

Amendment No. 903

Senate Amendment to Senate Bill No. 309 First Reprint	(BDR 43-906)
Proposed by: Senator Steinbeck	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 309—SENATOR STEINBECK

MARCH 10, 2025

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to crimes. (BDR 43-906)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

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

AN ACT relating to crimes; revising provisions relating to ~~prohibited acts concerning the use of~~ driving under the influence of alcohol ~~or marijuana and~~ or certain other prohibited substances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law prohibits a person from driving or physically controlling a vehicle or operating or physically controlling a vessel under certain circumstances if the person has specified amounts of certain prohibited substances in his or her blood or urine. (NRS 484C.110, 488.410) Sections 5 and 15 of this bill additionally prohibit a person from driving or physically controlling a vehicle or operating or physically controlling a vessel with specific amounts of fentanyl in his or her blood or urine. Section 3 of this bill makes a conforming change to include fentanyl in the definition of "prohibited substance."~~

Existing law establishes various penalties applicable to the offense of driving or physically controlling a vehicle while under the influence of alcohol or a prohibited substance, depending on whether the offense is the first, second or third offense within 7 years. (NRS 484C.400) Among other things, a court may sentence a person who is found guilty of a second offense within 7 years to: (1) imprisonment for not less than 10 days nor more than 6 months in jail; or (2) residential confinement for not less than 10 days nor more than 6 months. **Section 12** of this bill increases the minimum term of imprisonment or residential confinement to 20 days.

Existing law requires an offender who had a concentration of alcohol of 0.18 or more in his or her blood or breath at the time of an offense to be evaluated before sentencing to determine whether the offender has an alcohol or substance use disorder. (NRS 484C.350) **Section 11** of this bill reduces the concentration of alcohol threshold to require an offender who had a concentration of alcohol of 0.16 or more in his or her blood or breath at the time of the offense to be evaluated for an alcohol or substance use disorder. **Sections 1, 9 and 12** of this bill make conforming changes to reduce references to the concentration of alcohol from 0.18 to 0.16. **Section 38** of this bill makes a technical change to repeal a definition that is not used in chapter 484C of NRS.

Additionally, existing law, under certain circumstances, authorizes certain first, second and third-time offenders to apply to the court to undergo a program of treatment for an alcohol or other substance use disorder. (NRS 484C.320, 484C.330, 484C.340) Existing law prohibits an offender from applying to undergo such a program for third-time offenders if the offender has previously applied to receive such treatment or has previously been convicted of certain

offenses. (NRS 484C.340) **Section 10** of this bill removes the restriction related to previous applications by a third-time offender to undergo such a program and instead prohibits the offender from applying to undergo such a program if the offender has previously been ordered to complete a program of treatment for third-time offenders.

For the purposes of determining whether a person that drives or physically controls a vehicle while under the influence of alcohol or a prohibited substance is a first, second or third-time offender, existing law qualifies an offense as a prior offense if it is: (1) evidenced by a conviction; or (2) conditionally dismissed or the judgment of conviction is set aside or dismissed in connection with successful completion of a diversionary program or specialty court program. (NRS 484C.400) **Section 12** additionally provides that an offense qualifies as a prior offense if the person is undergoing a program of treatment for an alcohol or substance use disorder for a first, second or third-time offender.

Existing law establishes a penalty that is applicable to a person who has previously committed certain felonies related to driving under the influence of alcohol or a prohibited substance and who subsequently commits the offense of driving or physically controlling a vehicle while under the influence of alcohol or a prohibited substance. (NRS 484C.410) **Section 13** of this bill additionally applies this penalty to a person who is undergoing a program of treatment for an alcohol or substance use disorder for a third-time offender, if the person subsequently commits the offense of driving or physically controlling a vehicle while under the influence of alcohol or a prohibited substance.

