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## Crimes: driving under the influence- sentencing

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within seventy-two hours of the initial detention.<sup>5</sup> The judge or magistrate must then determine whether to continue detention or to modify the bail.<sup>6</sup> If the detention continues, the court must also establish a schedule for the periodic review of the witness's situation.<sup>7</sup>

DMT

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5. 1989 Nev. Stat. ch. 157, sec. 1, at 327 (amending NEV. REV. STAT. § 178.494).

6. *Id.*

7. *Id.*

### Crimes: driving under the influence— sentencing

NEV. REV. STAT. §§ 176.215, 484.3795 (amended).

SB 456 (Committee on Judiciary); 1989 STAT. Ch. 527

Under prior law, the period of probation or suspension of sentence for a felony conviction could not exceed five years.<sup>1</sup> Chapter 527 increases this period to ten years for persons convicted of felony drunk driving.<sup>2</sup> However the sentence can only be suspended if the defendant is imprisoned<sup>3</sup> for at least one year and is thereafter put on probation.<sup>4</sup>

KMS

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1. 1987 Nev. Stat. ch 328, sec. 3, at 761 (amending NEV. REV. STAT § 176.215). See NEV. REV. STAT. § 176.185 (1987) (terms and conditions for suspension of sentence and probation).

2. 1989 Nev. Stat. ch. 527, sec. 1, at 1110 (amending NEV. REV. STAT. § 176.215). The probation or suspension of sentence may be indeterminate but may not exceed 10 years. *Id.* See NEV. REV. STAT. § 484.3795 (1987) (definition of felony drunk driving). See generally *Cotter v. State*, 103 Nev. 303, 306, 738 P.2d 506, 508 (1987) (driving under the influence is a question of fact for the jury, except when the defendant's blood alcohol level is over .10%).

3. See 1989 Nev. Stat. ch. 527, sec. 2, at 1110 (amending NEV. REV. STAT. § 484.3795) (prison includes an institution of minimum security, an honor camp, a restitution center, a state prison, or similar facility).

4. *Id.* (necessary conditions for suspension of sentence or probation); sec. 1, at 1110 (the defendant can be put on probation for up to 10 years). See generally, Ross, *Judicial Disobedience of the Mandate to Imprison Drunk Drivers*, 21 LAW AND SOC. REV. 315-27 (Fall 1987) (discussing judicial avoidance of firm mandates on drunk driving laws).