training and counseling, that person can become a self-supporting, contributing member of society.

While proposed as a pilot project, we hope that the preassessment and lifeskills center will be included not only in the next budget but in future plans as well.

Aftercare Services

A program of aftercare services for substance abusers would require funding of approximately \$150,000 per year. According to information provided by the Bureau of Alcohol and Drug Abuse, the 1991 Legislature approved such funding and the program was initiated in Fiscal Year 1992. However, the need to curtail expenditures during the state's fiscal crisis forced its cancellation.

The subcommittee heard considerable testimony concerning the success of treatment. Frequently, witnesses noted that substance abuse is a chronic, relapsing condition. Aftercare services, however, greatly improve the success rate of treatment.

Thus, the subcommittee urges that the program of aftercare services, if reinstated in the Executive Budget, receive the full support of the Legislature.

Substance Abuse Program Director

The subcommittee approved a recommendation to create, in statute, the position of substance abuse program director within the Department of Prisons. The duties of the director would include the administration, planning and evaluation of the department's substance abuse programs. The position would require funding of \$110,000 over the next biennium.

According to testimony before the subcommittee, the position had recently been funded through a Federal grant. Although the need for the position continues, the grant will not be renewed. Thus, the subcommittee encourages approval of this position in the 1995-1997 budget.

As I mentioned earlier, the subcommittee is directing another letter to Governor Robert J. Miller to urge the inclusion of these items in the next Executive Budget. It is our hope that Nevada's Legislative and Executive Branches will work together to solve the difficult problem of substance abuse in our state.

Sincerely,

Assemblyman Bernie Anderson
Chairman, A.C.R. 71 Subcommittee

BA/gj:40826.3

cc: Senator Joseph M. Neal, Jr., Vice Chairman
Senator Matthew Q. Callister
Senator Mike McGinness
Assemblywoman Vonne S. Chowning
Assemblyman David E. Humke
Assemblyman Richard D. Perkins
Assemblyman Louis A. Toomin

APPENDIX G

Department of Prisons,
Example Budget for Proposed Substance Abuse Camp
Submitted May 23, 1994

**EXAMPLE BUDGET
SUBSTANCE ABUSE CAMP
Jean Conservation Camp**

1.2 Million/2 years
\$600,000/1 year
112 inmates (camp capacity)
medications - aftercare assessment

01 Salaries (\$500,000 per year)

1 Program Director
10 Substance Abuse counselors
4 MSW's (Family Therapists)
1 Recreation Therapist
1 Vocational Counselor
3 WPO/Clerical

Note: These salaries are based on State salary schedules; may be reduced by 1) Contract Services, 2) Using existing DUI Funds.

80 Drug Testing \$(15,000 per year - \$30,000/two years)

Determined cost of 3,000 urine drug tests per year and two years with existing testing technology.

04 Operating (\$65,000 per year - \$130,000/two years)

Medications - Antabuse, Methadone, etc.

Aftercare - Treatment only

Supplies - Books, reading materials, tapes on recovery, staff training and development, Program Assessment and Tracking (internal)

TWO YEARS

05 EQUIPMENT \$20,000/two years

3 T.V.'s - 3 V.C. R.s

Recreational Equipment

Computer/Word Processing equipment for clerical

Other Audiovisual materials - Blackboards, chalk, slide projector

07 - BUILDING AND GROUNDS \$20,000/two years

\$10,000 per year to retrofit, renovate, remodel existing camp

DUI CAMP PROPOSAL - JCC
 MEDICAL DIVISION - NDOP
 FY 96-97 - TOTAL COST \$1.617 MILLION/BIENNIUM
 112 INMATES CAPACITY

SALARIES-01 (EMPLOYER PD)

| POSITION | GR/STP | NER | RATE | SALARY | FRINGE | TOTAL |
|-------------------------|--------|-----|-----------|-----------|-----------|-----------|
| PROGRAM DIRECTOR | 37-01 | 1 | \$31.323 | \$31.323 | \$10.330 | \$41.653 |
| SUB ABUSE COUNSELOR | 32-01 | 10 | \$25.315 | \$253.150 | \$69.047 | \$322.197 |
| MSW (FAMILY THERAPISTS) | 35-01 | 4 | \$28.748 | \$114.992 | \$32.477 | \$147.469 |
| REC THERAPIST | 35-01 | 1 | \$28.748 | \$28.748 | \$9.648 | \$38.396 |
| VOCATIONAL COUNSELOR | 32-01 | 1 | \$25.315 | \$25.315 | \$8.739 | \$34.054 |
| CLERICAL WFO II | 25-01 | 1 | \$19.042 | \$19.042 | \$7.079 | \$26.121 |
| CLERICAL WFO I | 23-01 | 2 | \$17.612 | \$35.224 | \$13.401 | \$48.625 |
| | | 20 | \$176.103 | \$507.794 | \$150.721 | \$658.515 |

| RAD-JCC | NER | DAYS | RATE | TOTAL |
|--------------------------|-----|------|--------|-----------|
| RURAL AREA DIFFERENTIAL | 20 | 227 | \$6.00 | \$27.240 |
| TOTAL ANNUAL SALARY COST | | | | \$685.755 |

ASSUME ALL NEW HIRES 3 MONTHS W/O INSURANCE AND ALL HIRED IN AT STEP 1

OPERATING-04 \$65,000/YR

OFFICE SUPPLIES \$5000
 PRINTING FORMS/CERTIFICATES/HANDOUTS \$2500
 COPIES - \$150/MONTH
 COPY MACHINE LEASE \$125/MONTH
 CONTRACTS - AFTER CARE TREATMENT- ? . PROGRAM ASSESSMENT. TRACKING
 EQUIPMENT REPAIR - \$1000
 POSTAGE \$600
 INMATE LABOR - CLERK - \$45/MONTH PER POSITION
 INSTRUCTIONAL SUPPLIES TAPES. VIDEOS - \$12000
 PUBLICATIONS - \$7500
 PHONE INSTALLATION \$3000
 PHONE LINES
 TOLL CHARGES - \$1200
 MEDICATIONS - ANTABUSE. METHADONE

DUI CAMP PROPOSAL - JCC
 MEDICAL DIVISION - NDOP
 FY 96-97 - TOTAL COST \$1.617 MILLION/BIENNIUM
 112 INMATES CAPACITY

| EQUIPMENT-05 | NBR | FY 96 COSTS | TOTAL | | NBR | FY 97 COSTS | TOTAL |
|----------------------------|-----|----------------|-----------------|--|-----|----------------|----------------|
| TV-3 VCR-3 | 3 | \$450 | \$1.350 | | | | |
| FILE CABINETS | 3 | \$245 | \$735 | | | | |
| COMPUTERS/PRINTERS (OFFIC | 2 | \$2.500 | \$5.000 | | | | |
| COMPUTER/PRINTER (SELF TES | 1 | \$2.200 | \$2.200 | | | | |
| TYPEWRITER | 1 | \$750 | \$750 | | | | |
| SOFTWARE - WP6.0 | 3 | \$350 | \$1.050 | | | | |
| BLACK BOARDS | 4 | \$150 | \$600 | | | | |
| CASSETTE RECORDERS | 15 | \$60 | \$900 | | 5 | \$60 | \$300 |
| TAPE PLAYERS | 12 | \$45 | \$540 | | 6 | \$45 | \$270 |
| SLIDE PROJECTOR | 3 | \$350 | \$1.050 | | | | |
| CAMCORDER | 1 | \$550 | \$550 | | | | |
| CAMCORDER CASE & TRIPOD | 1 | \$120 | \$120 | | | | |
| TELEPHONES | 20 | \$125 | \$2.500 | | | | |
| DESKS | 20 | \$500 | \$10.000 | | | | |
| MGR CHAIRS | 17 | \$250 | \$4.250 | | | | |
| SEC CHAIRS | 3 | \$168 | \$504 | | | | |
| STACKING CHAIRS(GROUP) | 110 | \$57 | \$6.270 | | | | |
| BREATHALIZERS | 4 | \$475 | \$1.900 | | 4 | \$475 | \$1.900 |
| FOLDING TABLES | 6 | \$137 | \$822 | | | | |
| RECREATIONAL EQUIPMENT | | | \$5.000 | | | | \$2.500 |
| CONTINGENCY | | | \$2.500 | | | | \$5.000 |
| | | | <u>\$48.591</u> | | | | <u>\$9.970</u> |

BUILDINGS & GROUNDS-07 \$27.500/BIENNIUM

BELIEVE THAT INITIAL YEAR SHOULD HAVE \$15000 - \$20.000 AND 2ND YR SHOULD \$5000-\$7500
 RETROFIT TRAILERS. POWER. PHONES. RETROFIT NDF BUILDINGS. CAMP MULTIPURPOSE BUILDING

DRUG TESTING-30 \$30.000 BIENNIUM

| | | | |
|-------------------------|------|-----|----------|
| REAGENTS/TESTS IN HOUSE | 3000 | \$5 | \$15.000 |
|-------------------------|------|-----|----------|

APPENDIX H

Division of Parole and Probation
(Department of Motor Vehicles and Public Safety),
Executive Summary Concerning
Proposed Assessment Center
Submitted May 23, 1994

DISTRICT OFFICES

STATE OF NEVADA

BOB MILLER
GOVERNOR

1301 CORDONE AVENUE
RENO, NEVADA 89502
(702) 688-1000

A. A. CAMPOS BUILDING
215 E. BONANZA ROAD
LAS VEGAS, NEVADA 89158
(702) 488-3001

3920 E. IDAHO STREET
ELKO, NEVADA 89801
(702) 738-4088

119 E. LONG STREET
CARSON CITY, NEVADA 89710
(702) 687-5045



DEPARTMENT OF
MOTOR VEHICLES AND PUBLIC SAFETY
DIVISION OF PAROLE AND PROBATION
ASSESSMENT CENTER/LIFESKILL PROJECT

JAMES P. WELLER
DIRECTOR

RICHARD E. WYETT, CHIEF
CAPITOL COMPLEX
1445 HOT SPRINGS ROAD, NO. 104
CARSON CITY, NEVADA 89710
(702) 687-6040

Executive Summary

The Nevada Division of Parole and Probation has proposed the implementation of a Pilot Project to be located in Washoe County and operated by the District II office. The project has been designated the Assessment Center/Life Skills Project. It is designed to provide a continuum of supervision and services that reduce criminal conduct while promoting behavioral change by working in partnership with the existing providers within the community.

Following the Summer of 1993, the Division was requested by the Nevada Legislative Sub-Committee to Study Drug and Alcohol Abuse Among Criminal Offenders (ACR-71), to research the impact of substance abuse treatment on recidivism in the criminal justice system. The Division undertook an indepth study of the impact of programming on recidivism and began examining adult parole and probation systems in other states.

The search narrowed to two systems in the western United States; the Colorado Judicial Department Probation System and the Washington County, Oregon Department of Community Corrections/Parole and Probation Services. These systems, working in close partnership with the community, demonstrated that treatment and education when properly coordinated in a comprehensive system does have a significant impact on recidivism.

As a result of the research complied by the Division and on-site inspections of the Colorado and Washington County, Oregon systems, the Division returned to the Nevada Legislative Sub-Committee to Study Drug and Alcohol Abuse Among Criminal Offenders (ACR-71) and submitted a proposal for a pilot project be placed in Washoe County. The project was subsequently endorsed by ACR-71 and is now the number two priority in the Division's budget.

The Assessment Center and Lifeskill Project is designed to be an off-site continuum of services to the Division's District II Office, Reno, Nevada. The Assessment Center, will provide diagnostic evaluations for the sentencing court via the Division's Court Services Unit and will become an integral part of the Pre-Sentence Investigation. The goals are to provide a standard and scientific evaluation for substance abuse, literacy testing and

risk/needs assessment. Additionally, the Division has proposed that any crimes involving a sexual or violent offense, the offender will undergo a standardized psychological evaluation as part of the Pre-Sentence Investigation.

Evaluations completed on the criminal offender during the Pre-Sentence Investigation will not only give the court a broader picture of the offender but will also provide an enhanced tool to match the offender to specific services or treatment via the special conditions. Additionally, should the offender require a county jail or prison commitment the enhanced Pre-Sentence Investigation will prove a better tool for the respective classification committees.

The first phase of the Lifeskill Center will be a foundation of three basic programs. The programs will be education (to include literacy and English As a Second Language), job development and substance abuse counseling services. The programs will be provided in one location and overseen by a supervisor from the Division. The adult educational component will be serviced by the Washoe County School District's Adult Education Program, the employment development component will work in conjunction with the Employment Security Division and the counseling component will be serviced by the many different providers within the community doing on-site counseling services for the offender. These three services are viewed by the Division as the necessary components to build future programs on.

The second phase of the Lifeskill Project will expand services into areas such as parenting classes, domestic violence counseling, financial management, relapse prevention, health and nutrition classes and any other class or course that may be deemed appropriate or where an identified need exists.

The Division intends to target these expanded services towards the property offender/substance abuser. This category of offender represents approximately 60% of current caseloads. Additionally, the Division sees the Lifeskill Project representing in one location, the basic services needed for offender programming immediately following release to community supervision. This will allow for the supervising officer to concentrate on field services while having their offenders, involved in the Lifeskill Project programming at one location.

The success of the Lifeskill Project will be dependant upon the levels of cooperation within the community to become more involved in the criminal justice system. Having these services in one location will enhance the communication between the offender, provider and supervising officers. Additionally, it will stop the standard situation that calls for an offender to travel at great distances throughout the community to receive necessary services.