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

Section 1. NRS 484C.030 is hereby amended to read as follows:

484C.030 "Concentration of alcohol of ~~0.18~~ **0.16** or more in his or her blood or breath" means ~~0.18~~ **0.16** gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~[NRS 484C.080 is hereby amended to read as follows:~~

~~484C.080 "Prohibited substance" means any of the following substances if the person who uses the substance has not been issued a valid prescription to use the substance and the substance is classified in schedule I or II pursuant to NRS 453.166 or 453.176 when it is used:~~

~~1. Amphetamine.~~

~~2. Cocaine or cocaine metabolite.~~

~~3. Fentanyl.~~

~~4. Heroin or heroin metabolite (morphine or 6 monoacetyl morphine).~~

~~[4.] 5. Lysergic acid diethylamide.~~

~~[5.] 6. Marijuana or marijuana metabolite.~~

~~[6.] 7. Methamphetamine.~~

~~[7.] 8. Phencyclidine.] (Deleted by amendment.)~~

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~[NRS 484C.110 is hereby amended to read as follows:~~

~~484C.110 1. It is unlawful for any person who:~~

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

~~(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~or~~

~~(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.~~

~~2. It is unlawful for any person who:~~
~~(a) Is under the influence of a controlled substance;~~
~~(b) Is under the combined influence of intoxicating liquor and a controlled substance; or~~
~~(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle;~~
~~to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.~~

~~2. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood or urine that is equal to or greater than:~~

	Urine	Blood
	Nanograms	Nanograms
Prohibited substance	per milliliter	per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
	Urine	Blood
	Nanograms	Nanograms
Prohibited substance	per milliliter	per milliliter
(c) Cocaine metabolite	150	50
(d) <i>Fentanyl</i>	10	1
(e) Heroin	2,000	50
[(e)] (f) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6 monoacetyl morphine	10	10
[(f)] (g) Lysergic acid diethylamide	25	10
[(g)] (h) Methamphetamine	500	100
[(h)] (i) Phenylelidine	25	10

~~4. For any violation that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400, it is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:~~

	Blood
	Nanograms
Prohibited substance	per milliliter
(a) Marijuana (delta 9 tetrahydrocannabinol)	2
(b) Marijuana metabolite (11 OH tetrahydrocannabinol)	5

~~5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical~~

~~control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~6. A person who violates any provision of this section may be subject to any additional penalty set forth in NRS 484B.130 or 484B.135.~~ **(Deleted by amendment.)**

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 484C.320 is hereby amended to read as follows:

484C.320 1. An offender who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, other than an offender who is found to have a concentration of alcohol of ~~0.18~~ **0.16** or more in his or her blood or breath, may, at that time or any time before the offender is sentenced, apply to the court to undergo a program of treatment for an alcohol or other substance use disorder for at least 6 months. The court shall authorize that treatment if:

(a) The offender is diagnosed as a person with an alcohol or other substance use disorder by:

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

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

(3) An advanced practice registered nurse who is certified to make that diagnosis by the State Board of Nursing;

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

(c) The offender has served or will serve a term of imprisonment in jail of not less than 1 day, or has performed or will perform 24 hours of community service.

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 an alcohol or other substance use disorder. The court shall order a hearing on the application upon the request of the prosecuting attorney 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 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 the court.

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

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

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment provider that is approved by the court, that the offender complete the treatment satisfactorily and that the offender comply with any other condition ordered by the court. If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court,

including, without limitation, any requirement to submit progress reports to the specialty court.

(c) Advise the offender that:

(1) He or she may be placed under the supervision of a treatment provider for a period not to exceed 3 years.

(2) The court may order the offender to be admitted to a residential treatment facility or to be provided with outpatient treatment in the community.

(3) If the offender fails to complete the program of treatment satisfactorily, the offender shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which the offender served before beginning treatment.

(4) If the offender completes the treatment satisfactorily, the offender's sentence will be reduced to a term of imprisonment which is not less than 1 day and a fine of not more than the minimum fine provided for the offense in NRS 484C.400, but the conviction must remain on the record of criminal history of the offender for the period prescribed by law.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 176A.230 to 176A.245, inclusive, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise 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 application of the offender for treatment and his or her failure to be accepted for or complete treatment.

