APPENDIX B1

NEVADA REVISED STATUTE 458

CHAPTER 458 - ABUSE OF ALCOHOL AND DRUGS

NRS 458.010 Definitions. [Effective through June 30, 2001.] As used in NRS 458.010 to 458.350, inclusive, unless the context requires otherwise:

- 1. "Alcohol and drug abuse program" means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.
- 2. "Alcohol and drug abuser" means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects his ability to function socially or economically.
- 3. "Alcoholic" means any person who habitually uses alcoholic beverages to the extent that he endangers the health, safety or welfare of himself or any other person or group of persons.
 - 4. "Bureau" means the bureau of alcohol and drug abuse in the department.
 - 5. "Chief" means the chief of the bureau.
- 6. "Civil protective custody" means a custodial placement of a person for the purpose of protecting his health or safety. Civil protective custody does not have any criminal implication.
 - 7. "Department" means the department of human resources.
 - 8. "Director" means the director of the department.
- 9. "Facility" means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers.
- 10. "Halfway house for alcohol and drug abusers" means a residence that provides housing and a living environment for alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide treatment for alcohol or drug abuse. The term does not include a facility for the treatment of abuse of alcohol or drugs as defined in NRS 449.00455.

(Added to NRS by 1960, 306; A 1963, 966; 1967, 1174; 1973, 1060, 1399; 1975, 228; 1977, 1223; 1993, 1628; 1997, 3076; 1999, 1266, 1874, 3065, 3077)

NRS 458.010 Definitions. [Effective July 1, 2001.] As used in NRS 458.010 to 458.350, inclusive, unless the context requires otherwise:

- 1. "Alcohol and drug abuse program" means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.
- 2. "Alcohol and drug abuser" means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects his ability to function socially or economically.
- 3. "Alcoholic" means any person who habitually uses alcoholic beverages to the extent that he endangers the health, safety or welfare of himself or any other person or group of persons.
 - 4. "Bureau" means the bureau of alcohol and drug abuse in the department.
 - 5. "Chief" means the chief of the bureau.
- 6. "Civil protective custody" means a custodial placement of a person for the purpose of protecting his health or safety. Civil protective custody does not have any criminal implication.
 - 7. "Department" means the department of human resources.

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- 8. "Detoxification technician" means a person who is certified by the bureau to provide screening for the safe withdrawal from alcohol and other drugs.
 - 9. "Director" means the director of the department.
- 10. "Facility" means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers.
- 11. "Halfway house for alcohol and drug abusers" means a residence that provides housing and a living environment for alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide treatment for alcohol or drug abuse. The term does not include a facility for the treatment of abuse of alcohol or drugs as defined in NRS 449.00455.

(Added to NRS by 1960, 306; A 1963, 966; 1967, 1174; 1973, 1060, 1399; 1975, 228; 1977, 1223; 1993, 1628; 1997, 3076; 1999, 1266, 1874, 3065, 3066, 3077, effective July 1, 2001)

BUREAU OF ALCOHOL AND DRUG ABUSE

NRS 458.025 Creation; powers and duties. [Effective through June 30, 2001.] The bureau of alcohol and drug abuse is hereby created in the department. The bureau:

- 1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:
- (a) A survey of the need for education, prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout the state.
- (b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.
- (c) A survey of the need for trained teachers, persons who have professional training in fields of health and others involved in the education and prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment

In developing and revising the state plan, the bureau shall consider, among other things, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of the money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

- 2. Is responsible for coordinating efforts to carry out the state plan and coordinating all state and federal financial support of alcohol and drug abuse programs in the state. The bureau must be consulted in the planning of projects and advised of all applications for grants from within the state which are concerned with alcohol and drug abuse programs, and shall review and advise concerning the applications.
- 3. Shall develop and publish standards of certification and may certify or deny certification of any halfway houses for alcohol and drug abusers, facilities, programs or personnel on the basis of the standards, and publish a list of certified halfway houses for alcohol and drug abusers, facilities, programs and personnel. Any facilities, programs or personnel which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The chief:
- (a) Shall establish requirements for continuing education for persons certified as counselors and administrators of the programs; and
- (b) May set fees for certification of halfway houses for alcohol and drug abusers, facilities, programs or personnel. The fees must be calculated to produce the revenue estimated to cover

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the costs related to the certifications, but in no case may the fee for a certificate exceed the actual cost to the bureau of issuing the certificate.

4. Upon request from a facility which is self-supported, may certify the facility, its programs and personnel and add them to the list of certified facilities, programs and personnel.