The Lifeskill Project will create a continuum of services between the Washoe County Jail system, the Nevada Department of Prisons and any other institution where educational, counseling or job/program development was underway prior to the party being returned to community supervision. The Lifeskill Center, may also serve as the community component to a parole transitional release project being evaluated by the Division, as a joint venture with the Nevada Department of Prisons. Additionally, the Division intends to put into place an automated system to evaluate the Assessment/Lifeskill Project as it progresses.

The Division views the potential impact of the Assessment Center/Lifeskill Project as being threefold:

1. Better systems outcomes in terms of decreased recidivism resulting from improved interventions;
2. More effective sentencing and revocation practices as a result of better information regarding what interventions work with offender populations; and
3. Greater criminal justice efficiency will be achieved through the projects proposed functional analysis approach.

SOME QUESTIONS/ANSWERS REGARDING THE LIFESKILL PROJECT

1. WHY HAS THE DIVISION UNDERTAKEN THIS PROJECT?

The Division, having studied parole and probation systems in other states, sees consolidated services as proposed in the Lifeskill Project having significant impact on the supervision and programming of the adult offender. The pilot project will be designed to more clearly define and implement those services needed to enhance the abilities of the Court, correctional systems and the Division of Parole and Probation in supervising the adult offender.

2. HOW DOES THE DIVISION VIEW THE POTENTIAL IMPACT OF THIS PROJECT?

The Division views the impact of this project is being three-fold:

1. Better systems outcomes in terms of decreased recidivism resulting from improved interventions;
2. More effective sentencing and revocation practices as a result of better information regarding what interventions work with offender populations in Washoe County; and
3. Greater criminal justice efficiency will be achieved through the projects proposed functional analysis approach.

3. WHAT IS THE PURPOSE OF THE ASSESSMENT CENTER?

As part of the pilot project, the Assessment Center will provide for the Courts a common, standardized and scientific evaluation of offenders prior to sentencing in the following categories:

1. Substance abuse evaluation with recommendations for specific treatment;
2. Literacy testing, to identify the developmental level of the offender and recommend appropriate educational services;
3. Risk and needs evaluation, to further enhance the Court's ability to target services through the use of special conditions for the offender.

Additionally, the Division is seeking to provide for the Court psychological evaluations performed by a standard provider for those cases involving violence, a sex offense or where there are indications that a mental health assessment would be appropriate. The ability of the Division to perform this level of evaluation will be based upon budget outcomes before the upcoming Nevada Legislature and grant monies.

4. WHAT IS THE PURPOSE IN GATHERING THIS INFORMATION DURING THE PRE-SENTENCING PHASE?

The more information we can gather about the offender the better we can supervise, understand and provide needed intervention or educational/training services. This improves our ability to protect the community. For the Court, this information adds greater insight into the offender and expands the Court's options, in the matter of probation grants, to build in special conditions tailored to the offender. The same body of information will also increase the Courts' awareness of the offender's potential threat to the community.

5. WHAT IS THE POINT USING SPECIAL CONDITIONS TO PINPOINT SERVICES FOR THE OFFENDER?

The Division, through the Lifeskill Project wishes to provide for the Courts the ability to use the special conditions to target specific services that are needed by the offender. To not only direct those offenders into these services, but to also order specific levels of services with specific time frames of implementation and completion. The special conditions imposed by the Court on a offender should represent programs and services identified as needs for the offender to enable them to become a productive member of the community.

The information contained in the Division's proposed enhanced Pre-Sentence Investigation coupled with the Courts' directives via special conditions, will become the key for the offender to enter into and utilize the Division's proposed Lifeskill Project.

6. WHERE WILL THE LIFESKILL PROJECT BE LOCATED?

Initially, the Division was exploring placing the Lifeskill Center in the basement of the District II office. However, following many meetings with providers throughout the community, coupled with the physical plant layout of the District II office, it was decided to move the Lifeskill Project to an off-site location. The Division will be seeking appropriate office space to conduct the services as proposed in the Lifeskill Center while maintaining its centralized hub of services approach. Additionally, the Division is working with other providers within the community exploring the possibility of creating a larger community based project that would better service the overall community.

7. WHAT TYPE OF SERVICES DOES THE LIFESKILL PROJECT PROVIDE?

The foundation of the Lifeskill Project will be based on three components: Education (general educational development, English as a Second Language, and literacy), job skills development/job placement and substance abuse counseling (by local providers to include bilingual/bicultural counseling services). The Division views the foundation elements as being necessary to have in place, operating efficiently and in an integrated format before additional services can be built in.

The second phase of the Lifeskill Project is to provide expanded services in more specialized areas of offender needs. These services would include: Parenting classes, female offender programs, anger management/domestic violence counseling, financial management, health and nutrition courses, sex-offender groups, cognitive skills development, relapse prevention and if the budget provides for the ability for the Division to operate a Day Reporting Center.

8. WHAT IS DAY REPORTING?

Day reporting programs provide a structure, intensive response to violation behavior. The offender is mandated to report to program staff on a daily basis and submit a detailed 24 hour schedule. The offender is also involved in activities which serve to hold them accountable while addressing the underlying problems which contribute to the supervision failure (basic life skills, treatment, etc.). Day reporting centers provide graduated sanctions while also serving as a

fulcrum point to mobilize community resources to address the complex, underlying problems associated with probation and parole failures.

9. WHAT ARE GRADUATED SANCTIONS?

Graduated or intermediate sanctions consist of verbal warnings and staffings with supervisors, moving through increased contact to a day reporting situation, intensive supervision, House Arrest or possible short stays in jail in order to gain the compliance of an offender.

Graduated sanctions are designed to be standardized and imposed in a swift and sure manner. They represent consequences for negative behavior by the offender that the offender was made aware of at the time of a grant of community supervision. The concept of graduated or intermediate sanctions begins at the lowest and least costly level and increases in proportion to the offender's risk and unwillingness to change their anti-social (criminal) behavior.

10. WHAT ARE THE SPECIAL PROGRAMS RELATED TO THIS PROJECT?

The Division sees the Lifeskill Project as being a starting point for broader based programs in the community. The Division has recognized the need to treat the criminal offender in a holistic approach. However, this treatment approach should not be limited to the offender, but also available to people around the offender; i.e. their family.

It is the Division's hope that the Lifeskill Project will excite interest of other facilitators, programs and agencies to work in closer harmony with one another to provide expanded services to the offender and their families. Washoe County would be well served by having as centralized as possible, services not only designed for the criminal offender but for the community at large.

Areas and services the Division hopes to further interface with would deal with child neglect and abuse, domestic violence, single parent and pregnant offenders programs, hispanic services, mental health services, to name but a few.

11. WHO WILL ACTUALLY CONDUCT THE COURSES YOU HAVE DISCUSSED AS PHASE I OF THE LIFESKILL PROJECT?

The Division has been actively seeking the cooperation of providers throughout Washoe County to teach or otherwise facilitate the courses or classes described as Phase I of the Lifeskill Project.

The Division has conducted meetings with the Washoe County Adult Continuing Education Program, the Employment Security Division and the many providers throughout the community in terms of counseling services to measure their level of commitment to this program. The response to the project has been overwhelmingly supportive.

Washoe County School District, would like to be part of the project and is willing to come on-site to provide the educational services we propose. The Special Projects component of the Employment Security Division has also expressed a desire to work with us on this project. Both of these components, and their ability to work with us will be hinged very closely upon the budgetary outcomes of the Legislative process in 1995.

The Division has also conducted meetings with the various counseling services within Washoe County. We have invited them to come on-site to conduct counseling services both individual and group. We are not requiring these agencies come on-site, but we are encouraging them to provide some on-site services. These services would be directed at persons just entering the system for the approximately the first 180 days of supervision.

The Division is not attempting to take over any of these services. Rather, the Division is trying to become a hub for the services in order to create a highly efficient information/communication system for all of the providers and users. The direction is to closely integrate these systems in working with the adult offender while allowing each system to maintain its own identity.

12. THE LIFESKILL PROJECT WILL OPERATE ON WHAT FREQUENCY?

The Division will operate the Lifeskill Project a minimum of five days a week (Monday through Friday, 8:00 a.m. to 10:00 p.m.) and would like to be open on Saturdays (8:00 a.m. to 5:00 p.m.). The probability of the Division to provide these services on Saturdays is obviously coupled to the outcomes of the budgetary process.

The weekly classes/courses conducted at the Lifeskill Center will be on-going, allowing for the offender's various schedules. The courses will repeat themselves in order to reach the largest possible number of offenders. Attached, we have a mock-up of a menu/schedule of proposed services to better illustrate how we envision the services repeating themselves to reach the maximum number of persons daily.

13. WHY DO YOU REFER TO THIS AS A PILOT PROJECT?

The Division has built into the proposed budget a Management Information System that will track all aspects of the Assessment Center/Lifeskill Project. The goal is to provide outcome data indicating what is effective and what is not in terms of matching offenders to services.

Through this pilot project, the Division believes it will be able to demonstrate this continuum of services will have a positive impact on the problem of recidivism. Based upon this information, the Division intends to return before the Nevada Legislature in 1997 with a proposal to implement a program of this nature statewide.

14. HOW DOES THIS PROGRAM IMPACT THE WASHOE COUNTY JAIL/NEVADA DEPARTMENT OF PRISONS?

The Lifeskill Project will provide a much needed continuum of services for offenders coming from the Washoe County Jail or Nevada Department of Prisons to community supervision. Release packages from either facility, should have information in them regarding the offender's participation in educational or counseling programs. With this information in hand, the offender can not only come back into the community but can be immediately placed into an appropriate level of education or counseling services through the Lifeskill Project versus having the whole process stopped because they have left a particular facility.

The Division is also studying the systems involved in creating a parole transitional release project that could become an additional pilot project coupled to the Lifeskill Project.

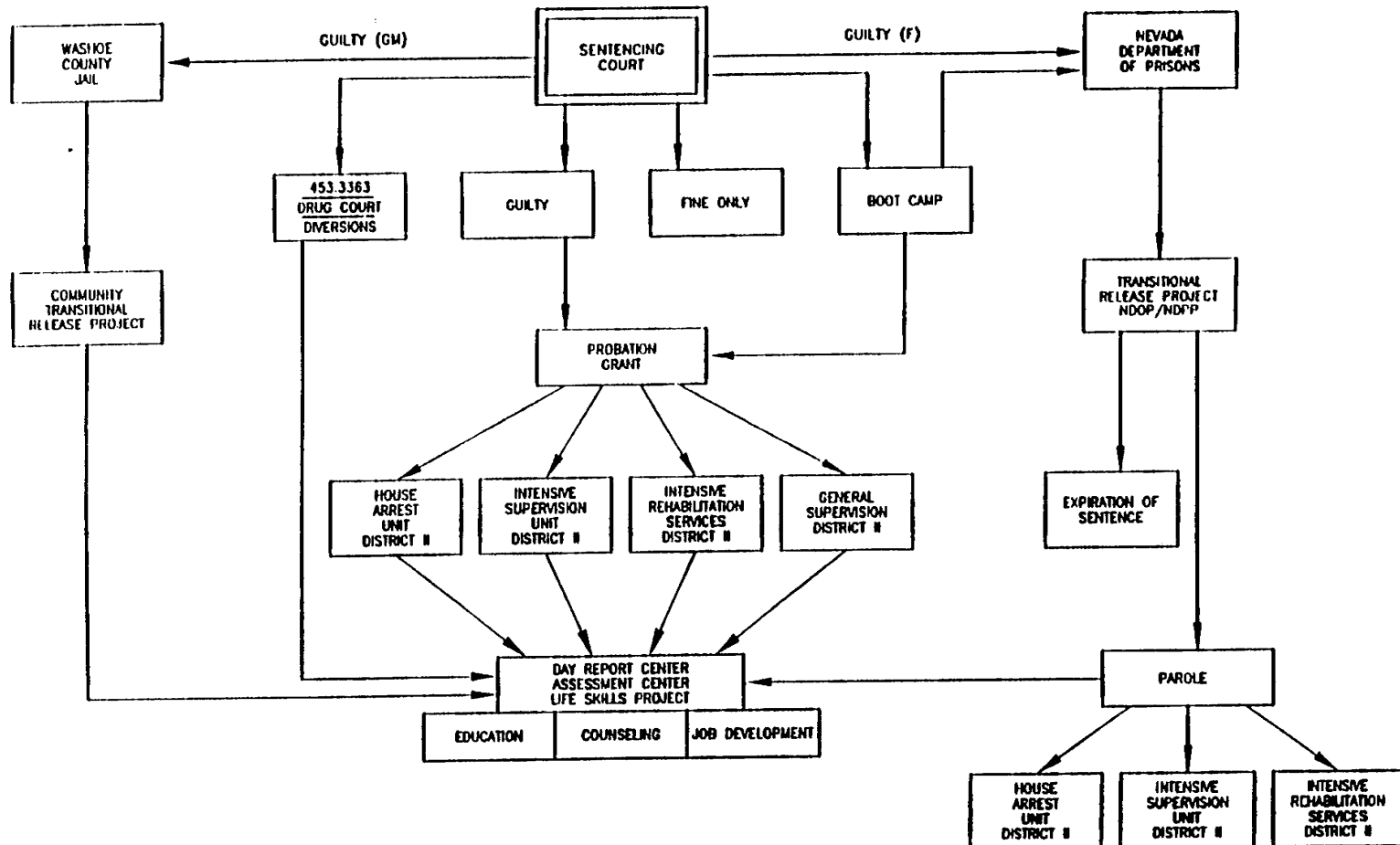
15. WHAT IS THE POTENTIAL FINANCIAL IMPACT OF THIS PROJECT?