Sec. 10. NRS 484C.340 is hereby amended to read as follows:

484C.340 1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400 may, at the time the offender enters a plea, apply to the court to undergo a program of treatment for an alcohol or other substance use disorder for at least 3 years. The court may authorize that treatment if:

(a) The offender is diagnosed as a person with an alcohol or other substance use disorder by:

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

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

(3) An advanced practice registered nurse who is certified to make that diagnosis by the State Board of Nursing; and

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

➤ An alcohol and drug counselor, a clinical alcohol and drug counselor, a physician or an advanced practice registered nurse who diagnoses an offender as a person with an alcohol or other substance use disorder shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

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 upon the request of the prosecuting attorney 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 and other information before the court.

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

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place the offender on probation for not more than 5 years.

(b) Order the offender to complete a program of treatment for an alcohol or other substance use disorder with a treatment provider approved by the court. If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.

(c) Advise the offender that:

(1) He or she may be placed under the supervision of a treatment provider for not more than 5 years.

(2) The court may order the offender to be admitted to a residential treatment facility.

(3) The court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484C.400 if a treatment provider fails to accept the offender for a program of treatment for an alcohol or other substance use disorder or if the offender fails to complete the program of treatment satisfactorily. Any sentence of imprisonment may be reduced by a time equal to that which the offender served before beginning treatment.

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

(5) The provisions of NRS 483.460 requiring the revocation of the license, permit or privilege of the offender to drive do not apply.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 176A.230 to 176A.245, inclusive, except that the court:

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

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

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

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

(b) Be placed under a system of active electronic monitoring, through the Division, that is capable of identifying the offender's location and producing, upon request, reports or records of the offender's presence near or within, or departure from, a specified geographic location and pay any costs associated with the offender's participation under the system of active electronic monitoring;

(c) Install, at his or her own expense, an ignition interlock device for not less than 12 months;

(d) Not drive any vehicle unless it is equipped with an ignition interlock device;

(e) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

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

7. An offender may not apply to the court to undergo a program of treatment for an alcohol or other substance use disorder pursuant to this section if the offender has previously ~~applied~~ *been ordered* to ~~receive~~ *complete a program of* treatment pursuant to this section or if the offender has previously been convicted of:

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

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

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

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

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

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

8. An offender placed under a system of active electronic monitoring pursuant to paragraph (b) of subsection 6 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the court or the Division with regard to the offender's participation under the system of active electronic monitoring.

9. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on an offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

10. As used in this section, "Division" means the Division of Parole and Probation of the Department of Public Safety.

Sec. 11. NRS 484C.350 is hereby amended to read as follows:

484C.350 1. If an offender is found guilty of a violation of NRS 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was ~~10-18~~ *0.16* or more, if an offender is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484C.400 or if an offender is found guilty of a violation of subsection 4 of NRS 453.336, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender has an alcohol or other substance use disorder.

2. If an offender is convicted of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if the offender is under 21 years of age at the time of the violation or if the offender is convicted of a violation of subsection 1 or 2 of NRS 202.020, subsection 1 of NRS 202.040 or subsection 4 of NRS 678D.310, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender has an alcohol or other substance use disorder.

3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at an evaluation center by:

1 (a) An alcohol and drug counselor who is licensed or certified, or a clinical
2 alcohol and drug counselor who is licensed, pursuant to chapter 641C of NRS, to
3 make that evaluation;

4 (b) A physician who is certified to make that evaluation by the Board of
5 Medical Examiners; or

6 (c) An advanced practice registered nurse who is certified to make that
7 diagnosis by the State Board of Nursing,

8 ➤ who shall report to the court the results of the evaluation and make a
9 recommendation to the court concerning the length and type of treatment required
10 for the offender.

11 4. The evaluation of an offender who resides more than 30 miles from an
12 evaluation center may be conducted outside an evaluation center by a person who
13 has the qualifications set forth in subsection 3. The person who conducts the
14 evaluation shall report to the court the results of the evaluation and make a
15 recommendation to the court concerning the length and type of treatment required
16 for the offender.