(Added to NRS by 1973, 1397; A 1975, 228; 1981, 1901; 1987, 526; 1999, 1267, 1875)

NRS 458.025 Creation; powers and duties. [Effective July 1, 2001.] The bureau of alcohol and drug abuse is hereby created in the department. The bureau:

- 1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:
- (a) A survey of the need for education, prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout the state.
- (b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.
- (c) A survey of the need for trained teachers, persons who have professional training in fields of health and others involved in the education and prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

In developing and revising the state plan, the bureau shall consider, among other things, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of the money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

- 2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in the state. The bureau must be consulted in the planning of projects and advised of all applications for grants from within the state which are concerned with alcohol and drug abuse programs, and shall review and advise concerning the applications.
- 3. Shall develop and publish standards of certification and may certify or deny certification of operators of halfway houses for alcohol and drug abusers, halfway houses for alcohol and drug abusers, detoxification technicians or any facilities or programs on the basis of the standards, and publish a list of certified operators of halfway houses for alcohol and drug abusers, halfway houses for alcohol and drug abusers, detoxification technicians, facilities and programs. Any operators of halfway houses for alcohol and drug abusers, halfway houses for alcohol and drug abusers, detoxification technicians, facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The chief:
- (a) Shall establish the requirements for continuing education for persons certified as detoxification technicians; and
- (b) May set fees for the certification of operators of halfway houses for alcohol and drug abusers, halfway houses for alcohol and drug abusers, detoxification technicians, facilities or programs. The fees must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may the fee for a certificate exceed the actual cost to the bureau of issuing the certificate.
- 4. Upon request from a facility which is self-supported, may certify the facility, its programs and detoxification technicians and add them to the list described in subsection 3.

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(Added to NRS by 1973, 1397; A 1975, 228; 1981, 1901; 1987, 526; 1999, 1267, 1875, 3066, effective July 1, 2001)

NRS 458.026 Payment of child support: Statement by applicant for certification; grounds for denial of certification; duty of director. [Effective through June 30, 2001.]

- 1. An applicant for the issuance or renewal of his certification as personnel of an alcohol or drug abuse program or a facility, or as the operator of a halfway house for alcohol and drug abusers, shall submit to the bureau the statement prescribed by the welfare division of the department of human resources pursuant to <u>NRS 425.520</u>. The statement must be completed and signed by the applicant.
 - 2. The bureau shall include the statement required pursuant to subsection 1 in:
- (a) The application or any other forms that must be submitted for the issuance or renewal of the certification; or
 - (b) A separate form prescribed by the bureau.
- 3. The certification of a person as personnel of an alcohol or drug abuse program or a facility, or as the operator of a halfway house for alcohol and drug abusers, may not be issued or renewed by the bureau if the applicant:
 - (a) Fails to complete or submit the statement required pursuant to subsection 1; or
- (b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.
- 4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the director shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1997, 2059; A 1999, 1268)

NRS 458.026 Payment of child support: Statement by applicant for certification; grounds for denial of certification; duty of director. [Effective July 1, 2001, and expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

- 1. An applicant for the issuance or renewal of his certification as a detoxification technician or as the operator of a halfway house for alcohol and drug abusers shall submit to the bureau the statement prescribed by the welfare division of the department of human resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.
 - 2. The bureau shall include the statement required pursuant to subsection 1 in:
- (a) The application or any other forms that must be submitted for the issuance or renewal of the certification; or
 - (b) A separate form prescribed by the bureau.
- 3. The certification of a person as a detoxification technician or as the operator of a halfway house for alcohol and drug abusers may not be issued or renewed by the bureau if the applicant:
 - (a) Fails to complete or submit the statement required pursuant to subsection 1; or

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- (b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.
- 4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the director shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1997, 2059; A 1999, 1268, 3067, effective July 1, 2001)

NRS 458.027 Suspension of certification for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certification. [Effective through June 30, 2001.]

- 1. If the bureau receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been certified as personnel of an alcohol and drug abuse program or a facility, or as the operator of a halfway house for alcohol and drug abusers, the bureau shall deem the certification to be suspended at the end of the 30th day after the date on which the court order was issued unless the bureau receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who has been certified stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.
- 2. The bureau shall reinstate the certification of a person as personnel of an alcohol and drug abuse program or a facility, or as the operator of a halfway house for alcohol and drug abusers, that has been suspended by a district court pursuant to NRS 425.540 if the bureau receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certification was suspended stating that the person whose certification was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(Added to NRS by 1997, 2060; A 1999, 1268)

NRS 458.027 Suspension of certification for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certification. [Effective July 1, 2001, and expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the bureau receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been certified as a detoxification technician or as the operator of a halfway house for alcohol and drug abusers, the bureau shall deem the certification to be suspended at the end of the 30th day after the date on which the court order was issued unless the bureau receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who has been certified stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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2. The bureau shall reinstate the certification of a person as a detoxification technician or as the operator of a halfway house for alcohol and drug abusers, that has been suspended by a district court pursuant to NRS 425.540 if the bureau receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certification was suspended stating that the person whose certification was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(Added to NRS by 1997, 2060; A 1999, 1268, 3068, effective July 1, 2001)

NRS 458.028 Application for certification to include social security number. [Effective through June 30, 2001.] An application for the certification of personnel of an alcohol and drug abuse program or a facility, or as the operator of a halfway house for alcohol and drug abusers, must include the social security number of the applicant.

(Added to NRS by 1997, 2060; A 1999, 1269)

NRS 458.028 Application for certification to include social security number. [Effective July 1, 2001, and expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] An application for the certification of a detoxification technician or as the operator of a halfway house for alcohol and drug abusers, must include the social security number of the applicant.

