JUDICIAL DEPARTMENT BILL DRAFT REQUEST FOR THE 2023 LEGISLATIVE SESSION

Authority: NRS 218D.190

Deadline: BDRs from the Judicial Department must be submitted by the Supreme Court by no later than **September 1, 2022**.

Person Submitting Request:

John McCormick

Person to Contact for Clarification or Additional Information:

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1. **Intent of Proposed Bill or Resolution** (Describe the problem to be solved, intended effect, and/or the goal(s) of the proposed bill or resolution – may be attached as separate document):

This proposal cleans-up and clarifies various provisions pertaining to limited jurisdiction courts. It imposes a fee for redaction of personal identifying information to be charged by the court when releasing records requiring such redaction. It clarifies the ability of NHP to file into different justice courts. It sets a minimum amount that community service is worth in calculating fine and fee reduction, but allows a court to award more credit at its discretion. It eliminates antiquated sentencing requirements for 1st and 2nd DUI offenses.

2. **If known, list any existing state law that is sought to be changed or which is affected by the measure (NRS Title(s), Chapter(s) and Section(s) affected, Statutes of Nevada Chapter(s) and Section(s) affected and/or Nevada Constitutional provision):**

Title 1, NRS 1.130, NRS 4.060, NRS 4.290, NRS 4.300, NRS 4.350, NRS 4.370, NRS 4.3713; Title 14, NRS 176.087; Title 43, NRS 484C.400

3. **Any additional information that may be helpful in drafting the bill or resolution** (May include any relevant legislative measures, cases or federal laws or other supporting materials – may be attached):

Suggested language is attached.

4. **Effective Date:**

- ☒ Default (October 1, 2023)
- ☐ July 1, 2023
- ☐ January 1, 2024
- ☐ Upon Passage and Approval
- ☐ Other

5. **Description of any known cost to the State or a local government that would result from carrying out the changes in the bill if enacted:**

REQUIRED PREFILING:

A bill draft requested by the Supreme Court is required to be prefiled on or before November 16, 2022. By statute, such a measure that is not prefiled on or before that date is deemed to be withdrawn. There is no authority to waive this requirement.

Please submit the completed Bill Draft Request form by mail to: Bryan Fernley, Legislative Counsel, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701; by e-mail at Bryan.Fernley@lcb.state.nv.us; or by fax at (775) 684-6761.

Section 1. NRS 1.130 is hereby amended to read as follows:

1. **[~~No~~]** ***Except as provided in subsection 2, no*** court **[~~except a justice court or a municipal court~~]** shall be **[~~opened nor shall~~]** ***open and no court shall transact*** any judicial business **[~~be transacted except by a justice court or municipal court~~]** on Sunday, or on any day declared to be a legal holiday according to the provisions of NRS 236.015 **[~~, except for the following purposes:~~]**.

2. A court may perform the following functions on any day:

(a) To give, upon their request, instructions to a jury then deliberating on their verdict.

(b) To receive a verdict or discharge a jury.

(c) For the exercise of the power of a magistrate in a criminal action or in a proceeding of a criminal nature.

(d) To receive communications by telephone and for the issuance of:

(1) A temporary order pursuant to subsection 8 of NRS 33.020; or

(2) An emergency order for protection against high-risk behavior pursuant to NRS 33.570.

(e) For the **[~~issue~~]** ***issuance*** of a writ of attachment, which may be issued on each and all of the days above enumerated upon the plaintiff, or some person on behalf of the plaintiff, setting forth in the affidavit required by law for obtaining the writ the additional averment as follows:

That the affiant has good reason to believe, and does believe, that it will be too late for the purpose of acquiring a lien by the writ to wait until subsequent day for the issuance of the same.

All proceedings instituted, and all writs issued, and all official acts done on any of the days above specified, under and by virtue of this section, shall have all the validity, force and effect of proceedings commenced on other days, whether a lien be obtained or a levy made under and by virtue of the writ.

[~~2.~~] ***3.*** Nothing herein contained shall affect private transactions of any nature whatsoever.