The Division sees the Lifeskill Project as the basis for a wider system of programming that will enhance the ability of the Court to allow offenders to remain in the community while participating in significant programs. Each day an offender is in the community, under supervision and working a program versus residing in Washoe County Jail, represents a savings of \$60 per day/per offender. Additionally, each day we impact the rate of people going to the Nevada Department of Prisons represents a savings of approximately \$38 per day/per offender.

The other areas that are difficult to put a dollar amount to, are represented by an offender remaining in the community and programming, who is employed and thus contributing to the tax base versus extracting from it; prevention of potential breakdown of the family unit; the family is less likely to be on any type of welfare assistance; restitution collections can be improved upon and the ability to provide increased community service hours are enhanced. Lastly, you have disrupted the cycle of the offender and potential members of their family that would have otherwise cause them to re-enter the criminal justice system.

PAROLE AND PROBATION LIFE SKILLS

10/12/94



APPENDIX I

Suggested Legislation

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| BDR S-237 | Makes appropriation to bureau of alcohol and drug abuse in rehabilitation division of department of employment, training and rehabilitation for support of certain programs of treatment for criminal offenders who abuse alcohol or drugs | 117 |
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| BDR 43-239 | Provides for deferred prosecution of certain persons accused of driving under influence of intoxicating liquor or controlled substance | 121 |
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| BDR 40-241 | Eliminates mandatory minimum penalty for unlawful use of certain controlled substances | 147 |
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| BDR 16-243 | Makes various changes to provisions governing assignment of offenders to program for treatment of abuser of alcohol or drugs established by director of department of prisons | 155 |
| BDR R-244 | Urges peace officers to identify and arrest, and court to impose prompt, meaningful and consistent sanctions upon, juveniles who violate laws related to alcohol and drugs | 161 |
| BDR 5-245 | Requires revocation of driver's licenses of certain juveniles who drive under influence of intoxicating liquor or controlled substance | 163 |
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| BDR 5-248 | Requires revocation or delay in issuance of driver's licenses of certain juveniles who unlawfully purchase, consume or possess alcoholic beverage | 189 |
| BDR 16-249 | Establishes within department of prisons position of coordinator of programs for treatment of offenders who abuse alcohol or drugs | 203 |
| BDR R-250 | Urges Congress and President of United States to oppose legalization of certain controlled substances | 205 |
| BDR S-251 | Provides for study of effectiveness of programs for treatment of alcohol and drug abuse | 209 |

SUMMARY--Requires certain information concerning use of alcohol or controlled substances to be included in records of criminal history. (BDR 14-232)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to records of criminal history; requiring, under certain circumstances, a peace officer to include in the report of a crime or an arrest an assessment of whether a criminal offender was under the influence of alcohol or controlled substances when he committed the offense or at the time of his arrest; requiring agencies of criminal justice to submit to the central repository for Nevada records of criminal history certain information concerning the use of alcohol or controlled substances by criminal offenders; providing a penalty; and providing other matters properly relating thereto.

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

Section 1. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Information relating to the abuse of alcohol or controlled substances" means information ascertained and collected by an agency of criminal justice, in the administration of criminal justice, relating to the abuse of alcohol or controlled substances by a criminal offender that is incidental to the crime which the offender committed.*

Sec. 3. 1. *A peace officer shall include in his report of a crime or an arrest an assessment of whether a criminal offender was under the influence of alcohol or a controlled substance when he committed the offense or at the time of his arrest if:*

(a) The offense is committed or attempted in the presence of the peace officer and the peace officer has reasonable cause to believe that the offender is under the influence of alcohol or a controlled substance; or

(b) At the time of the arrest:

(1) The peace officer has reasonable cause, in accordance with NRS 171.147, to believe that the offender is under the influence of alcohol or a controlled substance; or

(2) The peace officer has reasonable cause to believe that the offender was under the influence of alcohol or a controlled substance at the time the crime was committed.

The peace officer shall specify the manner in which the assessment is made, including, without limitation, whether the assessment is made by observation, testing the breath or blood of the criminal offender or urinalysis.

2. An assessment made pursuant to this section must be reported to the central repository.

Sec. 4. 1. Except as otherwise provided in this section, information relating to the abuse of alcohol or controlled substances is confidential and:

(a) Must be securely maintained by the agency of criminal justice that collected the information and the department.

(b) Must not be disclosed except:

(1) Upon the written approval of the person who is the subject of the information.

(2) As necessary in the administration of criminal justice to identify those criminal offenders who may need treatment for the abuse of alcohol or controlled substances.

(3) As necessary to carry out the provisions of NRS 179A.075 and section 3 of this act.

(4) To a public or private agency for the diagnosis or treatment of a criminal offender for the abuse of alcohol or controlled substances. Agencies which receive information relating to the abuse of alcohol or controlled substances pursuant to this section shall release the information in accordance with the provisions of chapter 458 of NRS governing the confidentiality of records, files and communications filed with the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation.

(5) To any person, organization or agency for the preparation of statistical or other general data for publication if the information is provided in a manner which protects the identity of the particular criminal offenders involved.

(6) As required pursuant to a properly issued subpoena or court order.

2. Information relating to the abuse of alcohol or controlled substances of a criminal offender:

(a) Which is otherwise not admissible in the criminal proceeding against the offender is not made admissible by reason of this section.

(b) Is not admissible against the offender in any subsequent criminal proceeding unless the information is otherwise discoverable through an independent source.

Sec. 5. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, *and section 2 of this act*, have the meanings ascribed to them in those sections.

Sec. 6. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The central repository for Nevada records of criminal history is hereby created within the Nevada highway patrol division of the department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the department; and

(b) Submit the information collected to the central repository in the manner recommended by the advisory committee and approved by the director of the department.

3. Each agency of criminal justice shall submit the information relating to sexual offenses and other records of criminal history it collects, and any information in its possession relating to the genetic markers of the blood and the secretor status of the saliva of a person who is convicted of sexual assault or any other sexual offense, to the division in the manner prescribed by the director of the department. A report of disposition must be submitted to the division:

(a) Through an electronic network;

(b) On a media of magnetic storage; or

(c) In the manner prescribed by the director of the department,

within 30 days after the date of disposition. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the division. The division shall delete all references in the central repository relating to that particular arrest.

4. *An agency of criminal justice and any other agency dealing with crime shall collect and maintain reports, records and compilations of statistical data pertaining to the abuse of alcohol or controlled substances by criminal offenders, including:*

(a) Information relating to the abuse of alcohol or controlled substances by criminal offenders arrested for felonies or gross misdemeanors;

(b) Information relating to the abuse of alcohol or controlled substances by criminal offenders arrested for crimes for which the illegal use of alcohol or a controlled substance is an element; and

(c) Assessments made pursuant to section 3 of this act.

The agency shall submit the information to the central repository in a manner prescribed by the director of the department.

5. The division shall:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Sexual offenses and other records of criminal history; and

(2) The genetic markers of the blood and the secretor status of the saliva of a person who is convicted of sexual assault or any other sexual offense.

(b) Use a record of the subject's fingerprints as the basis for any records maintained regarding him.

[5.] 6. The division may:

(a) Disseminate any information which is contained in the central repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of such information; and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person:

(1) Who has applied to any agency of the state or any political subdivision for a license which it has the power to grant or deny;

(2) With whom any agency of the state or any political subdivision intends to enter into a relationship of employment or a contract for personal services; or

(3) About whom any agency of the state or any political subdivision has a legitimate need to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

[6.] 7. The central repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the central repository.

(d) On or before July 1 of each year, prepare and present to the governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the governor throughout the year regarding specific areas of crime if they are recommended by the advisory committee and approved by the director of the department.

(e) Identify and review the collection and processing of statistical data relating to criminal justice and delinquency of children by any agency

identified in subsection 2, and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

[7.] 8. The central repository may:

(a) At the recommendation of the advisory committee and in the manner prescribed by the director of the department, disseminate compilations of statistical data and publish statistical reports relating to crime or delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The central repository may not collect such a fee from an agency of criminal justice or any other agency dealing with crime or delinquency of children which is required to submit information pursuant to subsection 2. All money collected pursuant to this paragraph must be used to pay for the cost of operating the central repository.

Sec. 7. NRS 179A.300 is hereby amended to read as follows:

179A.300 Any person who:

1. Willfully requests, obtains or seeks to obtain records of criminal history under false pretenses;
2. Willfully communicates or seeks to communicate records of criminal history to any agency or person except pursuant to this chapter; [or]

3. *Willfully communicates or seeks to communicate information relating to the abuse of alcohol or controlled substances, except as otherwise provided in this chapter; or*

4. Willfully falsifies any record of criminal history or any record relating to records of criminal history,
is guilty of a misdemeanor.

SUMMARY--Requires peace officers to receive training in detection of use and abuse of alcohol and controlled substances. (BDR 43-233)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to peace officers; requiring peace officers to receive training in the detection of the use and abuse of alcohol and controlled substances; requiring the peace officers' standards and training committee to adopt regulations establishing the minimum requirements for that training; and providing other matters properly relating thereto.

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto a new section to read as follows:

As a condition of certification, the peace officers' standards and training committee shall require each peace officer to be trained in the detection of the use and abuse of alcohol and controlled substances. The committee shall adopt regulations regarding the minimum training required to comply with this section.

-- 2 --

Sec. 2. A peace officer who is certified on October 1, 1995, shall complete the training required by section 1 of this act on or before October 1, 1996.

SUMMARY--Expands circumstances under which certain criminal offenders may elect treatment for abuse of alcohol or drugs before sentencing. (BDR 40-234)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to civil commitment; expanding the circumstances under which an alcoholic or a drug addict convicted of a crime is eligible to elect treatment for the abuse of alcohol or drugs before sentencing; and providing other matters properly relating thereto.

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

Section 1. NRS 458.300 is hereby amended to read as follows:

458.300 Subject to the provisions of NRS 458.290 to 458.350, inclusive, an alcoholic or a drug addict who has been convicted of a crime is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 before he is sentenced unless:

1. The crime is a crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;
2. The crime is that of trafficking of a controlled substance;

3. The crime is that of driving under the influence of intoxicating liquor or while an habitual user or under the influence of a controlled substance or while incapable of safely driving because of the use of any chemical, poison or organic solvent as provided for in NRS 484.379, or such driving which causes the death of or substantial bodily harm to another person as provided in NRS 484.3795;

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

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

[6.] *or*

5. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election . [;
or

7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment within the preceding 5 years.]

Sec. 2. The amendatory provisions of this act do not apply to a criminal offender who is found, by a court of competent jurisdiction, to be ineligible for assignment to a program of treatment pursuant to NRS 458.300 before October 1, 1995.

SUMMARY--Revises provisions governing placement of criminal offenders in programs of treatment for abuse of alcohol and drugs before sentencing. (BDR 40-235)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to civil commitment; requiring courts to place an eligible criminal offender in a program of treatment for the abuse of alcohol or drugs before sentencing under certain circumstances; requiring such an offender to pay for that treatment to the extent of his financial resources; and providing other matters properly relating thereto.

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

Section 1. NRS 458.320 is hereby amended to read as follows:

458.320 1. If the court, after a hearing, determines that a person is entitled to accept the treatment offered pursuant to NRS 458.310, the court shall order an approved facility for the treatment of abuse of alcohol or drugs to conduct an examination of the person to determine whether he is an alcoholic or drug addict and is likely to be rehabilitated through treatment. The facility shall

report to the court the results of the examination and recommend whether the person should be placed under supervision for treatment.

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

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

(a) Impose] :

(a) *May impose* any conditions to the election of treatment that could be imposed as conditions of probation;

(b) [Defer] *Shall defer* sentencing until such time, if any, as sentencing is authorized pursuant to NRS 458.330; and

(c) [Place] *Shall place* the person under the supervision of an approved facility for treatment for not less than 1 year nor more than 3 years.

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

4. *A person who is placed under the supervision of an approved facility for treatment shall pay the cost of the program of treatment to which he is assigned and the cost of any additional supervision that may be required, to the extent of his financial resources. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for*

the person to be assigned to a program at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

5. No person may be placed under the supervision of a facility under this section unless the facility accepts him for treatment.

Sec. 2. The amendatory provisions of this act do not apply to a criminal offender whose criminal conduct occurred before October 1, 1995.

SUMMARY--Expands circumstances under which proceedings and sentences for persons convicted of certain offenses relating to controlled substances may be suspended or reduced. (BDR 40-236)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to controlled substances; expanding the circumstances under which a court may suspend proceedings for certain offenses relating to the possession of controlled substances and require offenders to participate in an educational or rehabilitation program; authorizing the court to reduce or suspend the sentence of an offender convicted of possessing a controlled substance for the purpose of sale if he renders assistance in the conviction of other persons; and providing other matters properly relating thereto.