(Added to NRS by 1997, 2060; A 1999, 1269, 3068, effective July 1, 2001)

NRS 458.031 Administration of <u>NRS 458.010</u> to <u>458.350</u>, inclusive. The department shall administer the provisions of <u>NRS 458.010</u> to <u>458.350</u>, inclusive, as the sole agency of the State of Nevada for that purpose.

(Added to NRS by 1973, 1397; A 1997, 3076; 1999, 3069)

NRS 458.035 Power of department to contract. The department may contract with any appropriate public or private agency, organization or institution to carry out the provisions of NRS 458.010 to 458.350, inclusive.

(Added to NRS by 1973, 1398; A 1997, 3076; 1999, 3069)

NRS 458.040 Appointment and qualifications of chief. The chief:

- 1. Must be appointed on the basis of his education, training and experience as an administrator and his interest in the problems of alcohol and drug abuse.
- 2. Is in the unclassified service of the state unless federal law or regulation requires otherwise.

(Added to NRS by 1960, 306; A 1961, 159; 1963, 966; 1971, 89; 1973, 1400; 1985, 426)

NRS 458.043 Duties of chief. As executive head of the bureau, the chief shall:

- 1. Direct and supervise all administrative and technical activities as provided by <u>NRS 458.010</u> to <u>458.350</u>, inclusive, subject to administrative supervision by the director.
- 2. Subject to the approval of the director, appoint such technical, clerical and operational staff as the execution of his duties and the operation of the bureau may require.

(Added to NRS by 1961, 158; A 1963, 966; 1973, 1400; 1975, 60; 1985, 426; 1993, 1629; 1997, 3076; 1999, 872, 3069)

NRS 458.055 Confidential information.

- 1. To preserve the confidentiality of any information concerning persons applying for or receiving any services pursuant to NRS 458.010 to 458.350, inclusive, the bureau may establish and enforce rules governing the confidential nature, custody, use and preservation of the records, files and communications filed with the bureau.
- 2. Wherever information concerning persons applying for and receiving any services pursuant to NRS 458.010 to 458.350, inclusive, is furnished to or held by any other government agency or a public or private institution, the use of that information by the agency or institution is subject to the rules established by the bureau pursuant to subsection 1.
- 3. Except as otherwise provided in NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS and except for purposes directly connected with the administration of NRS 458.010 to 458.350, inclusive, a person shall not disclose, use or permit to be disclosed, any confidential information concerning a person receiving services pursuant to NRS 458.010 to 458.350, inclusive.

(Added to NRS by 1973, 1398; A 1991, 2350; 1997, 3077; 1999, 3069, 3514)

NRS 458.080 Financial assistance to organization operating facility. The bureau may, by contracting with organized groups, render partial financial assistance in the operation of facilities established by these groups. Each such contract shall contain a provision allowing for an audit of all accounts, books and other financial records of the organization with which the agency contracts.

(Added to NRS by 1960, 307; A 1963, 1028; 1971, 90; 1973, 1400, 1669; 1975, 316)

NRS 458.091 Treatment in hospital for abuser of alcohol or drugs. Alcohol and drug abusers must be admitted to public or private general medical hospitals which receive federal or state money for alcohol and drug abuse programs, and must be treated in those hospitals on the basis of their medical need. No general medical hospital that violates this section is eligible to receive further federal or state assistance pursuant to NRS 458.010 to 458.350, inclusive.

(Added to NRS by 1973, 1398; A 1997, 3077; 1999, 3069)

NRS 458.097 Use and allocation of certain money for increase of services. Money received by the bureau pursuant to 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. The areas where there exists a shortage of personnel to conduct treatment for alcoholism and alcohol abuse. The bureau 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. The needs of counties to provide civil protective custody, pursuant to <u>NRS 458.270</u>, for persons who are found in public places while under the influence of alcohol.
- 3. Alcohol and drug abuse programs that are primarily directed toward the prevention of such abuse.

(Added to NRS by 1981, 896; A 1997, 781)

NRS 458.098 Tax on liquor program account.

- 1. The tax on liquor program account is hereby created in the state general fund.
- 2. Money in the account that is received pursuant to <u>NRS 369.174</u> must be used for the purposes specified in <u>NRS 458.097</u>.
 - 3. All claims must be approved by the chief before they are paid.

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(Added to NRS by 1999, 21)

NRS 458.100 State grant and gift account for alcohol and drug abuse.

- 1. All gifts or grants of money which the bureau is authorized to accept must be deposited in the state treasury for credit to the state grant and gift account for alcohol and drug abuse which is hereby created in the department of human resources' gift fund.
- 2. Money in the account must be used to carry out the provisions of <u>NRS 458.010</u> to 458.350, inclusive, and other programs or laws administered by the bureau.
 - 3. All claims must be approved by the chief before they are paid.

