

CIVIL COMMITMENT OF PROBLEM GAMBLERS CONVICTED OF CRIME

NRS 458A.200 Authority of court to establish program of treatment; conditions for assignment; administration.

1. A court may establish a program for the treatment of problem gambling to which it may assign a person pursuant to NRS 458A.210. The assignment must:
 - (a) Include the terms and conditions for successful completion of the program;
 - (b) Require that the person assigned to the program agree to pay restitution as a condition upon the election of treatment; and
 - (c) Provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.
2. A program established pursuant to this section must be administered by a qualified mental health professional and must include, without limitation:
 - (a) Information and encouragement for the participant to cease problem gambling through educational, counseling and support sessions;
 - (b) The opportunity for the participant to understand the medical, psychological, social and financial implications of problem gambling; and
 - (c) Appropriate referral to community, health, substance abuse, religious and social service agencies for additional resources and related services, as needed.
3. Before the court assigns a person to a program for the treatment of problem gambling, the person must agree to pay the cost of the program to which he or she is assigned, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

(Added to NRS by 2009, 1435)

NRS 458A.210 Eligibility for assignment to program of treatment. Subject to the provisions of NRS 458A.200 to 458A.260, inclusive, a problem gambler who has been convicted of a crime and who committed the crime in furtherance or as a result of problem gambling is eligible to elect to be assigned by the court to a program for the treatment of problem gambling before he or she is sentenced unless:

1. The crime is:
 - (a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;

- (b) A crime against a child as defined in NRS 179D.0357;
 - (c) A sexual offense as defined in NRS 179D.097; or
 - (d) An act which constitutes domestic violence as set forth in NRS 33.018;
2. The problem gambler has a record of two or more convictions of a crime described in subsection 1 or a similar crime in violation of the laws of another state, or of three or more convictions of any felony;
 3. Other criminal proceedings alleging commission of a felony are pending against the problem gambler;
 4. The problem gambler is on probation or parole, except that the problem gambler is eligible to make the election if the appropriate probation or parole authority consents to the election or the court finds that the problem gambler is eligible to make the election after considering any objections made by the appropriate probation or parole authority; or
 5. The problem gambler has previously been assigned by a court to a program for the treatment of problem gambling, except that the problem gambler is eligible to make the election if the court, in its discretion, finds that the problem gambler is eligible to make such an election.

(Added to NRS by 2009, 1436)

NRS 458A.220 Hearing to determine whether person should receive treatment; court to advise person of conditions.

1. If the court:
 - (a) Has reason to believe that:
 - (1) A person who has been convicted of a crime is a problem gambler; and
 - (2) The person committed the crime in furtherance or as a result of problem gambling; and
 - (b) Finds that the person is eligible to make the election as provided in NRS 458A.210,
- the court shall hold a hearing before it sentences the person to determine whether or not the person committed the crime in furtherance or as a result of problem gambling and whether or not the person should receive treatment under the supervision of a qualified mental health professional. The district attorney may present the court with any evidence concerning whether the person committed the crime in furtherance or as a result of problem gambling and the advisability of permitting the person to make the election.
2. At the hearing, the court shall advise the person that sentencing will be postponed if the person elects to submit to treatment and is accepted into a program for the treatment of problem gambling. In offering the election, the court shall advise the person that:

- (a) The court may impose any conditions upon the election of treatment that could be imposed as conditions of probation;
- (b) If the person elects to submit to treatment and is accepted, the person:
 - (1) May be placed under the supervision of the qualified mental health professional for a period of not less than 1 year and not more than 3 years; and
 - (2) Must agree to pay restitution as a condition upon the election of treatment;
- (c) During treatment, the person may be confined in an institution or, at the discretion of the qualified mental health professional, released for treatment or supervised care in the community;
- (d) If the person 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 the person does not satisfactorily complete treatment and satisfy the conditions, the person may be sentenced and the sentence executed; and
- (e) If the person's conviction is set aside pursuant to NRS 458A.240, he or she may, at any time after the conviction is set aside, file a petition pursuant to NRS 179.255 for the sealing of all records relating to the setting aside of the conviction.