Sec 2 NRS 4.060 is hereby amended to read as follows:

4.060 1. Except as otherwise provided in this section and NRS 33.017 to 33.100, inclusive, each justice **[~~of the peace~~]** ***court*** shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the justice court, other than in actions commenced pursuant to chapter 73 of NRS, to be paid by the party commencing the action:

If the sum claimed does not exceed $2,500..... $50.00
If the sum claimed exceeds $2,500 but does not exceed $5,000..... 100.00
If the sum claimed exceeds $5,000 but does not exceed $10,000..... 175.00
If the sum claimed exceeds $10,000 but does not exceed $15,000..... 250.00
In a civil action for unlawful detainer pursuant to NRS 40.290 to 40.420, inclusive, in which a notice to surrender has been served pursuant to NRS 40.255..... 225.00
In all other civil actions..... 50.00

(b) For the preparation and filing of an affidavit and order in an action commenced pursuant to chapter 73 of NRS:

If the sum claimed does not exceed $1,000..... $45.00
If the sum claimed exceeds $1,000 but does not exceed $2,500..... 65.00
If the sum claimed exceeds $2,500 but does not exceed $5,000..... 85.00
If the sum claimed exceeds $5,000 but does not exceed $7,500..... 125.00
If the sum claimed exceeds $7,500 but does not exceed $10,000..... 175.00

(c) On the appearance of any defendant, or any number of defendants answering jointly, to be paid by the defendant or defendants on filing the first paper in the action, or at the time of appearance:

In all civil actions..... $50.00
For every additional defendant, appearing separately..... 25.00

(d) No fee may be charged where a defendant or defendants appear in response to an affidavit and order issued pursuant to the provisions of chapter 73 of NRS.

(e) For the filing of any paper in intervention..... $25.00

(f) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court, other than a writ of restitution..... $25.00

(g) For the issuance of any writ of restitution..... $75.00

(h) For filing a notice of appeal, and appeal bonds..... $25.00

One charge only may be made if both papers are filed at the same time.

(i) For issuing supersedeas to a writ designed to enforce a judgment or order of the court.....$25.00

(j) For preparation and transmittal of transcript and papers on appeal..... $25.00

(k) For celebrating a marriage and returning the certificate to the county recorder or county clerk.....$75.00

(l) For entering judgment by confession..... $50.00

(m) For preparing any copy of any record, proceeding or paper, for each page $.50

(n) For each certificate of the clerk, under the seal of the court..... $3.00

(o) For searching ***physical*** records or files ~~[in his or her office]~~, for each year..... $1.00

(p) ***For searching in an electronic case management system for each search term.....$5.00***

(q) For filing and acting upon each bail or property bond..... $50.00

(r) For redacting personal identifying information required prior to the dissemination of a copy of any record, proceeding, or paper, for each page requiring redaction.....$1.00

2. A justice of the peace shall not charge or collect any of the fees set forth in subsection 1 for any service rendered by the justice of the peace to the county in which his or her township is located.

3. A justice of the peace shall not charge or collect the fee pursuant to paragraph (k) of subsection 1 if the justice of the peace performs a marriage ceremony in a commissioner township.

4. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, the justice of the peace shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected pursuant to subsection 1 during the preceding month, except for the fees the justice of the peace may retain as compensation and the fees the justice of the peace is required to pay to the State Controller pursuant to subsection 5.

5. The justice of the peace shall, on or before the fifth day of each month, pay to the State Controller:

(a) An amount equal to $5 of each fee collected pursuant to paragraph (k) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Account for Aid for Victims of Domestic or Sexual Violence in the State General Fund.

(b) One-half of the fees collected pursuant to paragraph ~~[(p)]~~ ***(q)*** of subsection 1 during the preceding month. The State Controller shall deposit the money in the Fund for the Compensation of Victims of Crime.

6. Except as otherwise provided in subsection 7, the county treasurer shall deposit 25 percent of the fees received pursuant to subsection 4 into a special account administered by the county and maintained for the benefit of each justice court within the county. The money in that account must be used only to:

(a) Acquire land on which to construct additional facilities or a portion of a facility for a justice court or a multi-use facility that includes a justice court;

(b) Construct or acquire additional facilities or a portion of a facility for a justice court or a multi-use facility that includes a justice court;

(c) Renovate, remodel or expand existing facilities or a portion of an existing facility for a justice court or a multi-use facility that includes a justice court;

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or a portion of a facility or the renovation, remodeling or expansion of an existing facility or a portion of an existing facility for a justice court or a multi-use facility that includes a justice court;

(e) Acquire advanced technology for the use of a justice court;

(f) Acquire equipment or additional staff to enhance the security of the facilities used by a justice court, justices of the peace, staff of a justice court and residents of this State who access the justice courts;

(g) Pay for the training of staff or the hiring of additional staff to support the operation of a justice court;

(h) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or for the construction, renovation, remodeling or expansion of facilities for a justice court or a multi-use facility that includes a justice court; and

(i) Pay for one-time projects for the improvement of a justice court.

➥ Any money remaining in the account at the end of a fiscal year must be carried forward to the next fiscal year.