(Added to NRS by 1960, 307; A 1963, 968; 1973, 1400; 1975, 261; 1979, 623; 1981, 79, 896; 1993, 1629; 1997, 3077; 1999, 21, 1876, 3069)

NRS 458.103 Bureau authorized to accept public money. The bureau may accept:

- 1. Funds appropriated and made available by any Act of Congress for any program administered by the bureau as provided by law.
- 2. Funds appropriated and made available by the State of Nevada or by a county, a city, a public district or any political subdivision of this state for any program administered by the bureau as provided by law.

(Added to NRS by 1963, 834; A 1973, 1400; 1975, 261)

NRS 458.104 Temporary advance from state general fund.

- 1. If the director determines that current claims exceed the amount of money available to the bureau because of a delay in the receipt of money from federal grants, he may request from the director of the department of administration a temporary advance from the state general fund for the payment of authorized expenses.
- 2. The director of the department of administration shall notify the state controller and the fiscal analysis division of the legislative counsel bureau of his approval of a request made pursuant to subsection 1. The state controller shall draw his warrant upon receipt of the approval by the director of the department of administration.
 - 3. An advance from the state general fund:
- (a) Must be approved by the director of the department of administration for use pursuant to NRS 458.080; and
- (b) Is limited to 25 percent of the revenues expected to be received in the current fiscal year from any source other than legislative appropriation.
- 4. Any money which is temporarily advanced from the state general fund to the bureau pursuant to this section must be repaid by August 31 following the end of the fiscal year during which the money was advanced.

(Added to NRS by 1991, 1174; A 1993, 1629)

NRS 458.105 Fees for sale of miscellaneous printed material. The chief may fix and collect reasonable fees for the sale of miscellaneous printed materials pertaining to alcohol and drug abuse which are purchased or prepared by the bureau. Such fees shall be deposited in the state treasury to the credit of the general fund.

(Added to NRS by 1963, 834; A 1973, 1401; 1975, 261)

NRS 458.110 Additional powers of bureau. In addition to the activities set forth in \underline{NRS} 458.025 to $\underline{458.115}$, inclusive, the bureau may engage in any activity necessary to effectuate the purposes of \underline{NRS} 458.010 to 458.350, inclusive.

(Added to NRS by 1960, 307; A 1963, 968; 1973, 1401; 1985, 295; 1997, 3077; 1999, 3070)

NRS 458.115 Legislative appropriations; claims. Money to carry out the provisions of NRS 458.010 to 458.350, inclusive, must be provided by direct legislative appropriation from the state general fund and paid out on claims as other claims against the state are paid. All claims must be approved by the chief before they are paid.

(Added to NRS by 1961, 159; A 1963, 968; 1973, 1401; 1997, 3078; 1999, 3070)

SERVICES FOR ADOLESCENTS

NRS 458.125 Requests for proposals; advancement of initial costs; staffing of bureau.

- 1. The bureau shall prepare requests for proposals for the provision by facilities of:
- (a) Residential treatment of adolescents who engage in substance abuse;
- (b) Outpatient treatment of adolescents who engage in substance abuse;
- (c) Comprehensive evaluations of adolescents with problems relating to substance abuse or mental illness, or both; and
 - (d) Transitional housing for adolescents who engage in substance abuse.
- 2. Upon accepting a proposal submitted in accordance with this section, the bureau may advance not more than 8 percent of the amount of the proposal to the facility that submitted the proposal to help defray the costs of starting the provision of the services, including, without limitation, the cost of beds, equipment and rental space for expansion.
- 3. The bureau shall establish such requirements for the requests for proposals as it determines necessary.
- 4. The bureau shall hire, to the extent of legislative authorization, such staff as it determines necessary to carry out the provisions of this section and <u>NRS 458.131</u>.

(Added to NRS by 1999, 1873)

NRS 458.131 Biennial report by bureau. The bureau shall, on or before September 1 of each odd-numbered year, submit to the director a report covering the biennium ending on June 30 of that year. The report must include:

- 1. The name of each facility that received money pursuant to <u>NRS 458.125</u> during the biennium, and the amount of money that each facility received for each type of service provided;
- 2. If a facility received money pursuant to <u>NRS 458.125</u> during the biennium to help defray the costs of starting the provision of services, the name of the facility, the amount of money received and an accounting of how the money was used;
- 3. The number of adolescents who received any of the services described in <u>NRS 458.125</u> from such facilities during the biennium, and the number of adolescents who were receiving such services as of the end of the biennium; and
 - 4. As of the end of the biennium:
- (a) The number of adolescents on waiting lists to receive the services described in <u>NRS</u> 458.125; and
- (b) An estimate of the number of other adolescents in this state who are in need of the services described in NRS 458.125.

(Added to NRS by 1999, 1873)

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HALFWAY HOUSES FOR ALCOHOL AND DRUG ABUSERS

NRS 458.141 Operation or maintenance prohibited without certificate; penalty.

- 1. No person, state or local government or agency thereof may operate or maintain in this state a halfway house for alcohol and drug abusers without first obtaining a certificate therefor from the bureau.
- 2. A person who operates a halfway house for alcohol and drug abusers without a certificate issued by the bureau is guilty of a misdemeanor.