17 5. The evaluation of an offender who resides in another state may, upon
18 approval of the court, be conducted in the state where the offender resides by a
19 physician, advanced practice registered nurse or other person who is authorized by
20 the appropriate governmental agency in that state to conduct such an evaluation.
21 The offender shall ensure that the results of the evaluation and the recommendation
22 concerning the length and type of treatment for the offender are reported to the
23 court.

24 6. The evaluation of an offender who resides in this State may, upon approval
25 of the court, be conducted in another state by a physician, advanced practice
26 registered nurse or other person who is authorized by the appropriate governmental
27 agency in that state to conduct such an evaluation if the location of the physician,
28 advanced practice registered nurse or other person in the other state is closer to the
29 residence of the offender than the nearest location in this State at which an
30 evaluation may be conducted. The offender shall ensure that the results of the
31 evaluation and the recommendation concerning the length and type of treatment for
32 the offender are reported to the court.

33 7. An offender who is evaluated pursuant to this section shall pay the cost of
34 the evaluation. An evaluation center or a person who conducts an evaluation in this
35 State outside an evaluation center shall not charge an offender more than \$100 for
36 the evaluation.

37 **Sec. 12.** NRS 484C.400 is hereby amended to read as follows:

38 484C.400 1. Unless a greater penalty is provided pursuant to NRS
39 484C.430 or 484C.440, and except as otherwise provided in NRS 484C.394 or
40 484C.410, a person who violates the provisions of NRS 484C.110 or 484C.120:

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

44 (1) Except as otherwise provided in subparagraph (4) of this paragraph or
45 subsection 3 of NRS 484C.420, order the person to pay tuition for an educational
46 course on alcohol or other substance use disorders approved by the Department and
47 complete the course within the time specified in the order, and the court shall notify
48 the Department if the person fails to complete the course within the specified time;

49 (2) Unless the sentence is reduced pursuant to NRS 484C.320:

50 (I) Sentence the person to imprisonment for not less than 2 days nor
51 more than 6 months in jail or residential confinement for not less than 2 days nor
52 more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or
53 5.0755 to 5.078, inclusive; or

(II) Order the person to perform not less than 48 hours, but not more than 96 hours, of community service;

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

(4) If the person is found to have a concentration of alcohol of ~~0.18~~ **0.16** or more in his or her blood or breath, order the person to attend a program of treatment for an alcohol or other substance use disorder pursuant to the provisions of NRS 484C.360.

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

(1) Sentence the person to:

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

(II) Residential confinement for not less than ~~10~~ **20** days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine the person not less than \$750 nor more than \$1,000, or order the person to perform an equivalent number of hours of community service; and

(3) Order the person to attend a program of treatment for an alcohol or other substance use disorder pursuant to the provisions of NRS 484C.360.

➤ 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) Except as otherwise provided in NRS 484C.340, for a third offense within 7 years, is guilty of a category B felony and the court:

(1) Shall:

(I) Sentence the person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; and

(II) Fine the person not less than \$2,000 nor more than \$5,000; and

(2) May order the person to attend a program of treatment for an alcohol or other substance use disorder pursuant to the provisions of NRS 484C.360 if the results of an evaluation conducted pursuant to NRS 484C.300 indicate that the person has an alcohol or other substance use disorder and that the person can be treated successfully for his or her condition.

➤ An offender who is imprisoned pursuant to the provisions of this paragraph 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. An offense that 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:

(a) When evidenced by a conviction; ~~or~~

(b) ***If the person is undergoing a program of treatment for an alcohol or other substance use disorder pursuant to NRS 484C.320, 484C.330 or 484C.340 as a result of the offense; or***

(c) If the offense is conditionally dismissed or the judgment of conviction is set aside pursuant to NRS 176A.240, 176A.260 or 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

➤ 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. A term of confinement imposed pursuant to 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 484C.320 or 484C.330 and the suspension of his or her 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.

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

5. 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.