7. The county treasurer shall, if necessary, reduce on an annual basis the amount deposited into the special account pursuant to subsection 6 to ensure that the total amount of fees collected by a justice court pursuant to this section and paid by the justice of the peace to the county treasurer pursuant to subsection 4 is, for any fiscal year, not less than the total amount of fees collected by that justice court and paid by the justice of the peace to the county treasurer for the fiscal year beginning July 1, 2012, and ending June 30, 2013.

8. Each justice court that collects fees pursuant to this section shall submit to the board of county commissioners of the county in which the justice court is located an annual report that contains:

(a) An estimate of the amount of money that the county treasurer will deposit into the special account pursuant to subsection 6 from fees collected by the justice court for the following fiscal year; and

(b) A proposal for any expenditures by the justice court from the special account for the following fiscal year.

Sec. 3 NRS 4.290 is hereby repealed

DELETED BY AMENDMENT ~~**[The justice elected to fill a vacancy is the successor of the justice whose office became vacant before the expiration of a full term. When a full term expires, the same, or another person elected to take office in the same township, from that time is the successor.]**~~

Sec. 4 NRS 4.300 is hereby repealed

DELETED BY AMENDMENT ~~**[When two or more justices are equally entitled, under NRS 4.290, to be deemed the successor in office of the justice, a judge of the district court must, by a certificate subscribed by the judge of the district court and filed in the office of the county clerk, designate which justice is the successor of a justice going out of office, or whose office has become vacant.]**~~

Sec. 5 NRS 4.350 is hereby amended to read as follows:

4.350 ~~**[1. Except as otherwise provided in subsection 5, the county clerk, with the approval of the board of county commissioners and the justice of the peace, may appoint a deputy clerk for the justice court. The compensation of a clerk so appointed must be fixed by the board of county commissioners.**~~

~~**2. The deputy clerk shall take the constitutional oath of office and give bond in the sum of $2,000 for the faithful discharge of the duties of the office, and in the same manner as is required of other officers of the township and county. The county clerk is not personally liable, on his or her official bond or otherwise, for the acts of a deputy clerk appointed pursuant to this section.**~~

~~**3. The deputy clerk may, under the direct supervision of the justice of the peace, administer oaths, take and certify affidavits and acknowledgments, issue process, enter suits on the docket, and do all clerical work in connection with the keeping of the records, files and dockets of the court, and shall perform any other duties in connection with the office as the justice of the peace prescribes.**~~

~~**4. Except as otherwise provided in subsection 5, where there is more than one justice of the peace serving in any township, the county clerk may, with the approval of the board of county commissioners and the justices of the peace, appoint a second deputy who shall comply with the requirements of subsection 2 and has the powers and duties prescribed in subsection 3.**~~

~~**5. In a county whose population is 700,000 or more, the board of county commissioners, with the approval of the justice of the peace, may appoint a deputy clerk for a justice court. If there is more than one justice of the peace serving in any township, the board, with the approval of the justices of the peace, may appoint one or more additional deputy clerks.**~~

~~**6. If no deputy clerk is appointed for a township, the justice of the peace shall be deemed to be the clerk of the court and may appoint as many deputy clerks for the justice court as the justice of the peace determines necessary.]**~~

1. The justices of the peace of each justice court having more than one justice of the peace shall appoint a clerk of court. In a court with only one justice of the peace, the justice of the peace shall be designated as clerk of court unless the justice of the peace appoints another person as clerk of court.

2. The compensation of the clerk of court must be fixed by the by the board of county commissioners.

3. As used in this section, "clerk of court" means a person who, under the direct supervision of the justices of the peace, administers oaths, takes and certifies affidavits and acknowledgments, issues process, enters suits on the docket, and does all clerical work in connection with the keeping of the records, files and dockets of the court, and who shall perform any other duties in connection with the court as the justices of the peace prescribe. The clerk of court may also have the title of justice court administrator.

Sec. 6 NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justice courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed $15,000.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed $15,000.

(c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty or forfeiture not exceeding $15,000, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed $15,000, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed $15,000.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed $15,000.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed $15,000 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed $15,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed $15,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed $15,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed $15,000.

(l) In actions for a civil penalty imposed for a violation of NRS 484D.680.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence pursuant to NRS 33.020. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is 100,000 or more and less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more;

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court; or

(4) Where the adverse party against whom the order is sought is under 18 years of age.