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

Section 1. NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person [who has not previously been convicted of any offense under NRS 453.011 to 453.552, inclusive, or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or

stimulant, depressant or hallucinogenic substances] tenders a plea of guilty, nolo contendere or similar plea to a charge under NRS 453.336, 453.337, 453.338, 453.411 or 454.351, or is found guilty of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section under which the accused was charged. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A nonpublic record of the dismissal must be transmitted to and retained by the division of parole and probation of the department of motor vehicles and public safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

3. Except as otherwise provided in subsection 4, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law,

to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

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

Sec. 2. NRS 453.337 is hereby amended to read as follows:

453.337 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for any person to possess for the purpose of sale any controlled substance classified in schedule I or II.

2. Unless a greater penalty is provided in NRS 453.3385, 453.339 or 453.3395, any person who violates this section shall be punished:

(a) For the first offense, by imprisonment in the state prison for not less than 1 year nor more than 15 years and may be further punished by a fine of not more than \$5,000.

(b) For a second offense, or if, in the case of a first conviction of violating this section, the offender has previously been convicted of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the

United States or any state, territory or district which, if committed in this state, would amount to a felony under the Uniform Controlled Substances Act, by imprisonment in the state prison for not less than 5 years nor more than 15 years and may be further punished by a fine of not more than \$10,000.

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any state, territory or district which, if committed in this state, would amount to a felony under the Uniform Controlled Substances Act, by imprisonment in the state prison for not less than 15 years and may be further punished by a fine of not more than \$20,000 for each offense.

3. [The] *Except as otherwise provided in NRS 453.3363 and 453.3405, the* court shall not grant probation to or suspend the sentence of any person convicted of violating this section and punishable pursuant to paragraph (b) or (c) of subsection 2.

Sec. 3. NRS 453.338 is hereby amended to read as follows:

453.338 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for any person to possess for the purpose of sale any controlled substance classified in schedule III, IV or V.

2. Any person who violates this section shall be punished:

(a) For the first offense, by imprisonment in the state prison for not less than 1 year nor more than 6 years and may be further punished by a fine of not more than \$5,000.

(b) For a second offense, or if, in the case of a first conviction of violating this section, the offender has previously been convicted of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any state, territory or district which, if committed in this state, would amount to a felony under the Uniform Controlled Substances Act, by imprisonment in the state prison for not less than 1 year nor more than 10 years and may be further punished by a fine of not more than \$10,000.

(c) For a third or subsequent offense, or if the offender has been previously convicted two or more times of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any state, territory or district which, if committed in this state, would amount to a felony under the Uniform Controlled Substances Act, by imprisonment in the state prison for life or for a definite term of not less than 2 years nor more than 10 years and may be further punished by a fine of not more than \$10,000 for each offense.

3. [The] *Except as otherwise provided in NRS 453.3363 and 453.3405, the court shall not grant probation to or suspend the sentence of any person convicted of violating this section and punishable under paragraph (b) or (c) of subsection 2.*

Sec. 4. NRS 453.3405 is hereby amended to read as follows:

453.3405 1. Except as *otherwise* provided in subsection 2, the adjudication of guilt and imposition of a sentence of a person found guilty of trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395 must

not be suspended and the person is not eligible for parole until he has actually served the mandatory minimum term of imprisonment prescribed by the section under which he was convicted.

2. The judge, upon an appropriate motion, may reduce or suspend the sentence of any person convicted of violating any of the provisions of NRS 453.337, 453.338, 453.3385, 453.339 or 453.3395 if he finds that the convicted person rendered substantial assistance in the identification, arrest or conviction of any of his accomplices, accessories, coconspirators or principals or of any other person involved in *the possession for the purpose of sale of a controlled substance in violation of NRS 453.337 or 453.338, or in* trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395. The arresting agency must be given an opportunity to be heard before the motion is granted. Upon good cause shown, the motion may be heard in camera.

Sec. 5. The amendatory provisions of this act do not apply to criminal conduct which occurred before October 1, 1995.

SUMMARY--Makes appropriation to bureau of alcohol and drug abuse in rehabilitation division of department of employment, training and rehabilitation for support of certain programs of treatment for criminal offenders who abuse alcohol or drugs. (BDR S-237)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Contains Appropriation.

AN ACT making an appropriation to the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation for the support of certain programs of treatment for criminal offenders who abuse alcohol or drugs; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the state general fund to the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation, the sum of \$90,000. Except as otherwise provided in this section, the chief of the bureau of alcohol and drug abuse shall distribute to the court administrator of each district court in this state which establishes or has established a program of treatment for the

abuse of alcohol or drugs pursuant to NRS 453.580, the sum of \$10,000, which must be used to fund that program of treatment.

2. The chief of the bureau of alcohol and drug abuse shall not distribute any money appropriated pursuant to subsection 1 to any district court that established a program of treatment pursuant to NRS 453.580 before January 1, 1994, if an additional and separate appropriation from the state general fund is made to fund that program of treatment during the 68th session of the Nevada legislature.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act that is not distributed pursuant to the requirements set forth in that section must not be committed for expenditure after June 30, 1997, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 3. This act becomes effective on July 1, 1995.

SUMMARY--Makes appropriation to Eighth Judicial District for expansion of its program of treatment for abuse of alcohol or drugs.
(BDR S-238)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Contains
 Appropriation.

AN ACT making an appropriation to the Eighth Judicial District for the expansion of its program of treatment for the abuse of alcohol or drugs; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the state general fund to the administrator of the courts of the Eighth Judicial District of the State of Nevada the sum of \$250,000 for the expansion of its program of treatment for the abuse of alcohol or drugs established pursuant to NRS 453.580.

2. The money appropriated by subsection 1 must be used to supplement and not supplant or cause to be reduced any other source of funding for the program of treatment established in the Eighth Judicial District pursuant to NRS 453.580.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 1997, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 3. This act becomes effective on July 1, 1995.

SUMMARY--Provides for deferred prosecution of certain persons accused of driving under influence of intoxicating liquor or controlled substance. (BDR 43-239)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: Contains
 Appropriation.

AN ACT relating to traffic laws; requiring a court to dismiss the proceedings against certain persons accused of driving under the influence of an intoxicating liquor or controlled substance if such a person completes a program of treatment for alcoholism or drug abuse; authorizing courts to establish programs of treatment for such persons; making an appropriation; and providing other matters properly relating thereto.

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Within 48 hours after the arrest of a person for a first or second violation of NRS 484.379, the arresting officer, or any other person authorized by the law enforcement agency which arrested the person, shall give notice to the arrested person of the program of treatment which is available pursuant to*

section 3 of this act. The notice must include the terms and conditions of the program and a statement that:

(a) The arrested person may request to be evaluated for admission into the program of treatment;

(b) The arrested person has a right to counsel before he consents to undergo such an evaluation or to accept admission into the program of treatment;

(c) The results of the evaluation may not be used against him unless he executes a written waiver of confidentiality or the court determines that the relevance of that information outweighs its prejudicial effect; and

(d) The program of treatment is voluntary and that he is not required to request or accept admission into the program.

2. At the time of arraignment and before the arrested person enters a plea, the court shall ensure that he is fully informed, in accordance with subsection 1, of the program of treatment which is available pursuant to section 3 of this act.

Sec. 3. 1. At any time before he enters a plea, a person who is accused of a first or second violation of NRS 484.379 may request to undergo a program of treatment for alcoholism or drug abuse established pursuant to NRS 453.580, and have the proceedings against him suspended.

2. Upon the receipt of such a request, the court shall order the defendant to be evaluated to determine whether he may be classified as an alcoholic or abuser of drugs. The evaluation must be conducted by a:

(a) Counselor certified to make that classification by the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation; or

(b) Physician certified to make that classification by the board of medical examiners.

3. The results of the evaluation:

(a) Must be provided to the court, the prosecuting attorney and the defendant and his attorney, if any; and

(b) May not be used in any subsequent trial of the defendant unless the defendant executes a written waiver of confidentiality or the court determines that the relevance of the information contained in the evaluation outweighs its prejudicial effect.

4. After the evaluation has been completed, the court shall hold a hearing to determine the eligibility of the defendant for the program of treatment. The prosecuting attorney and the defendant may present any relevant evidence on whether the defendant should be admitted to the program of treatment pursuant to this section.

5. If the court finds that:

(a) The defendant is classified as an alcoholic or abuser of drugs;

(b) The defendant has knowingly, intelligently and voluntarily consented in writing to complete the program of treatment and comply with the terms and conditions relating to that treatment as required by this section and the court; and

(c) There is a substantial likelihood that the defendant would successfully complete the program of treatment,

LUSH the court shall, without entering a judgment of conviction, suspend further proceedings against the defendant and order him to complete the program of treatment and comply with the terms and conditions required by the court.

6. If the court orders the defendant to complete the program of treatment, the court shall require the defendant to:

(a) Waive any further preliminary hearings.

(b) Stipulate, in writing, to the facts which will be admissible in the proceeding against the defendant if the defendant does not successfully complete the program of treatment.

(c) Participate in the program of treatment for at least 1 year.

(d) Complete successfully the program of treatment.

(e) Make regular appearances in court and submit to tests to determine whether the defendant is using a controlled substance so that the court may monitor the progress of the defendant.

(f) Pay for the treatment to the extent of his financial resources. If the defendant does not have the resources to pay the entire cost of the program of treatment, the court, to the extent possible, shall assign him to a program with sufficient state or federal funding to defray the costs of his treatment.

(g) Comply with any other terms or conditions which the court deems necessary to ensure the successful completion of the program of treatment by the defendant.

7. The court, after a hearing:

(a) May resume the proceedings against the defendant if the defendant violates any term or condition imposed by the court pursuant to subsection 6.

(b) Shall resume the proceedings against the defendant if the court determines that the defendant will not successfully complete the program of treatment.

8. Upon completion of the program of treatment and compliance with the terms and conditions imposed pursuant to subsection 6, the court shall dismiss with prejudice the proceedings against the defendant.

Sec. 4. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. [Any] *Except as otherwise provided in section 3 of this act, any person who violates the provisions of NRS 484.379:*

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.3794, the court shall:

(1) Except as otherwise provided in subsection 6, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the department and complete the course within the time specified in the order, and the court shall notify the department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.3794, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform 48 hours of work for the community while dressed in distinctive garb which identifies him as having violated the provisions of NRS 484.379; and

(3) Fine him not less than \$200 nor more than \$1,000.

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

(1) Shall sentence him to:

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

or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive, or 5.0755 to 5.079, inclusive;

(2) Shall fine him not less than \$500 nor more than \$1,000; and

(3) May order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

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

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

2. Any offense which occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved

at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

3. No person convicted of violating the provisions of NRS 484.379 may be released on probation, and no sentence imposed for violating those provisions may be suspended except, as provided in NRS 4.373, 5.055 and 484.3794, that portion of the sentence imposed that exceeds the mandatory minimum. No prosecuting attorney may dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

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

5. Jail sentences simultaneously imposed under this section and NRS 483.560 or 485.330 must run consecutively.

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

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

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

LUSA and the court shall notify the department if the person fails to complete the assigned course within the specified time.

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

8. As used in this section, unless the context otherwise requires, "offense" means a violation of NRS 484.379 or 484.3795 or homicide resulting from the driving of a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law of any other jurisdiction which prohibits the same or similar conduct.

Sec. 5. NRS 453.580 is hereby amended to read as follows:

453.580 1. A court may establish an appropriate treatment program to which it may assign a person pursuant to NRS 453.3363 or 458.300 , *or section*

3 of this act, or it may assign such a person to an appropriate facility for the treatment of abuse of alcohol or drugs which is certified by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress towards completion of the program.

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

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

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

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

3. If the offense with which the person was charged involved the use or possession of a controlled substance, in addition to the program or as a part of the program the court must also require frequent urinalysis to determine that the person is not using a controlled substance. The court shall specify how frequent such examinations must be and how many must be successfully completed, independently of other requisites for successful completion of the program.

4. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which he is assigned and the cost of any additional supervision required pursuant to subsection 3, to the extent of his financial resources. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

Sec. 6. 1. There is hereby appropriated from the state general fund to the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation, for allocation by the chief of the bureau pursuant to the provisions of this section, the sum of \$85,000.

2. The chief of the bureau of alcohol and drug abuse shall allocate to the court administrator of each district court in this state which establishes or has established a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 the sum of \$5,000. The district court shall use the money received pursuant to this subsection to establish and administer a program of treatment for defendants in accordance with section 3 of this act.

3. If there is any balance of the appropriation remaining on June 30, 1997, the chief of the bureau shall allocate the remaining balance equally among those district courts which received an allocation pursuant to subsection 2, except that no district court may be allocated money pursuant to this

subsection in an amount which, when added to the allocation received pursuant to subsection 2, would equal more than \$21,250.

4. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1997, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 7. The amendatory provisions of sections 1 to 5, inclusive, of this act do not apply to persons alleged to have violated NRS 484.379 before October 1, 1995.

Sec. 8. 1. This section and section 6 of this act become effective on July 1, 1995.

2. Sections 1 to 5, inclusive, and 7 of this act become effective on October 1, 1995.

SUMMARY--Requires offender convicted of driving under influence of intoxicating liquor or controlled substance for first time to be placed in program of treatment under certain circumstances.
(BDR 43-240)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to traffic laws; requiring an offender convicted of driving under the influence of an intoxicating liquor or controlled substance for the first time to be placed in a program of treatment for alcoholism or drug abuse under certain circumstances; and providing other matters properly relating thereto.