(Added to NRS by 1999, 1265)

NRS 458.145 Expiration and renewal of certificate. Each certificate issued by the bureau to a halfway house for alcohol and drug abusers expires on the first December 31 following its issuance and is renewable for 1 year upon reapplication and payment of a renewal fee established pursuant to <u>NRS 458.025</u>.

(Added to NRS by 1999, 1265)

NRS 458.151 Investigations and inspections by bureau. The bureau may:

- 1. Upon receipt of an application for certification as a halfway house for alcohol and drug abusers, conduct an investigation into the premises, qualifications of personnel, methods of operation, policies and purposes of any person proposing to engage in the operation of that halfway house.
- 2. Upon receipt of a complaint against a halfway house for alcohol and drug abusers, conduct an investigation into the premises, qualification of personnel, methods of operation, policies, procedures and records of that halfway house.
- 3. Inspect a halfway house for alcohol and drug abusers at any time, with or without notice, as often as is necessary to ensure compliance with all applicable regulations and standards adopted by the bureau.

(Added to NRS by 1999, 1265)

NRS 458.155 Suspension or revocation of certificate; imposition and collection of administrative fine; payment of certain costs.

- 1. If a halfway house for alcohol and drug abusers violates any provisions related to its certification, including, without limitation, any law of this state or any applicable condition, standard or regulation adopted by the bureau, the bureau may:
 - (a) Suspend or revoke its certification; and
- (b) Impose an administrative fine of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.
- 2. If a halfway house for alcohol and drug abusers fails to pay an administrative fine imposed pursuant to subsection 1, the bureau may:
 - (a) Suspend the certificate of the halfway house until the administrative fine is paid; and
- (b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative fine.
- 3. Any money collected as an administrative fine must be deposited in the state general fund. If money is needed to pay the costs of an investigation or inspection to carry out the provisions of NRS 458.141 to 458.171, inclusive, the bureau may present a claim to the state board of examiners for recommendation to the interim finance committee.

(Added to NRS by 1999, 1265)

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NRS 458.161 Adoption of regulations. The bureau shall adopt such regulations as are necessary to carry out the provisions of <u>NRS 458.141</u> to <u>458.171</u>, inclusive.

(Added to NRS by 1999, 1266)

NRS 458.165 Action for injunction.

- 1. The bureau may bring an action in the name of the state to enjoin any person, state or local government or agency thereof from operating or maintaining a halfway house for alcohol and drug abusers:
 - (a) Without first obtaining a certificate therefor; or
 - (b) After such a certificate has been revoked or suspended by the bureau.
- 2. It is sufficient in such an action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a halfway house without a certificate.

(Added to NRS by 1999, 1266)

NRS 458.171 Prosecution of violations. The district attorney of the county in which a halfway house for alcohol and drug abusers is located shall, upon application by the bureau, institute and conduct the prosecution of any action for the violation of NRS 458.141. (Added to NRS by 1999, 1266)

CIVIL PROTECTIVE CUSTODY OF ABUSERS OF ALCOHOL

NRS 458.250 Legislative declaration of purpose. The legislature finds and declares that the handling of alcohol abusers within the criminal justice system is ineffective, whereas treating alcohol abuse as a health problem allows its prevention and treatment and relieves law enforcement agencies of a large and inappropriate burden. NRS 458.250 to 458.280, inclusive, are intended to provide for the prevention of alcohol abuse and the treatment of alcohol abusers. NRS 458.250 to 458.280, inclusive, are further intended to transfer the handling of public intoxication from statutes providing criminal sanctions, such as loitering and vagrancy, to statutes providing for civil protective custody. To accomplish these purposes, the department shall continue to direct itself to the problem of alcohol abuse at large, attempting to combat the problem on the community level.

(Added to NRS by 1973, 1059; A 1975, 1145)

NRS 458.260 Intoxication not public offense; exceptions.

- 1. Except as otherwise provided in subsection 2, the use of alcohol, the status of drunkard and the fact of being found in an intoxicated condition are not:
- (a) Public offenses and shall not be so treated in any ordinance or resolution of a county, city or town.
 - (b) Elements of an offense giving rise to a criminal penalty or civil sanction.
 - 2. The provisions of subsection 1 do not apply to:
- (a) A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;
- (b) A criminal offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute or regulation;
- (c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420; and

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- (d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.
 - 3. This section does not make intoxication an excuse or defense for any criminal act. (Added to NRS by 1973, 1060; A 1975, 1145; 1983, 1088; 1997, 333; 1999, 3406)

NRS 458.270 Procedure for placing person in civil protective custody.