(n) Except as otherwise provided in this paragraph, in any action for the issuance of an emergency or extended order for protection against high-risk behavior pursuant to NRS 33.570 or 33.580. A justice court does not have jurisdiction in an action for the issuance of an emergency or extended order for protection against high-risk behavior:

(1) In a county whose population is 100,000 or more but less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more;

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court; or

(4) Where the adverse party against whom the order is sought is under 18 years of age.

(o) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive, where the adverse party against whom the order is sought is 18 years of age or older.

(p) In small claims actions under the provisions of chapter 73 of NRS.

(q) In actions to contest the validity of liens on mobile homes or manufactured homes.

(r) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment where the adverse party against whom the order is sought is 18 years of age or older.

(s) In any action pursuant to NRS 200.378 for the issuance of a protective order against a person alleged to have committed the crime of sexual assault where the adverse party against whom the order is sought is 18 years of age or older.

(t) In actions transferred from the district court pursuant to NRS 3.221.

(u) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

(v) In any action seeking an order pursuant to NRS 441A.195.

(w) In any action to determine whether a person has committed a civil infraction punishable pursuant to NRS 484A.703 to 484A.705, inclusive.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or, if the justice court has not established a program pursuant to NRS 176A.280, to a program established pursuant to that section.

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. A justice of the peace may conduct a pretrial release hearing for a person located outside of the township of the justice of the peace.

6. ~~**[In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.**~~

~~**7.]**~~ Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

Sec. 7 NRS 4.3713 is hereby amended to read as follows:

4.3713 1. A justice court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to another justice court or a municipal court if:

(a) The case involves criminal conduct that occurred outside the limits of the county or township where the court is located ~~**[and the defendant has appeared before a magistrate pursuant to NRS 171.178]**~~;

(b) Such a transfer is necessary to promote access to justice for the defendant and the justice court has noted its findings concerning that issue in the record; ~~**[or]**~~

(c) The defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to NRS 176A.230, 176A.250 or 176A.280, or to access other services located elsewhere in this State***; or***

(d) All the justices of the peace in the court have either recused or been disqualified from presiding over the case.

2. A justice court may not issue an order for the transfer of a case pursuant to paragraph ~~**[(b) or]**~~ (c) of subsection 1 until a plea agreement has been reached or the final disposition of the case, whichever occurs first.

3. An order issued by a justice court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the justice court or municipal court to which the case was transferred. If a justice court or municipal court refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the justice court which sought the transfer.

Sec. 8 NRS 176.087 is hereby amended to read as follows:

176.087 1. Except where the imposition of a specific criminal penalty is mandatory, a court may order a convicted person to perform supervised community service:

(a) In lieu of all or a part of any fine, administrative assessment, fee or imprisonment that may be imposed for the commission of a misdemeanor; or

(b) As a condition of probation granted for another offense.

2. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

3. The court may require the convicted person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial

insurance, or both, during those periods in which the person performs the community service, unless, in the case of industrial insurance, it is provided by the authority for which the person performs the community service.

4. The following conditions apply to any such community service imposed by the court:

(a) The court must fix the period of community service that is imposed as punishment or a condition of probation and distribute the period over weekends or over other appropriate times that will allow the convicted person to continue employment and to care for the person's family. The period of community service fixed by the court must not exceed, for a:

(1) Misdemeanor, 200 hours;

(2) Gross misdemeanor, 600 hours; or

(3) Felony, 1,000 hours.

(b) A supervising authority listed in subsection 2 must agree to accept the convicted person for community service before the court may require the convicted person to perform community service for that supervising authority. The supervising authority must be located in or be the town or city of the convicted person's residence or, if that placement is not possible, one located within the jurisdiction of the court or, if that placement is not possible, the authority may be located outside the jurisdiction of the court.

(c) Community service that a court requires pursuant to this section must be supervised by an official of the supervising authority or by a person designated by the authority.

(d) The court may require the supervising authority to report periodically to the court or to a probation officer the convicted person's performance in carrying out the punishment or condition of probation.

5. For each hour of community service that is performed by a person pursuant to this section, the court must provide a credit of ***not less than*** **~~[$10 or]~~** the amount of the state minimum wage if health insurance is not offered **~~[, whichever is greater,]~~** toward the payment of any fine that was imposed against the person for the commission of the offense for which the person was ordered to perform community service.

Sec. 4 NRS 484C.400 is hereby amended to read as follows:

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

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

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

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

(I) Sentence the person to imprisonment for not less than 2 days nor more than 6 months in jail or residential confinement for not less than 2 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; or

(II) Order the person to perform not less than 48 hours, but not more than 96 hours, of community service **~~[while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120]~~**;

(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 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 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 4.3766, 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 **~~[while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120]~~**; 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 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).