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

Section 1. NRS 483.460 is hereby amended to read as follows:

483.460 1. [Unless] *Except as* otherwise provided by statute, the department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) [Violation] *A violation* of NRS 484.3795 or subsection 2 of NRS 484.377 or *a* homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance.

(2) A third or subsequent violation within 7 years of NRS 484.379.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the department under NRS 483.010 to 483.630, inclusive, or under any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484.379 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484.379.

2. The department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered

by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege.

3. When the department is notified by a court that a person who has been convicted of violating NRS 484.379 has been permitted to enter a program of treatment pursuant to NRS 484.3794 *or section 3 of this act*, the department shall reduce by half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The department shall revoke the license, permit or privilege of a driver who is required to install a device pursuant to NRS 484.3943 but operates a motor vehicle without such a device:

(a) For 1 year if it is his first such offense during the period of required use of the device.

(b) For 5 years if it is his second such offense during the period of required use of the device.

5. When the department is notified that a court has, pursuant to NRS 62.226, ordered the suspension or delay in issuance of a child's license, the department shall take such actions as are necessary to carry out the court's order.

Sec. 2. NRS 483.560 is hereby amended to read as follows:

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

2. Except as otherwise provided in this subsection, if the license was suspended, revoked or restricted because of a violation of NRS 484.379, 484.3795 [,] or 484.384 or a homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law of any other jurisdiction which prohibits the same conduct, he shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months, and by a fine of not less than \$500 nor more than \$1,000. No person who is punished under this subsection may be granted probation and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty or of nolo contendere to a lesser charge or for any other reason unless, in his judgment , the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

3. Any term of confinement imposed under the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of confinement must be served within 6 months after the date of conviction, and any segment of time the person is confined must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed under this section and NRS 484.3792 or 484.3794 or *section 3 of this act* must run consecutively.

5. The department upon receiving a record of the conviction or punishment of any person under this section upon a charge of driving a vehicle while his license was:

(a) Suspended shall extend the period of the suspension for an additional like period.

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

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

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

Suspensions and revocations under this section must run consecutively.

Sec. 3. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who is found guilty of a first violation of NRS 484.379 may, at that time or any time until he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse for at least 1 year if:

(a) He is classified as an alcoholic or abuser of drugs by a:

(1) Counselor certified to make that classification by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation; or

(2) Physician certified to make that classification by the board of medical examiners;

(b) He agrees to pay the costs of the treatment; and

(c) He has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of work for the community.

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

3. At the hearing, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before it.

4. If the court finds that the offender meets the eligibility requirements set forth in subsection 1, the court shall:

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

(b) Suspend the sentence for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and

during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484.3792, but the conviction remains on his record of criminal history.

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

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

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

6. The court shall notify the department, on a form approved by the department, upon granting the offender's application for treatment and his failure to be accepted for or complete treatment.

Sec. 4. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Any person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in [NRS 484.3794,] *section 3 of this act*, the court shall:

(1) Except as otherwise provided in subsection 6, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the department and complete the course within the time specified in the order, and the court shall notify the department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to [NRS 484.3794,] *section 3 of this act*, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform 48 hours of work for the community while dressed in distinctive garb which identifies him as having violated the provisions of NRS 484.379; and

(3) Fine him not less than \$200 nor more than \$1,000.

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

(1) Shall sentence him to:

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

or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive, or 5.0755 to 5.079, inclusive;

(2) Shall fine him not less than \$500 nor more than \$1,000; and

(3) May order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

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

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

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

3. No person convicted of violating the provisions of NRS 484.379 may be released on probation, and no sentence imposed for violating those provisions may be suspended except, as provided in NRS 4.373, 5.055 and 484.3794, *and section 3 of this act*, that portion of the sentence imposed that exceeds the

mandatory minimum. No prosecuting attorney may dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

4. Any term of confinement imposed under the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.3794 *or section 3 of this act* and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

5. Jail sentences simultaneously imposed under this section and NRS 483.560 or 485.330 must run consecutively.

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

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

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

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

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

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

8. As used in this section, unless the context otherwise requires, "offense" means a violation of NRS 484.379 or 484.3795 or homicide resulting from the driving of a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law of any other jurisdiction which prohibits the same or similar conduct.

Sec. 5. NRS 484.3793 is hereby amended to read as follows:

484.3793 As used in NRS 484.3793 to 484.37947, inclusive [:] , *and section 3 of this act:*

1. "Evaluation center" means a facility which is approved by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation to provide an evaluation of an offender to a court in order to determine if the offender is an abuser of alcohol or another drug. The term includes a facility operated by a court or other governmental agency.

2. "Treatment facility" means a facility for the treatment of abuse of alcohol or drugs, which is certified by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation.

Sec. 6. NRS 484.37935 is hereby amended to read as follows:

484.37935 The bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation shall adopt by regulation the standards to be used for approving the operation of a facility as an evaluation center for the purposes of NRS 484.3794, 484.37943 and 484.37945 *[.] and section 3 of this act.*

Sec. 7. NRS 484.3794 is hereby amended to read as follows:

484.3794 1. A person who is found guilty of a *[first or]* second violation of NRS 484.379 within 7 years may, at that time or any time until he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse for at least 1 year if:

(a) He is classified as an alcoholic or abuser of drugs by a:

(1) Counselor certified to make that classification by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation; or

(2) Physician certified to make that classification by the board of medical examiners;

(b) He agrees to pay the costs of the treatment; and

(c) He has served or will serve a term of imprisonment in jail of *[:*

(1) One day, or has performed or will perform 24 hours of work for the community, if it is his first offense within 7 years; or

(2) Five days if it is his second offense within 7 years.] *5 days*.

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

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

4. In granting an application for treatment the court shall:

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

(b) Suspend the sentence for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or fails to complete the treatment satisfactorily, he shall serve the sentence imposed by

the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484.3792, but the conviction remains on his record of criminal history.

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

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

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

6. The court shall notify the department, on a form approved by the department, upon granting the offender's application for treatment and his failure to be accepted for or complete treatment.

Sec. 8. The amendatory provisions of this act do not apply to criminal conduct which occurred before October 1, 1995.

SUMMARY--Eliminates mandatory minimum penalty for unlawful use of certain controlled substances. (BDR 40-241)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to controlled substances; eliminating the mandatory minimum sentence for the unlawful use of certain controlled substances; and providing other matters properly relating thereto.

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

Section 1. NRS 453.411 is hereby amended to read as follows:

453.411 1. It is unlawful for any person knowingly to use or be under the influence of a controlled substance except in accordance with a prescription issued to such person by a physician, podiatric physician or dentist.

2. It is unlawful for any person knowingly to use or be under the influence of a controlled substance except when administered to such person at a rehabilitation clinic established or licensed by the health division of the department of human resources, or a hospital certified by the department.

3. Any person who violates this section : [shall be punished:]

(a) If the controlled substance is listed in schedule I, II, III or IV, *is guilty of a felony and shall be punished* by imprisonment in the state prison for not [less than 1 year nor] more than 6 years, and may be further punished by a fine of not more than \$5,000.

(b) If the controlled substance is listed in schedule V, *is guilty of a gross misdemeanor and shall be punished* by imprisonment in the county jail for not more than 1 year, and may be further punished by a fine of not more than \$1,000.

Sec. 2. The amendatory provisions of this act do not apply to criminal conduct which occurred before October 1, 1995.

SUMMARY--Increases excise taxes on liquor to provide treatment for alcohol and drug abusers who have been accused or convicted of crimes.
(BDR 32-242)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

AN ACT relating to intoxicating liquor; increasing the excise taxes on liquor; requiring the additional revenue to be used for the treatment of alcohol and drug abusers who have been accused or convicted of a crime; and providing other matters properly relating thereto.

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

Section 1. NRS 369.174 is hereby amended to read as follows:

369.174 1. Each month, the state controller shall transfer to the account for alcohol and drug abuse in the department of human resources' gift fund, from the tax on liquor containing more than 22 percent of alcohol by volume, the portion of the tax *collected* which [exceeds \$1.90] *is equivalent to 15 cents* per wine gallon.

2. *Each month, the state controller shall transfer to the state grant and gift account for alcohol and drug abuse in the department of employment, training and rehabilitation's gift fund, from the tax on:*

(a) Liquor containing more than 22 percent of alcohol by volume, the portion of the tax collected which is equivalent to 21 cents per wine gallon or proportionate part thereof.

(b) Liquor containing more than 14 percent up to and including 22 percent of alcohol by volume, the portion of the tax collected which is equivalent to 8 cents per wine gallon or proportionate part thereof.

(c) Liquor containing from one-half of 1 percent up to and including 14 percent of alcohol by volume, the portion of the tax collected which is equivalent to 4 cents per wine gallon or proportionate part thereof.

(d) All malt beverage liquor brewed or fermented and bottled in or outside this state, the portion of the tax collected which is equivalent to 1 cent per gallon.

Sec. 2. NRS 369.330 is hereby amended to read as follows:

369.330 Except as otherwise provided in this chapter, an excise tax is hereby levied and must be collected respecting all liquor and upon the privilege of importing, possessing, storing or selling liquor, according to the following rates and classifications:

1. On liquor containing more than 22 percent of alcohol by volume, [\$2.05] \$2.26 per wine gallon or proportionate part thereof.

2. On liquor containing more than 14 percent up to and including 22 percent of alcohol by volume, [75] 83 cents per wine gallon or proportionate part thereof.

3. On liquor containing from one-half of 1 percent up to and including 14 percent of alcohol by volume, [40] 44 cents per wine gallon or proportionate part thereof.

4. On all malt beverage liquor brewed or fermented and bottled in or outside this state, [9] 10 cents per gallon.

Sec. 3. NRS 458.097 is hereby amended to read as follows:

458.097 1. All money received by the bureau pursuant to *subsection 1 of* NRS 369.174 must be used to increase services for the prevention of alcohol abuse and alcoholism and for the detoxification and rehabilitation of abusers. In allocating the money for the increase of services, the bureau shall give priority to:

[1.] (a) The areas where there exists a shortage of personnel to conduct treatment for alcoholism and alcohol abuse. The bureau [must] *shall* determine the areas of shortage on the basis of data available from state and local agencies, data contained in the comprehensive state plan for alcohol and drug abuse programs, and other appropriate data.

[2.] (b) The needs of counties to provide civil protective custody, pursuant to NRS 458.270, for persons who are found in public places while under the influence of alcohol.

2. All money received by the bureau pursuant to subsection 2 of NRS 369.174 must be used to increase or provide additional services for the detoxification and rehabilitation of alcohol and drug abusers who have been accused or convicted of a crime. The money must be allocated as follows:

(a) Eighty percent must be used to hire or contract for the services of additional counselors to provide treatment to persons accused or convicted of a crime; and

(b) Twenty percent must be used to hire or contract for the services of additional counselors to provide treatment to children who are under the jurisdiction of the juvenile court.

3. The bureau shall, to the extent of available revenue and based upon the needs of the district and juvenile courts and detention facilities, allocate the money and services pursuant to subsection 2 in such a manner as to provide assistance to as many courts and detention facilities, and treatment to as many persons as possible. The additional counselors shall coordinate with the district and juvenile courts, the department of prisons, the division of parole and probation of the department of motor vehicles and public safety, detention facilities and all other agencies which are charged with the custody or supervision of alcohol and drug abusers who have been accused or convicted of a crime to assess the need for treating such persons.

4. Money allocated pursuant to subsection 2 must not be used to:

(a) Displace money which is currently allocated for providing treatment to alcohol and drug abusers who have been accused or convicted of a crime; and

(b) Fund services which would replace or duplicate in any way existing services provided to such persons.

5. As used in this section:

(a) "Child" has the meaning ascribed to it in NRS 62.020.

(b) "Juvenile court" has the meaning ascribed to it in NRS 62.020.

SUMMARY--Makes various changes to provisions governing assignment of offenders to program for treatment of abuser of alcohol or drugs established by director of department of prisons. (BDR 16-243)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to criminal offenders; prohibiting the director of the department of prisons from assigning an offender to a program for the treatment of an abuser of alcohol or drugs unless there is a substantial likelihood that the offender will complete the program; requiring the director to assign such an offender to residential confinement to complete the program of treatment under certain circumstances; and providing other matters properly relating thereto.

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

Section 1. NRS 209.427 is hereby amended to read as follows:

209.427 1. If the results of an evaluation conducted pursuant to NRS 484.3796 indicate that an offender is an abuser of alcohol or drugs and that he can be treated successfully for his condition, the director shall, except as otherwise provided in [subsection 2,] *this section*, assign the offender to the program of treatment established pursuant to NRS 209.425. Such an

assignment must be, to the extent that the period reasonably can be predicted, for the year, or as much thereof as practicable, immediately preceding the date the offender is due to be released from prison, either on parole or at the expiration of his term.

2. Before assigning an offender to a program of treatment, the director, in cooperation with the division of parole and probation of the department of motor vehicles and public safety, shall determine, to the extent possible:

(a) The length of time remaining on the offender's sentence, taking into consideration any credits earned by the offender; and

(b) The likelihood that the offender will complete the entire program of treatment.

3. The director shall not assign an offender to the program of treatment unless:

(a) The offender agrees in writing that he will complete the entire program of treatment; and

(b) The director, in cooperation with the division of parole and probation, determines that there is a substantial likelihood that the offender will complete the entire program of treatment.