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

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

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

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

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

Sec. 13. NRS 484C.410 is hereby amended to read as follows:

484C.410 1. Unless a greater penalty is provided in NRS 484C.440, a person who ~~has~~:

(a) ~~Has~~ previously been convicted of:

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

~~(b)~~ (2) A violation of NRS 484C.430;

~~(c)~~ (3) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;

~~(d)~~ (4) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in ~~paragraph (a), (b)~~ *subparagraph (1), (2) or (e)*; or

~~(e)~~ (5) A violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400 that was reduced from a felony pursuant to NRS 484C.340 ~~;~~ *or*

(b) Is undergoing a program of treatment for an alcohol or other substance use disorder pursuant to NRS 484C.340,

and who violates the provisions of NRS 484C.110 or 484C.120 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a

1 minimum term of not less than 2 years and a maximum term of not more than 15
2 years, and shall be further punished by a fine of not less than \$2,000 nor more than
3 \$5,000. An offender so imprisoned must, insofar as practicable, be segregated from
4 offenders whose crimes were violent and, insofar as practicable, be assigned to an
5 institution or facility of minimum security.

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

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

26 4. Jail sentences simultaneously imposed pursuant to this section and NRS
27 482.456, 483.560, 484C.400 or 485.330 must run consecutively.

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

31 6. For the purpose of determining whether one offense occurs within 7 years
32 of another offense, any period of time between the two offenses during which, for
33 any such offense, the offender is imprisoned, serving a term of residential
34 confinement, placed under the supervision of a treatment provider, on parole or on
35 probation must be excluded.

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

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

39 (b) A homicide resulting from driving or being in actual physical control of a
40 vehicle while under the influence of intoxicating liquor or a controlled substance or
41 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
42 484C.430; or

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

45 **Sec. 14.** (Deleted by amendment.)

46 **Sec. 15.** ~~NRS 488.410 is hereby amended to read as follows:~~

47 ~~488.410 1. It is unlawful for any person who:~~

48 ~~(a) Is under the influence of intoxicating liquor;~~

49 ~~(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~
50 ~~or~~

51 ~~(c) Is found by measurement within 2 hours after operating or being in actual~~
52 ~~physical control of a power-driven vessel or sailing vessel under way to have a~~
53 ~~concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~to operate or be in actual physical control of a power-driven vessel or sailing vessel under way on the waters of this State.~~

~~2. It is unlawful for any person who:~~

~~(a) Is under the influence of a controlled substance;~~

~~(b) Is under the combined influence of intoxicating liquor and a controlled substance; or~~

~~(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a power-driven vessel or sailing vessel under way.~~

~~to operate or be in actual physical control of a power-driven vessel or sailing vessel under way on the waters of this State.~~

~~2. It is unlawful for any person to operate or be in actual physical control of a power-driven vessel or sailing vessel under way on the waters of this State with an amount of any of the following prohibited substances in his or her blood or urine that is equal to or greater than:~~

Prohibited substance	Urine	Blood
	Nanograms per milliliter	Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) <i>Fentanyl</i>	10	1
[(d)] (e) Heroin	2,000	50
[(e)] (f) Heroin metabolite;		
(1) Morphine	2,000	50
(2) 6 monoacetyl morphine	10	10
[(f)] (g) Lysergic acid diethylamide	25	10
[(g)] (h) Methamphetamine	500	100
[(h)] (i) Phenylethidine	25	10

~~4. For any violation that is punishable pursuant to NRS 488.427, it is unlawful for any person to operate or be in actual physical control of a power-driven vessel or sailing vessel under way on the waters of this State with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:~~

Prohibited substance	Blood
	Nanograms per milliliter
(a) Marijuana (delta 9 tetrahydrocannabinol)	2
(b) Marijuana metabolite (11 OH tetrahydrocannabinol)	5

~~5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the power driven vessel or sailing vessel, as applicable, under way and before his or her blood was tested, to cause the defendant to have a concentration of 0.08 or more of alcohol in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before~~

~~the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~6. Except as otherwise provided in NRS 488.427, a person who violates the provisions of this section is guilty of a misdemeanor.]~~ **(Deleted by amendment.)**

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. NRS 484C.040 is hereby repealed.

TEXT OF REPEALED SECTION

484C.040 “Concentration of alcohol of less than 0.18 in his or her blood or breath” defined. “Concentration of alcohol of less than 0.18 in his or her blood or breath” means less than 0.18 gram of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.