- 1. Except as otherwise provided in subsection 7, a person who is found in any public place under the influence of alcohol, in such a condition that he is unable to exercise care for his own health or safety or the health or safety of others, must be placed under civil protective custody by a peace officer.
- 2. A peace officer may use upon such a person that kind and degree of force which would be lawful if he were effecting an arrest for a misdemeanor with a warrant.
- 3. If a licensed facility for the treatment of persons who abuse alcohol exists in the community where the person is found, he must be delivered to the facility for observation and care. If no such facility exists in the community, the person so found may be placed in a county or city jail or detention facility for shelter or supervision for his own health and safety until he is no longer under the influence of alcohol. He may not be required against his will to remain in either a licensed facility, jail or detention facility longer than 48 hours.
- 4. An intoxicated person taken into custody by a peace officer for a public offense must immediately be taken to a secure detoxification unit or other appropriate medical facility if his condition appears to require emergency medical treatment. Upon release from the detoxification unit or medical facility, the person must immediately be remanded to the custody of the apprehending peace officer and the criminal proceedings proceed as prescribed by law.
- 5. The placement of a person found under the influence of alcohol in civil protective custody must be:
 - (a) Recorded at the facility, jail or detention facility to which he is delivered; and
- (b) Communicated at the earliest practical time to his family or next of kin if they can be located and to the department or to a local alcohol abuse authority designated by the department.
- 6. Every peace officer and other public employee or agency acting pursuant to this section is performing a discretionary function or duty.
 - 7. The provisions of this section do not apply to a person who is apprehended or arrested for:
- (a) A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;
- (b) A criminal offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute or regulation;
- (c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420; and
- (d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.

(Added to NRS by 1973, 1060; A 1975, 1145; 1989, 1181; 1997, 333; 1999, 3407)

NRS 458.280 Records of facility for treatment confidential; exceptions.

1. Except as otherwise provided in subsection 2, NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS, the registration and other records of a treatment facility are

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confidential and must not be disclosed to any person not connected with the treatment facility without the consent of the patient.

2. The provisions of subsection 1 do not restrict the use of a patient's records for the purpose of research into the causes and treatment of alcoholism if such information is not published in a way that discloses the patient's name or other identifying information.

(Added to NRS by 1975, 1144; A 1989, 2057; 1991, 2351; 1999, 3515)

CIVIL COMMITMENT OF ALCOHOLICS AND DRUG ADDICTS CONVICTED OF CRIME

NRS 458.290 "Drug addict" defined. As used in <u>NRS 458.300</u> to <u>458.350</u>, inclusive, unless the context otherwise requires, "drug addict" means any person who habitually takes or otherwise uses any controlled substance, other than any maintenance dosage of a narcotic or habit-forming drug administered pursuant to <u>chapter 453 of NRS</u>, to the extent that he endangers the health, safety or welfare of himself or any other person.

(Added to NRS by 1975, 971; A 1987, 1553)

NRS 458.300 Eligibility for assignment to program of treatment. 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 <u>chapter 200 of NRS</u> or the crime is an act which constitutes domestic violence as set forth in NRS 33.018;
 - 2. The crime is that of trafficking of a controlled substance;
 - 3. The crime is a violation of NRS 484.379 or 484.3795;
- 4. The alcoholic or drug addict has a record of two 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 three or more convictions of any felony;
- 5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;
- 6. 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 <u>NRS 458.290</u> to <u>458.350</u>, inclusive, to a program of treatment not more than twice within the preceding 5 years.

(Added to NRS by 1975, 971; A 1981, 1331; 1983, 1089; 1985, 1751; 1987, 962, 1553; 1993, 1235; 1995, 235; 1999, 3408)

NRS 458.310 Hearing to determine whether defendant should receive treatment.

- 1. If the court has reason to believe that a person who has been convicted of a crime is an alcoholic or drug addict, or the person states that he is an alcoholic or drug addict, and the court finds that he is eligible to make the election provided for in NRS 458.300, the court shall hold a hearing before it sentences the person to determine whether or not he should receive treatment under the supervision of a state-approved facility for the treatment of abuse of alcohol or drugs. The district attorney may present the court with any evidence concerning the advisability of permitting the person to make the election.
- 2. At the hearing the court shall advise him that sentencing will be postponed if he elects to submit to treatment and is accepted for treatment by a state-approved facility. In offering the election, the court shall advise him that:

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- (a) The court may impose any conditions upon the election of treatment that could be imposed as conditions of probation;
- (b) If he elects to submit to treatment and is accepted, he may be placed under the supervision of the facility for a period of not less than 1 year nor more than 3 years;
- (c) During treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised care in the community; and
- (d) If he satisfactorily completes treatment and satisfies the conditions upon the election of treatment, as determined by the court, the conviction will be set aside, but if he does not satisfactorily complete the treatment and satisfy the conditions, he may be sentenced and the sentence executed.

(Added to NRS by 1975, 971; A 1977, 472; 1981, 1332; 1985, 1752; 1987, 962)

NRS 458.320 Examination of defendant; determination of acceptability for treatment; imposition of conditions; deferment of sentencing; payment of costs of treatment.

- 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 any conditions to the election of treatment that could be imposed as conditions of probation;
- (b) Defer sentencing until such time, if any, as sentencing is authorized pursuant to <u>NRS</u> 458.330; and
- (c) 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. The court may issue a judgment in favor of the court or facility for treatment for the costs of the treatment and supervision which remain unpaid at the conclusion of the treatment. Such a judgment constitutes a lien in like manner as a judgment for money rendered in a civil action, but in no event may the amount of the judgment include any amount of the debt which was extinguished by the successful completion of community service pursuant to subsection 5.
- 5. If the person who is placed under the supervision of an approved facility for treatment does not have the financial resources to pay all of the related costs:

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- (a) 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; and
- (b) The court may order the person to perform supervised work for the benefit of the community in lieu of paying the remainder of the costs relating to his treatment and supervision. The work 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. The court may require the 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 work, unless, in the case of industrial insurance, it is provided by the authority for which he performs the work.
- 6. No person may be placed under the supervision of a facility under this section unless the facility accepts him for treatment.