4. The director is not required to assign an offender to the program of treatment if the offender is not eligible for assignment to an institution or facility of minimum security pursuant to the provisions of NRS 209.481 and the regulations adopted pursuant thereto.

[3.] 5. The director may withdraw the offender from the program of treatment at any time if he determines that the offender:

- (a) Is not responding satisfactorily to the program; or
- (b) Has failed or refused to comply with any term or condition of the program.

Sec. 2. NRS 209.429 is hereby amended to read as follows:

209.429 1. The director [may, at the request of an offender who has:

- (a) Established a position of employment in the community; and
 - (b) Successfully completed the initial period of rehabilitation required under the program of treatment established pursuant to NRS 209.425,
- assign the] *shall assign an* offender to the custody of the division of parole and probation of the department of motor vehicles and public safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence [.] *if:*

- (a) The offender has established a position of employment in the community;*
 - (b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425;*
- and*

(c) The director and the chief parole and probation officer determine that there is a substantial likelihood that the offender will be able to:

- (1) Comply with the terms and conditions required under residential confinement; and*
- (2) Complete successfully the remainder of the program of treatment while under residential confinement.*

2. If an offender assigned to the custody of the division of parole and probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The division of parole and probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the department of prisons.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the director. The director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender, and may restore credits forfeited for such reasons as he considers proper. The decision of the director regarding such a forfeiture is final.

3. The assignment of an offender to the custody of the division of parole and probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the department of prisons, except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the department of prisons.

4. No person has a right to be assigned to the custody of the division of parole and probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, *and section 3 of this act*, create

any right or interest in liberty or property or establish a basis for any cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

Upon the determination, pursuant to NRS 484.3796, that an offender is an abuser of alcohol or drugs and that he can be treated successfully for his condition, the division shall determine, to the extent possible:

1. If the offender is otherwise eligible for residential confinement pursuant to this section and NRS 213.371 to 213.410, inclusive, upon the successful completion of the initial period of rehabilitation required under the program of treatment established pursuant to NRS 209.425; and

2. If the offender is eligible, the likelihood that he will be able to:

(a) Comply with the terms and conditions of residential confinement established by the division; and

(b) Complete successfully the program of treatment established pursuant to NRS 209.425 while in residential confinement.

Sec. 4. NRS 213.371 is hereby amended to read as follows:

213.371 As used in NRS 213.371 to 213.410, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Division" means the division of parole and probation of the department of motor vehicles and public safety.

2. "Offender" means a prisoner assigned to the custody of the division pursuant to NRS 209.429.

3. "Residential confinement" means the confinement of an offender to his place of residence under the terms and conditions established by the division.

Sec. 5. The amendatory provisions of this act do not apply to those criminal offenders who are assigned, before October 1, 1995, by the director of the department of prisons to a program of treatment established pursuant to NRS 209.425.

SUMMARY--Urges peace officers to identify and arrest, and courts to impose prompt, meaningful and consistent sanctions upon, juveniles who violate laws related to alcohol and drugs. (BDR R-244)

CONCURRENT RESOLUTION--Urging peace officers to identify and arrest, and courts to impose prompt, meaningful and consistent sentences upon, juveniles who violate laws related to alcohol and drugs.

WHEREAS, The abuse of alcohol and drugs has pervaded every aspect of our society; and

WHEREAS, The abuse of alcohol and drugs undermines the abilities of those persons who abuse alcohol and drugs to assume meaningful and productive roles in our society; and

WHEREAS, Over the past generation, the number of crimes committed by persons who abuse alcohol or drugs has increased in alarming proportions, overwhelming our judicial and penal systems; and

WHEREAS, The success rate in freeing a person from the destruction caused by alcohol and drugs increases dramatically if the abuse is identified and treated at an early stage; and

WHEREAS, The majority of persons who today are bound by an addiction to alcohol or drugs were children when they were first introduced to alcohol or drugs; and

WHEREAS, Law enforcement agencies and the judicial system share, with parents and school officials, the responsibility of identifying children who abuse alcohol and drugs; and

WHEREAS, Many children cannot or will not acknowledge their addiction until they are forced to by a crisis such as an arrest; and

WHEREAS, Peace officers can provide invaluable motivation for children, particularly in the early stages of substance abuse, to begin a meaningful rehabilitation by actively identifying those children who are abusing alcohol or drugs and violating laws related thereto; and

WHEREAS, Courts which impose prompt, meaningful and consistent sanctions upon these children can, likewise, provide effective reinforcement for ensuring the successful rehabilitation of these children; now, therefore, be it

RESOLVED BY THE OF THE STATE OF NEVADA, THE

CONCURRING, That the law enforcement agencies of this state are urged to identify children who abuse alcohol and drugs and, when warranted, effectuate prompt arrests of those children who violate laws related to alcohol and drugs; and be it further

RESOLVED, That the juvenile and district courts in this state are urged to impose prompt, meaningful and consistent sanctions upon children who violate laws related to alcohol and drugs; and be it further

RESOLVED, That the of the prepare and transmit a copy of this resolution to each law enforcement agency and each district and juvenile court in this state.

SUMMARY--Requires revocation of driver's licenses of certain juveniles who drive under influence of intoxicating liquor or controlled substance. (BDR 5-245)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to juveniles; requiring the revocation of the driver's licenses of certain juveniles who drive under the influence of intoxicating liquor or a controlled substance; and providing other matters properly relating thereto.

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

Section 1. Chapter 62 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is less than 18 years of age is found by the juvenile court to have committed the unlawful act of driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484.379 or 484.3795, the judge, or his authorized representative, shall, if the child possesses a driver's license, issue an order revoking the driver's license of that child for 6 months. If such an order is issued, the judge shall require the child to surrender to the

court all driver's licenses then held by the child. The court shall, within 5 days after issuing the order, forward to the department of motor vehicles and public safety the licenses and a copy of the order.

2. The judge may require the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement of the driver's license of the child.

3. If the child is found to have committed a subsequent unlawful act as set forth in subsection 1, the court shall order an additional period of revocation to apply consecutively with the previous order.

4. The department shall not:

(a) Treat such an unlawful act in the manner statutorily required for moving violations.

(b) Report a revocation pursuant to this section to an insurance company or its agent inquiring about the child's driving record.

(c) Except as otherwise provided in this section, require the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement after a revocation of his license pursuant to this section.

Sec. 2. NRS 62.226 is hereby amended to read as follows:

62.226 1. Except as otherwise provided in subsection 3 [,] *and section 1 of this act*, whenever any child is found to have committed the unlawful act of:

(a) Using, possessing, selling or distributing a controlled substance; or

(b) Purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020,

the judge, or his authorized representative, may, if the child possesses a driver's license, issue an order suspending the child's driver's license for 6 months. If such an order is issued, the judge shall require the child to surrender to the court all driver's licenses then held by the child. The court shall, within 5 days after issuing the order, forward to the department of motor vehicles and public safety the licenses, together with a copy of the order.

2. If the child does not possess a driver's license and the child is or will be eligible to apply for a driver's license within the 2 years immediately following the date of the order, the judge, or his authorized representative, may issue an order prohibiting the child from applying for a driver's license within the 6 months:

(a) Immediately following the date of the order, if the child is eligible to apply for a driver's license.

(b) After the date the child will be eligible to apply for a driver's license, if the child is not eligible to apply for such a license on the date of the order.

The court shall, within 5 days after issuing the order, forward to the department a copy of the order.

3. If a child is found to have committed a subsequent unlawful act as set forth in subsection 1, the court shall order the suspension or delay, as appropriate, in *the* issuance of his driver's license. If the child is already the subject of a court order suspending or delaying the issuance of his driver's

license, the court shall order an additional suspension or delay, as appropriate, to apply consecutively with the previous order.

4. The department shall not:

(a) Treat such an unlawful act in the manner statutorily required for moving traffic violations.

(b) Report a suspension pursuant to this section to an insurance company or its agent inquiring about the child's driving record.

(c) Require the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement or reissuance after a suspension of his license pursuant to this section unless the suspension also resulted from his poor performance as a driver.

Sec. 3. NRS 62.385 is hereby amended to read as follows:

62.385 1. When a child applies for a driver's license, the department of motor vehicles and public safety shall notify the child of the provisions of *section 1 of this act and* NRS 62.226.

2. After providing the notice pursuant to subsection 1, the department shall require the child to sign an affidavit acknowledging that he is aware that his driver's license may be *revoked or* suspended pursuant to *section 1 of this act or* NRS 62.226.

Sec. 4. NRS 458.420 is hereby amended to read as follows:

458.420 The commission shall:

1. Develop and coordinate a state master plan which must include:

(a) All existing and future plans and reports developed by state and local agencies, task forces, councils, committees and community programs for substance abuse education, prevention, enforcement and treatment;

(b) A summary of the current activities of the commission;

(c) The goals and objectives of the commission;

(d) The order of priority concerning the efforts required to achieve the goals and objectives of the commission; and

(e) A statement of the roles of state and local governmental agencies and the private sector in the achievement of the goals and objectives of the commission.

2. Prepare and deliver to the governor on or before September 1 of each year a report which summarizes the status of the state master plan and of the commission's efforts to achieve its goals and objectives.

3. Hold and coordinate public hearings throughout the state as necessary to receive information from the public relating to education concerning the abuse of drugs and alcohol, prevention and treatment of the abuse of drugs and alcohol and the enforcement of laws relating to drugs and alcohol.

4. Encourage the creation of state and local task forces, councils and committees relating to education concerning the abuse of drugs and alcohol, prevention and treatment of the abuse of drugs and alcohol and enforcement of laws relating to drugs and alcohol and develop procedures to receive information and recommendations from the task forces, councils and committees on a regular basis.

5. Recommend to the governor in its annual report any proposed legislation relating to education concerning the abuse of drugs and alcohol, prevention and treatment of the abuse of drugs and alcohol and enforcement of laws relating to drugs and alcohol.

6. Collect, evaluate and disseminate information concerning the performance of the programs for substance abuse education, prevention, enforcement and treatment.

7. Disseminate information concerning any new developments in research or programs for substance abuse education, prevention, enforcement and treatment.

8. Establish a program to recognize publicly persons and programs that have helped to prevent and treat the abuse of drugs and alcohol and enforce laws relating to drugs and alcohol in this state.

9. Disseminate information concerning the provisions of *section 1 of this act and* NRS 62.226 with the assistance of the department of human resources, the department of motor vehicles and public safety and the superintendent of public instruction.

Sec. 5. NRS 483.460 is hereby amended to read as follows:

483.460 1. [Unless] *Except as* otherwise provided by statute, the department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) [Violation] *A violation* of NRS 484.3795 or subsection 2 of NRS 484.377 or *a* homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance.

(2) A third or subsequent violation within 7 years of NRS 484.379.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the department under NRS 483.010 to 483.630, inclusive, or under any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484.379 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484.379.

2. The department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege.

3. When the department is notified by a court that a person who has been convicted of violating NRS 484.379 has been permitted to enter a program of treatment pursuant to NRS 484.3794, the department shall reduce by half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The department shall revoke the license, permit or privilege of a driver who is required to install a device pursuant to NRS 484.3943 but operates a motor vehicle without such a device:

(a) For 1 year if it is his first such offense during the period of required use of the device.

(b) For 5 years if it is his second such offense during the period of required use of the device.

5. When the department is notified that a court has [, pursuant] :

(a) Pursuant to NRS 62.226, ordered the suspension or delay in issuance of a child's license [,] ; or

(b) Pursuant to section 1 of this act, ordered the revocation of a child's license,

the department shall take such actions as are necessary to carry out the court's order.

Sec. 6. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in subsection 2, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484.379 and half the period during which the driver is not eligible for a license has expired, the department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. After a driver's license has been *revoked pursuant to section 1 of this act* or suspended pursuant to NRS 62.226, the department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his work, or both;
and

(b) If applicable, to and from school.

3. A driver who violates a condition of a restricted license issued under subsection 1 or by another jurisdiction is guilty of a misdemeanor, and if his license was suspended or revoked for a violation of NRS 484.379, 484.3795, 484.384 or a homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law of any other jurisdiction which prohibits the same conduct, he shall be punished in the manner provided by subsection 2 of NRS 483.560.

4. The periods of suspensions and revocations under this chapter and under NRS 484.384 must run consecutively, except as provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

5. Whenever the department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 7. NRS 483.495 is hereby amended to read as follows:

483.495 The department shall by regulation:

1. Except as otherwise provided in *section 1 of this act* and subsection 4 of NRS 62.226, set forth any tests and other requirements which are a condition for the reinstatement of a license after any suspension, revocation, cancellation or voluntary surrender of the license. The tests and requirements:

(a) Must provide for a fair evaluation of a person's ability to operate a motor vehicle; and

(b) May allow for the waiver of certain tests or requirements as the department deems necessary.

2. Set forth the circumstances under which the administrator may, for good cause shown, rescind the revocation, suspension or cancellation of a license, or shorten the period for the suspension of a license.

Sec. 8. NRS 483.580 is hereby amended to read as follows:

483.580 A person shall not cause or knowingly permit his child or ward under the age of 18 years to drive a motor vehicle upon any highway when the minor is not authorized under the provisions of NRS 483.010 to 483.630, inclusive, or in violation of any of the provisions of NRS 483.010 to 483.630, inclusive, or if his license is *revoked or* suspended pursuant to *section 1 of this act or* NRS 62.226.