(Added to NRS by 2009, 1436)

NRS 458A.230 Examination of person; determination of acceptability for treatment; imposition of conditions; payment of restitution; 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 458A.210, the court shall order a qualified mental health professional to conduct an examination of the person to determine whether the person is a problem gambler, whether the person committed the crime in furtherance or as a result of problem gambling and whether the person is likely to be rehabilitated through treatment. The qualified mental health professional 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 a problem gambler, did not commit the crime in furtherance or as a result of problem gambling, is not likely to be rehabilitated through treatment or is otherwise not a good candidate for treatment, the person may be sentenced and the sentence executed.
3. If the court determines that the person is a problem gambler, committed the crime in furtherance or as a result of problem gambling, is likely to be rehabilitated through treatment and is a good candidate for treatment, the court may:

- (a) Impose any conditions upon the election of treatment that may be imposed as conditions of probation;
- (b) Defer sentencing until such time, if any, as sentencing is authorized pursuant to NRS 458A.240; and
- (c) Place the person under the supervision of a qualified mental health professional for not less than 1 year and not more than 3 years.

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

- 4. If the court places a person under the supervision of a qualified mental health professional for the purpose of receiving treatment pursuant to NRS 458A.200 to 458A.260, inclusive, the person must agree to pay restitution as a condition upon the election of treatment.
- 5. A person who is placed under the supervision of a qualified mental health professional shall pay the cost of the program of treatment to which the person is assigned and the cost of any additional supervision that may be required, to the extent of the financial resources of the person. The court may issue a judgment in favor of the court or the qualified mental health professional for the costs of the treatment and supervision which remain unpaid at the conclusion of the treatment. The 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 6.
- 6. If the person who is placed under the supervision of a qualified mental health professional does not have the financial resources to pay all of the related costs:
 - (a) The court shall, to the extent practicable, arrange for the person to be assigned to a program 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 community service in lieu of paying the remainder of the costs relating to the person's treatment and supervision. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of this State 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 community service, unless, if the insurance is industrial insurance, it is provided by the authority for which the person performs the community service.
- 7. No person may be placed under the supervision of a qualified mental health professional pursuant to this section unless the qualified mental health professional accepts the person for treatment.

(Added to NRS by 2009, 1437)

NRS 458A.240 Deferment of sentencing; satisfaction of conditions for treatment; setting aside conviction; determination of transfer to another facility or sentencing.

1. Whenever a person is placed under the supervision of a qualified mental health professional, the person's sentencing must be deferred and, except as otherwise provided in subsection 4, the person's conviction must be set aside if the qualified mental health professional certifies to the court that the person has satisfactorily completed the program of treatment 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 qualified mental health professional has not certified that the person has completed the program of treatment, the court shall sentence the person. If the person has satisfied the conditions upon the election of treatment and the court believes that the person will complete his or her treatment voluntarily, the court may set the conviction aside.
 3. If, before the treatment period expires, the qualified mental health professional determines that the person is not likely to benefit from further treatment, the qualified mental health professional shall so advise the court. The court shall then:
 - (a) Arrange for the transfer of the person to a more suitable program, if any; or
 - (b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.
- If a person is sentenced pursuant to this section, any 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 incidents.

(Added to NRS by 2009, 1438)

NRS 458A.250 Civil commitment not criminal conviction; sealing of records.

1. The determination of problem gambling and civil commitment pursuant to NRS 458A.200 to 458A.260, inclusive, shall not be deemed a criminal conviction.
2. The records relating to the setting aside of a conviction pursuant to NRS 458A.240 may be sealed pursuant to NRS 179.255.

(Added to NRS by 2009, 1439)

NRS 458A.260 State or political subdivision not required to provide program for treatment.

The provisions of NRS 458A.200 to 458A.260, inclusive, do not require this State or any of its political subdivisions to establish or finance any program for the treatment of problem gambling.

(Added to NRS by 2009, 1439)

Source: <https://www.leg.state.nv.us/nrs/NRS-458A.html>