(Added to NRS by 1975, 972; A 1977, 472; 1981, 1332; 1985, 1752; 1987, 963; 1995, 235)

NRS 458.330 Deferment of sentencing; satisfaction of conditions; setting aside conviction; sentencing.

- 1. Whenever a person is placed under the supervision of a treatment facility, his sentencing must be deferred, and, except as otherwise provided in subsection 4, his conviction must be set aside if the treatment facility certifies to the court that he has satisfactorily completed the treatment program, and the court approves the certification and determines that the conditions upon the election of treatment have been satisfied.
- 2. If, upon the expiration of the treatment period, the treatment facility has yet to certify that the person has completed his treatment program, the court shall sentence him. If he has satisfied the conditions to the election of treatment and the court believes that he will complete his treatment on a voluntary basis, it may, in its discretion, set the conviction aside.
- 3. If, before the treatment period expires, the treatment facility determines that the person is not likely to benefit from further treatment at the facility, it shall so advise the court. The court shall then:
 - (a) Arrange for the transfer of the person to a more suitable treatment facility, if any; or
- (b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

Whenever a person is sentenced under this section, time spent in institutional care must be deducted from any sentence imposed.

4. Regardless of whether the person successfully completes treatment, the court shall not set aside the conviction of a person who has a record of two or more convictions of any felony for two or more separate incidences.

(Added to NRS by 1975, 972; A 1981, 1333; 1987, 964; 1995, 236)

NRS 458.340 Civil commitment not criminal conviction. The determination of alcoholism or drug addiction and civil commitment pursuant to NRS 458.290 to 458.350, inclusive, shall not be deemed a criminal conviction.

(Added to NRS by 1975, 973; A 1981, 1333)

NRS 458.350 State or political subdivision not required to provide facility for treatment. The provisions of NRS 458.290 to 458.350, inclusive, do not require the state or any

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of its political subdivisions to establish or finance any facility for the treatment of abuse of alcohol or drugs.

(Added to NRS by 1975, 973; A 1985, 1753)

UNLAWFUL ACTS

NRS 458.360 Unlawful representation as certified counselor; injunction; penalty. Repealed. (See chapter 574, Statutes of Nevada 1999, at page 3078.)

COMMISSION ON SUBSTANCE ABUSE EDUCATION, PREVENTION, ENFORCEMENT AND TREATMENT

NRS 458.370 "Commission" defined. As used in <u>NRS 458.370</u> to <u>458.441</u>, inclusive, unless the context otherwise requires, "commission" means the commission on substance abuse education, prevention, enforcement and treatment.

(Added to NRS by 1993, 1625; A 1995, 861; 1999, 1876)

NRS 458.380 Creation; membership; terms and compensation of members.

- 1. The commission on substance abuse education, prevention, enforcement and treatment is hereby created within the department of motor vehicles and public safety.
 - 2. The governor shall appoint as voting members of the commission:
- (a) Three members who represent the criminal justice system and are knowledgeable in the areas of the enforcement of laws relating to drugs, parole and probation and the judicial system, at least one of whom is a peace officer;
- (b) Three members who represent education and are knowledgeable about programs for the prevention of abuse of drugs and alcohol, at least one of whom is a licensed employee of a local school district:
- (c) Three members who represent programs and organizations for the rehabilitation of persons who abuse drugs and alcohol, at least one of whom is a manager of a program accredited by the state to treat persons who abuse drugs and alcohol;
- (d) One member who is employed by the bureau and has experience in matters concerning budgeting and experience in working with the programs of the bureau;
- (e) One member who is employed by the division of mental health and developmental services of the department of human resources who has relevant experience, which may include, without limitation, experience in matters concerning budgeting and experience in working with programs of the division of mental health and developmental services of the department of human resources;
- (f) One member who represents the interests of private businesses concerning substance abuse in the workplace; and
- (g) Three members who represent the general public, one of whom is the parent of a child who has a mental illness or who has or has had a problem with substance abuse.
- 3. At least three of the voting members of the commission must be representatives of northern Nevada, three must be representatives of southern Nevada and three must be representatives of rural Nevada.
- 4. The legislative commission shall appoint one member of the senate and one member of the assembly to serve as nonvoting members of the commission. Such members must be appointed with appropriate regard for their experience with and knowledge of matters relating to substance abuse education, prevention, enforcement and treatment.