Sec. 9. The amendatory provisions of this act do not apply to children who violate or who are found by a juvenile court to be in violation of the provisions of NRS 484.379 or 484.3795 before October 1, 1995.

SUMMARY--Requires finding that juvenile was driving under influence of intoxicating liquor or controlled substance to be included in his driver's record for certain period. (BDR 43-246)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to juveniles; requiring the department of motor vehicles and public safety to include a finding that a juvenile was driving under the influence of an intoxicating liquor or controlled substance in the driver's record of that juvenile for a certain period; and providing other matters properly relating thereto.

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

Section 1. NRS 483.400 is hereby amended to read as follows:

483.400 1. The department shall maintain files of applications for licenses.

Such files [shall] *must* contain:

(a) All applications denied and on each [thereof note] , *notes regarding the reasons for such denial.*

(b) All applications granted.

(c) The name of every licensee whose license has been suspended or revoked by the department and after each such name [note] , *notes regarding* the reasons for such action.

2. The department shall [also] file all accident reports and abstracts of court records of convictions , *including records of findings by a juvenile court of children found to be in violation of NRS 484.379 or 484.3795*, received by it under the laws of this state, and [in connection therewith] maintain convenient records or make suitable notations [in order] so that an individual record of each licensee showing the convictions of [such] *the* licensee and the traffic accidents in which he was involved [shall be] *are* readily ascertainable and available for the consideration of the department upon any application for renewal of *a* license and at other suitable times.

Sec. 2. NRS 483.450 is hereby amended to read as follows:

483.450 1. Whenever any person is convicted of any offense for which the provisions of NRS 483.010 to 483.630, inclusive, make mandatory the revocation of his driver's license by the department, the court in which the person is convicted may require the surrender to it of all driver's licenses then held by the person convicted, and the court may, within 20 days after the conviction, forward these licenses, together with a record of the conviction, to the department.

2. A record of conviction must be made in a manner approved by the department. The court shall provide sufficient information to allow the department to include accurately the information regarding the conviction in the driver's record. The record of conviction from the court must include at

least the name and address of the person convicted, the number of his driver's license, his social security number, the registration number of the vehicle involved, the date the citation was issued or the arrest was made, the number of the citation and the date and final disposition of the citation.

3. Every court, including a juvenile court, having jurisdiction over violations of the provisions of NRS 483.010 to 483.630, inclusive, or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the department:

(a) If the court is other than a juvenile court, a record of the conviction of any person in that court for a violation of any such laws other than regulations governing standing or parking; or

(b) If the court is a juvenile court, a record of any finding that a child has violated a traffic law , *including a violation of NRS 484.379 or 484.3795*, or ordinance other than one governing standing or parking,

flush
within 20 days after the conviction or finding, and may recommend the suspension of the driver's license of the person convicted or child found in violation of a traffic law or ordinance.

4. *A record of any finding that a child who is less than 18 years of age has violated the provisions of NRS 484.379 or 484.3795 must be included in the driver's record of that child for 7 years after the date of the offense.*

5. For the purposes of NRS 483.010 to 483.630, inclusive:

(a) "Conviction" means a final conviction, and includes a finding by a juvenile court pursuant to NRS 62.221.

(b) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court, if the forfeiture has not been vacated, is equivalent to a conviction.

[5.] 6. The necessary expenses of mailing licenses and records of conviction to the department as required by subsections 1 and 3 must be paid by the court charged with the duty of forwarding those licenses and records of conviction.

Sec. 3. NRS 62.360 is hereby amended to read as follows:

62.360 1. The court shall make and keep records of all cases brought before it.

2. The records may be opened to inspection only by order of the court to persons having a legitimate interest therein except that a release without a court order may be made of any:

(a) Records of traffic violations , *including a violation of NRS 484.379 or 484.3795*, which are being forwarded to the department of motor vehicles and public safety; and

(b) Records which have not been sealed and are required by the division of parole and probation of the department of motor vehicles and public safety for preparation of presentence reports pursuant to NRS 176.135.

3. The clerk of the court shall prepare and cause to be printed forms for social and legal records and other papers as may be required.

4. Whenever the conduct of a juvenile with respect to whom the jurisdiction of the juvenile court has been invoked may be the basis of a civil action, any party to the civil action may petition the court for release of the child's name, and upon satisfactory showing to the court that the purpose in

obtaining the information is for use in a civil action brought or to be brought in good faith, the court shall order the release of the child's name and authorize its use in the civil action.

Sec. 4. NRS 62.370 is hereby amended to read as follows:

62.370 1. In any case in which a child is taken into custody by a peace officer, is taken before a probation officer, or appears before a judge or master of a juvenile court, district court, justice's court or municipal court, the child or a probation officer on his behalf may petition for the sealing of all records relating to the child, including records of arrest, but not including records relating to misdemeanor traffic violations [.] *or records of violations of NRS 484.379 or 484.3795 maintained pursuant to NRS 483.450*, in the custody of the juvenile court, district court, justice's court or municipal court, probation officer, law enforcement agency, or any other agency or public official, if:

(a) Three years or more have elapsed after termination of the jurisdiction of the juvenile court; or

(b) Three years or more have elapsed since the child was last referred to the juvenile court and the child has never been declared a ward of the court.

2. The court shall notify the district attorney of the county and the probation officer, if he is not the petitioner. The district attorney, probation officer, any of their deputies or any other persons having relevant evidence may testify at the hearing on the petition.

3. If, after the hearing, the court finds that, since such termination of jurisdiction, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been

attained to the satisfaction of the court, it shall order all records, papers and exhibits in the juvenile's case in the custody of the juvenile court, district court, justice's court, municipal court, probation officer, law enforcement agency or any other agency or public official sealed. Other records relating to the case, in the custody of such other agencies and officials as are named in the order, must also be ordered sealed. All juvenile records must be automatically sealed when the person reaches 24 years of age.

4. The court shall send a copy of the order to each agency and official named therein. Each agency and official shall, within 5 days after receipt of the order:

- (a) Seal records in its custody, as directed by the order.
- (b) Advise the court of its compliance.
- (c) Seal the copy of the court's order that it or he received.

ush As used in this section, "seal" means placing the records in a separate file or other repository not accessible to the general public.

5. If the court orders the records sealed, all proceedings recounted in the records are deemed never to have occurred and the minor may properly reply accordingly to any inquiry concerning the proceedings and the events which brought about the proceedings.

6. The person who is the subject of records sealed pursuant to this section may petition the court to permit inspection of the records by a person named in the petition and the court may order the inspection.

7. The court may, upon the application of a district attorney or an attorney representing a defendant in a criminal action, order an inspection of the

records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

8. The court may, upon its own motion and for the purpose of sentencing a convicted adult who is under 21 years of age, inspect any records of that person which are sealed pursuant to this section.

9. An agency charged with the medical or psychiatric care of a person may petition the court to unseal his juvenile records.

Sec. 5. The amendatory provisions of this act do not apply to children who violate or who are found by a juvenile court to be in violation of NRS 484.379 or 484.3795 before October 1, 1995.

SUMMARY--Requires evaluation and treatment relating to abuse of alcohol or other drugs for juvenile offenders under certain circumstances.
(BDR 43-247)

FISCAL NOTE: Effect on Local Government: Yes.
 Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to juvenile offenders; requiring the evaluation of a juvenile offender who unlawfully drives while under the influence of intoxicating liquor or a controlled substance to determine if he abuses alcohol or other drugs; providing for the treatment of such an offender; providing for the payment of that evaluation and treatment; and providing other matters properly relating thereto.

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

Section 1. NRS 484.37943 is hereby amended to read as follows:

484.37943 1. If a person is found guilty of a first violation, if the weight of alcohol in the defendant's blood at the time of the offense was 0.18 percent or more, or any second violation of NRS 484.379 within 7 years, the court shall, before sentencing the offender:

(a) Require the evaluation of the offender by an evaluation center to determine if he is an abuser of alcohol or other drugs; and

(b) Order the offender to pay an assessment of not more than \$100 and render a judgment against him for the assessment.

2. If a person is convicted of a first violation of NRS 484.379 and he is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require the evaluation of the offender by an evaluation center to determine if he is an abuser of alcohol or other drugs.

3. The evaluation of an offender pursuant to this section must be conducted at an evaluation center by:

(a) A counselor certified to make that classification by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation;

(b) A physician certified to make that classification by the board of medical examiners; or

(c) A person who is approved to make that classification by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation,
who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required by the offender.

[3.] 4. The money collected as an assessment pursuant to this section must:

(a) Not be deducted from any fine imposed;

(b) Be taxed against the offender in addition to the fine;

(c) Be stated separately on the court's docket; and

(d) Be expended to offset the cost of the evaluation required by this section, including, but not limited to, the cost of staffing the evaluation center, equipment used at the center and maintaining the center.

Sec. 2. NRS 484.37945 is hereby amended to read as follows:

484.37945 1. When a program of treatment is ordered pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the offender under the clinical supervision of a treatment facility for treatment for not less than 30 days nor more than 6 months, in accordance with the report submitted to the court pursuant to subsection [2] 3 of NRS 484.37943. The court may : [, at its discretion:]

(a) Order the offender confined in a treatment facility, then release the offender for supervised aftercare in the community; or

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

2. The court shall:

(a) Require the treatment facility to submit monthly progress reports on the treatment of an offender pursuant to this section; and

(b) Order the offender, to the extent of his financial resources, to pay any charges for his treatment pursuant to this section. If the offender does not have the financial resources to pay all of those charges, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.

3. A treatment facility is not liable for any damages to person or property caused by a person who drives while under the influence of intoxicating liquor or a controlled substance after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to paragraph (b) of subsection 1 of NRS 484.3792.

Sec. 3. Chapter 62 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is less than 21 years of age is found by the juvenile court to have committed the unlawful act of driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484.379 or 484.3795, the judge, or his authorized representative, shall require the child to undergo an evaluation by an evaluation center to determine if the child is an abuser of alcohol or other drugs.

2. The evaluation of a child pursuant to this section must be conducted at an evaluation center by:

(a) A counselor certified to make that classification by the bureau of alcohol and drug abuse;

(b) A physician certified to make that classification by the board of medical examiners; or

(c) A person who is approved to make that classification by the bureau of alcohol and drug abuse,

who shall report to the judge the results of the evaluation and make a recommendation to the judge concerning the length and type of treatment required by the child.

3. *The judge shall:*

(a) Order the child to undergo a program of treatment as recommended by the evaluation center.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child, if he is at least 18 years of age or an emancipated minor, or the parent or legal guardian of the child, to the extent of the financial resources of the child or his parent or legal guardian, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child, or his parent or legal guardian, does not have the financial resources to pay all of those charges, the judge shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs.

4. *A treatment facility is not liable for any damages to person or property caused by a child who drives while under the influence of an intoxicating liquor or a controlled substance after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to this section.*

5. *The provisions of this section do not prohibit a judge from:*

(a) Requiring an evaluation to be conducted by an evaluation center that is administered by a private company if the company meets the standards of the bureau of alcohol and drug abuse; or

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

6. *All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this chapter or the juvenile court, must not be disclosed to any person other than the juvenile court, the child and his attorney, if any, his parents or guardian, the prosecuting attorney and any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.*

7. *As used in this section:*

(a) *"Bureau of alcohol and drug abuse" means the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation.*

(b) *"Evaluation center" has the meaning ascribed to it in NRS 484.3793.*

(c) *"Treatment facility" has the meaning ascribed to it in NRS 484.3793.*

Sec. 4. The amendatory provisions of this act do not apply to persons under 21 years of age who violate or are found by a juvenile court to be in violation of NRS 484.379 or 484.3795 before October 1, 1995.

SUMMARY--Requires revocation or delay in issuance of driver's licenses of certain juveniles who unlawfully purchase, consume or possess alcoholic beverage. (BDR 5-248)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to juveniles; requiring the revocation of the driver's licenses of certain juveniles who unlawfully purchase, consume or possess an alcoholic beverage; delaying the initial issuance of a driver's license to such a juvenile; and providing other matters properly relating thereto.

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

Section 1. Chapter 62 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is less than 18 years of age is found by the juvenile court to have committed the unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020, the judge, or his authorized representative, shall, if the child possesses a driver's license, issue an order revoking the driver's license of that child for 90 days. Upon the issuance of such an order, the judge shall require the child to surrender to the court all driver's

licenses then held by the child. The court shall, within 5 days after issuing the order, forward to the department of motor vehicles and public safety the licenses and a copy of the order.

2. If the child does not possess a driver's license and the child is or will be eligible to apply for a driver's license within 2 years immediately following the date of the order, the judge, or his authorized representative, shall issue an order prohibiting the child from applying for a driver's license within the 6 months:

(a) Immediately following the date of the order, if the child is eligible to apply for a driver's license.

(b) After the date the child will be eligible to apply for a driver's license, if the child is not eligible to apply for such a license on the date of the order.

The court shall, within 5 days after issuing the order, forward to the department a copy of the order.

3. The judge may require a child whose license is revoked pursuant to subsection 1 to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement of the driver's license of the child.

4. If a child who is the subject of a court order revoking or delaying the issuance of his driver's license pursuant to this section is found to have committed a subsequent unlawful act as set forth in subsection 1, the court shall order an additional revocation or delay, as appropriate, to apply consecutively with the previous order.

5. The department shall not:

(a) Treat such an unlawful act in the manner statutorily required for moving traffic violations.

(b) Report a revocation pursuant to this section to an insurance company or its agent inquiring about the driving record of the child.

(c) Except as otherwise required in this section, require the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement after a revocation of his license pursuant to this section.

Sec. 2. NRS 62.226 is hereby amended to read as follows:

62.226 1. Except as otherwise provided in subsection 3, whenever any child is found to have committed the unlawful act of [:

(a) Using,] *using*, possessing, selling or distributing a controlled substance ,
[; or

(b) Purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020,] the judge, or his authorized representative, may, if the child possesses a driver's license, issue an order suspending the child's driver's license for 6 months. If such an order is issued, the judge shall require the child to surrender to the court all driver's licenses then held by the child. The court shall, within 5 days after issuing the order, forward to the department of motor vehicles and public safety the licenses, together with a copy of the order.

2. If the child does not possess a driver's license and the child is or will be eligible to apply for a driver's license within the 2 years immediately following the date of the order, the judge, or his authorized representative, may issue an

order prohibiting the child from applying for a driver's license within the 6 months:

(a) Immediately following the date of the order, if the child is eligible to apply for a driver's license.

(b) After the date the child will be eligible to apply for a driver's license, if the child is not eligible to apply for such a license on the date of the order.

The court shall, within 5 days after issuing the order, forward to the department a copy of the order.

3. If a child is found to have committed a subsequent unlawful act as set forth in subsection 1, the court shall order the suspension or delay, as appropriate, in *the* issuance of his driver's license. If the child is already the subject of a court order suspending or delaying the issuance of his driver's license, the court shall order an additional suspension or delay, as appropriate, to apply consecutively with the previous order.

4. The department shall not:

(a) Treat such an unlawful act in the manner statutorily required for moving traffic violations.

(b) Report a suspension pursuant to this section to an insurance company or its agent inquiring about the child's driving record.

(c) Require the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement or reissuance after a suspension of his license pursuant to this section unless the suspension also resulted from his poor performance as a driver.

Sec. 3. NRS 62.385 is hereby amended to read as follows:

62.385 1. When a child applies for a driver's license, the department of motor vehicles and public safety shall notify the child of the provisions of *section 1 of this act and NRS 62.226.*

2. After providing the notice pursuant to subsection 1, the department shall require the child to sign an affidavit acknowledging that he is aware that his driver's license may be *revoked or* suspended pursuant to *section 1 of this act or NRS 62.226.*

Sec. 4. NRS 458.420 is hereby amended to read as follows:

458.420 The commission shall:

1. Develop and coordinate a state master plan which must include:

(a) All existing and future plans and reports developed by state and local agencies, task forces, councils, committees and community programs for substance abuse education, prevention, enforcement and treatment;

(b) A summary of the current activities of the commission;

(c) The goals and objectives of the commission;

(d) The order of priority concerning the efforts required to achieve the goals and objectives of the commission; and

(e) A statement of the roles of state and local governmental agencies and the private sector in the achievement of the goals and objectives of the commission.

2. Prepare and deliver to the governor on or before September 1 of each year a report which summarizes the status of the state master plan and of the commission's efforts to achieve its goals and objectives.

3. Hold and coordinate public hearings throughout the state as necessary to receive information from the public relating to education concerning the abuse of drugs and alcohol, prevention and treatment of the abuse of drugs and alcohol and the enforcement of laws relating to drugs and alcohol.

4. Encourage the creation of state and local task forces, councils and committees relating to education concerning the abuse of drugs and alcohol, prevention and treatment of the abuse of drugs and alcohol and enforcement of laws relating to drugs and alcohol and develop procedures to receive information and recommendations from the task forces, councils and committees on a regular basis.

5. Recommend to the governor in its annual report any proposed legislation relating to education concerning the abuse of drugs and alcohol, prevention and treatment of the abuse of drugs and alcohol and enforcement of laws relating to drugs and alcohol.

6. Collect, evaluate and disseminate information concerning the performance of the programs for substance abuse education, prevention, enforcement and treatment.

7. Disseminate information concerning any new developments in research or programs for substance abuse education, prevention, enforcement and treatment.

8. Establish a program to recognize publicly persons and programs that have helped to prevent and treat the abuse of drugs and alcohol and enforce laws relating to drugs and alcohol in this state.

9. Disseminate information concerning the provisions of *section 1 of this act* and NRS 62.226 with the assistance of the department of human resources, the department of motor vehicles and public safety and the superintendent of public instruction.

Sec. 5. NRS 483.250 is hereby amended to read as follows:

483.250 The department shall not issue any license under the provisions of NRS 483.010 to 483.630, inclusive:

1. To any person who is under the age of 16 years, except that the department may issue:

(a) A restricted license to a person between the ages of 14 and 16 years pursuant to the provisions of NRS 483.267 and 483.270.

(b) An instruction permit to a person who is at least 15 1/2 years of age pursuant to the provisions of subsection 1 of NRS 483.280.

(c) A restricted instruction permit to a person under the age of 16 years pursuant to the provisions of subsection 3 of NRS 483.280.

2. To any person whose license has been revoked until the expiration of the period during which he is not eligible for a license.

3. To any person whose license has been suspended; but, upon good cause shown to the administrator, the department may issue a restricted license to him or shorten any period of suspension.

4. To any person who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to legal capacity.

5. To any person who is required by NRS 483.010 to 483.630, inclusive, to take an examination, unless he has successfully passed the examination.

6. To any person when the administrator has good cause to believe that by reason of physical or mental disability that person would not be able to drive a motor vehicle with safety upon the highways.

7. To any person who is not a resident of this state.

8. To any child who is the subject of a court order issued pursuant to NRS 62.226 or section 1 of this act which delays his privilege to drive.

Sec. 6. NRS 483.460 is hereby amended to read as follows:

483.460 1. [Unless] *Except as* otherwise provided by statute, the department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) [Violation] *A violation* of NRS 484.3795 or subsection 2 of NRS 484.377 or homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance.

(2) A third or subsequent violation within 7 years of NRS 484.379.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the department under NRS 483.010 to 483.630, inclusive, or under any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484.379 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484.379.

2. The department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege.

3. When the department is notified by a court that a person who has been convicted of violating NRS 484.379 has been permitted to enter a program of treatment pursuant to NRS 484.3794 the department shall reduce by half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The department shall revoke the license, permit or privilege of a driver who is required to install a device pursuant to NRS 484.3943 but operates a motor vehicle without such a device:

(a) For 1 year if it is his first such offense during the period of required use of the device.

(b) For 5 years if it is his second such offense during the period of required use of the device.

5. When the department is notified that a court has [, pursuant] :

(a) Pursuant to NRS 62.226, ordered the suspension or delay in issuance of a child's license [,] ; or

(b) Pursuant to section 1 of this act, ordered the revocation or delay in issuance of a child's license,
the department shall take such actions as are necessary to carry out the court's order.

Sec. 7. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in subsection 2, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484.379 and half the period during which the driver is not eligible for a license has expired, the department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. After a driver's license has been *revoked pursuant to section 1 of this act* or suspended pursuant to NRS 62.226, the department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his work, or both; and

(b) If applicable, to and from school.

3. A driver who violates a condition of a restricted license issued under subsection 1 or by another jurisdiction is guilty of a misdemeanor, and if his license was suspended or revoked for a violation of NRS 484.379, 484.3795, 484.384 or a homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law of any other jurisdiction which prohibits the same conduct, he shall be punished in the manner provided by subsection 2 of NRS 483.560.

4. The periods of suspensions and revocations under this chapter and under NRS 484.384 must run consecutively, except as provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

5. Whenever the department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 8. NRS 483.495 is hereby amended to read as follows:

483.495 The department shall by regulation:

1. Except as otherwise provided in *section 1 of this act* and subsection 4 of NRS 62.226, set forth any tests and other requirements which are a condition for the reinstatement of a license after any suspension, revocation, cancellation or voluntary surrender of the license. The tests and requirements:

(a) Must provide for a fair evaluation of a person's ability to operate a motor vehicle; and

(b) May allow for the waiver of certain tests or requirements as the department deems necessary.

2. Set forth the circumstances under which the administrator may, for good cause shown, rescind the revocation, suspension or cancellation of a license, or shorten the period for the suspension of a license.

Sec. 9. NRS 483.580 is hereby amended to read as follows:

483.580 A person shall not cause or knowingly permit his child or ward under the age of 18 years to drive a motor vehicle upon any highway when the minor is not authorized under the provisions of NRS 483.010 to 483.630, inclusive, or in violation of any of the provisions of NRS 483.010 to 483.630, inclusive, or if his license is *revoked or* suspended pursuant to *section 1 of this act or* NRS 62.226.

Sec. 10. The amendatory provisions of this act do not apply to children who violate or who are found by a juvenile court to be in violation of the provisions of NRS 202.020 before October 1, 1995.

SUMMARY--Establishes within department of prisons position of coordinator of programs for treatment of offenders who abuse alcohol or drugs. (BDR 16-249)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the department of prisons; establishing within the department the position of coordinator of programs for the treatment of offenders who abuse alcohol or drugs; designating the duties of the coordinator; and providing other matters properly relating thereto.

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

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

- 1. The director shall appoint a coordinator of programs for the treatment of offenders who abuse alcohol or drugs. The coordinator:*
 - (a) Is responsible to and serves at the pleasure of the director.*
 - (b) Is in the classified service of the state except for purposes of retention.*
 - (c) Shall devote his entire time and attention to the business of his office and shall not engage in any other gainful employment or occupation.*

2. *The coordinator shall:*

(a) Assist the director in planning and establishing all programs for the treatment of offenders who abuse alcohol or drugs that are operated by the department or by governmental agencies or private organizations that have contracted with the director to operate such programs.

(b) Administer, manage and evaluate all such programs.

(c) Supervise all persons employed by the department who are assigned to the administration of such programs.

(d) Enforce all policies and regulations of the department relating to administration of such programs.

Sec. 2. This act becomes effective on July 1, 1995.

SUMMARY--Urges Congress and President of United States to oppose legalization of certain controlled substances. (BDR R-250)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

JOINT RESOLUTION--Urging the Congress and the President of the United States to oppose the legalization of the use, possession and distribution of unlawfully obtained controlled substances.

WHEREAS, The use, possession and distribution of unlawfully obtained controlled substances continues to be a problem of paramount concern in the United States; and

WHEREAS, Because studies estimate that 10 times more Americans use alcohol and five times more Americans use tobacco than persons who use illicit drugs, and because the permissive and subsequently increased use of controlled substances in countries such as Italy and the Netherlands indicates that the use of controlled substances increases when laws regulating their use are nonexistent or are only passively enforced, it could be concluded that the legalization of the use, possession and distribution of unlawfully obtained controlled substances would lead to a proportionate increase in their use in the United States; and

WHEREAS, Many violent crimes, including domestic violence, are committed while the offenders are under the influence of an illegally obtained controlled substance; and

WHEREAS, The legalization of the use, possession and distribution of unlawfully obtained controlled substances may consequently increase the number of violent crimes committed in the United States; and

WHEREAS, The illegal use of controlled substances may create a direct impact upon the cost of health care associated with drug abuse, thereby dramatically increasing the cost of that care; and

WHEREAS, The increased usage that would result from the legalization of the use, possession and distribution of unlawfully obtained controlled substances and its possible resulting increase in the cost of health care would also directly impact and adversely affect economic productivity in the United States; now, therefore, be it

RESOLVED BY THE AND OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby urges the Congress and the President of the United States to oppose the legalization of the use, possession and distribution of unlawfully obtained controlled substances in the United States; and be it further

RESOLVED, That the of the prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as presiding officer of the Senate, the Speaker of the House

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of Representatives and each member of the Nevada Congressional Delegation;
and be it further

RESOLVED, That this resolution becomes effective upon passage and
approval.

SUMMARY--Provides for study of effectiveness of programs for treatment of alcohol and drug abuse. (BDR S-251)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Contains Appropriation.

AN ACT relating to programs for the treatment of alcohol and drug abuse; requiring the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation to conduct a study of the effectiveness of programs for the treatment of alcohol and drug abuse conducted in Nevada; establishing certain requirements for the study; making an appropriation; and providing other matters properly relating thereto.

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

Section 1. 1. The bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation shall conduct a study of the effectiveness of programs for the treatment of alcohol and drug abuse that are conducted in this state.

2. The study required by subsection 1 must, without limitation:

(a) Include an evaluation of whether persons participating in such a program:

- (1) Continue to abuse alcohol or drugs after completing the program;
 - (2) Have completed educational programs related to alcohol and drug abuse or any type of vocational training;
 - (3) Obtain employment after completing the program; and
 - (4) Are arrested or incarcerated after completing the program;
- (b) If feasible, be conducted in such a manner as to formulate statistics that differentiate between the various types and length of treatment received;
- (c) If feasible, include a comparison of the percentage of persons who are rehabilitated after completing such a program and the percentage of persons who are rehabilitated without participating in such a program; and
- (d) Include a plan to promote the use of those programs of treatment that are determined to be the most effective.

3. The bureau of alcohol and drug abuse shall submit the results of the study and any recommendations for legislation to the director of the legislative counsel bureau on or before January 20, 1997, for transmission to the 69th session of the Nevada legislature.

Sec. 2. 1. There is hereby appropriated from the state general fund to the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation the sum of \$100,000 to conduct the study required by section 1 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1997, and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 3. This act becomes effective on July 1, 1995.