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- 5. The director of the department of human resources, the superintendent of public instruction, the director of the department of employment, training and rehabilitation, the director of the department of prisons, the attorney general and the director of the department of motor vehicles and public safety are ex officio nonvoting members of the commission. An ex officio member may designate a representative to serve in his place on the commission or to attend a meeting of the commission in his place. Each ex officio member or his representative shall attend each meeting of the commission and provide any information which the commission requests.
 - 6. The term of office of each voting member of the commission is 2 years.
- 7. The governor shall appoint one member who is not an elected official to serve as chairman of the commission.
- 8. Each member of the commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.
- 9. Except during a regular or special session of the legislature, each legislative member of the commission is entitled to receive the compensation provided for a majority of the members of the legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the commission or is otherwise engaged in the business of the commission. The salaries and expenses of the legislative members of the commission must be paid from the legislative fund.

(Added to NRS by 1993, 1625; A 1997, 3078; 1999, 1280)

NRS 458.390 Meetings; quorum; subcommittees; rules.

- 1. The commission shall meet at least quarterly or by a call of the chairman or majority of the members of the commission.
- 2. Eight voting members of the commission, including at least one member who is a representative of southern Nevada, one member who is a representative of northern Nevada and one member who is a representative of rural Nevada, constitute a quorum.
 - 3. A quorum may exercise all of the powers conferred on the commission.
- 4. The chairman of the commission may divide the commission into subcommittees. The commission may delegate one or more of the powers conferred on the commission to a subcommittee of the commission.
 - 5. The commission shall prescribe rules for its own management and government. (Added to NRS by 1993, 1626; A 1999, 1282)

NRS 458.400 Acceptance of gifts, grants, appropriations and donations; fund for substance abuse education, prevention, enforcement and treatment.

- 1. The commission may accept gifts, grants, appropriations and donations if its acceptance does not reduce, limit or cause it to be in competition for money normally available to local agencies and community programs, unless otherwise provided by a specific statute.
- 2. All money received by the commission must be deposited in the fund for substance abuse education, prevention, enforcement and treatment which is hereby created as a special revenue fund.
 - 3. The money in the fund may be used only to:
 - (a) Make grants pursuant to subsection 5 of NRS 458.420; and
 - (b) Carry out the provisions of NRS 458.370 to 458.441, inclusive.
 - 4. All claims against the fund must be paid as other claims against the state are paid.
- 5. Any money received by the commission on the condition that it be expended for a specific purpose must be accounted for separately in the fund.

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(Added to NRS by 1993, 1626; A 1995, 862; 1999, 1282, 1876)

NRS 458.410 Recommendation of policies and priorities for use of federal money; grants. Repealed. (See chapter 309, Statutes of Nevada 1999, at page 1283.)

NRS 458.420 General duties. The commission shall:

- 1. Develop, coordinate and adopt a state master plan. The plan:
- (a) May include, without limitation, any 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) Must include:
 - (1) A summary of the current activities of the commission;
 - (2) The goals and objectives of the commission;
- (3) The order of priority concerning the efforts required to achieve the goals and objectives of the commission; and
 - (4) Suggestions and advice to the bureau concerning the programs of the bureau.
- 2. Prepare and deliver to the governor on or before July 1 of each even-numbered year a report that summarizes the status of the state master plan and of the efforts of the commission to achieve its goals and objectives.
- 3. Hold and coordinate public hearings throughout the state as are 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. Recommend to the governor annually 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.
- 5. Make grants of available money to programs that provide substance abuse education, prevention, enforcement and treatment and to organizations that evaluate such programs.
 - 6. Collect, evaluate and disseminate information concerning:
- (a) The performance of the programs for drug abuse education, prevention, enforcement and treatment; and
- (b) Proposed legislation relating to drug abuse education, prevention, enforcement and treatment.
- 7. 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.

(Added to NRS by 1993, 1627; A 1995, 579, 1916; 1997, 801, 1617; 1999, 468, 1282)

NRS 458.431 Coordination of services relating to mental health with services relating to substance abuse. The commission shall:

- 1. Establish a standard system for referrals between providers of services relating to the treatment of mental health problems and providers of services relating to treatment for substance abuse:
- 2. Identify the facilities for the treatment of substance abuse located in this state in which at least one specialist in mental health should be placed;
- 3. Identify the facilities for the treatment of mental health problems located in this state in which at least one counselor in substance abuse should be placed;

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- 4. Determine the cost of placing such specialists and counselors in facilities pursuant to subsections 2 and 3;
- 5. Determine the process by which clients in a facility for the treatment of substance abuse would receive treatment for mental health problems when necessary; and
- 6. Determine the process by which clients in a facility for the treatment of mental health problems would receive treatment for substance abuse when necessary.

(Added to NRS by 1999, 1874)

NRS 458.441 Substance abuse by adolescents and adults: Report card; list of programs.

- 1. The commission shall:
- (a) Establish a standard report card that identifies at least four key indicators of the level of substance abuse by adolescents and adults residing in this state; and
 - (b) Publicize the indicators to be used in the report card.
- 2. The commission shall annually compile a list of substance abuse programs in this state that are publicly or privately financed, or both, including:
 - (a) Treatment programs for adolescents and adults;
 - (b) Intervention programs for adolescents and adults;
 - (c) Prevention programs for adolescents and adults; and
 - (d) Education programs for adolescents and adults.

(Added to NRS by 1999, 1874)

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