

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Judiciary

This measure may be considered for action during today's work session.

ASSEMBLY BILL 369

Revises provisions governing the administration of justice. (BDR 14-67)

Sponsored By: Assembly Members Orentlicher and González
Date Heard: March 30, 2023
Fiscal Notes: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

This bill revises provisions relating to the imposition of certain fines, administrative assessments, and fees against a defendant. The bill expands the circumstances in which a person is presumed to be indigent and requires the court to calculate the household income limit of a defendant who is presumed indigent. The bill revises the provisions relating to community service performed in lieu of certain administrative assessments or fees. Lastly, the bill prohibits a person from threatening or intimidating a tribal judge under certain circumstances.

Amendments: There is one proposed amendment. Leisa Moseley, Nevada State Director and Nick Shepack, Nevada State Deputy Director, Fines and Fees Justice Center proposed an amendment, which does the following:

- Revises in Section 5 the income levels;
- Amends Section 7 to clarify that a person is presumed indigent if the person has a household income that is less than 200 percent rather than 400 percent of the income limit;
- Amends Section 9 to include fees; and
- Amends in Sections 10 and 12 the credit given for community service.

Bill No. A.B. 369 - Proposed Amendment from Fines and Fees Justice Center

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Purpose: To bring income levels for a reduction of fines and fees in line with intent of the legislation. Increase amount of credit given for community service and remove certain costs related to community services. Add the word “fees” when necessary.

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

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

1 **Section 1.** Chapter 176 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in NRS 176.002 and section*
6 *3 of this act have the meanings ascribed to them in those sections.*

7 **Sec. 3.** *“HOME Investment Partnerships Act” means the*
8 *HOME Investment Partnerships Act, 42. U.S.C. §§ 12701 et seq.*

9 **Sec. 4. 1.** *If a fine, administrative assessment or fee is*
10 *imposed against a defendant who commits a minor traffic offense*
11 *or an offense punishable as a misdemeanor, the court shall inform*
12 *the defendant that:*

13 *(a) The defendant may be eligible for a waiver or reduction of*
14 *the fine, administrative assessment or fee.*

15 *(b) In order to receive a waiver or reduction of the fine,*
16 *administrative assessment or fee, the defendant must comply with*
17 *the requirements prescribed by subsection 2.*

18 **2.** *A defendant who wishes to have a fine, administrative*
19 *assessment or fee waived or reduced by the court must file, on a*
20 *form provided by the court, an ability to pay assessment, which*
21 *must include a declaration that complies with the provisions of*
22 *NRS 53.045.*

23 **3.** *No fee may be charged or collected for filing an ability to*
24 *pay assessment.*

25 **Sec. 5. 1.** *Upon the filing of an ability to pay assessment,*
26 *the court shall, for each defendant who is presumed to be indigent*
27 *pursuant to NRS 176.0643, calculate the household income limit*
28 *of the defendant by:*

29 *(a) Calculating the monthly income of the defendant,*
30 *excluding any payments received by the defendant pursuant to the*
31 *Social Security Act, including, without limitation, supplemental*
32 *security income benefits and child support payments that are*
33 *processed pursuant to Part D of Title IV of the Social Security*
34 *Act; and*

35 *(b) Adjusting the monthly income of the defendant based on*
36 *the size of the family of the defendant in accordance with the*
37 *guidelines prescribed by the HOME Investment Partnerships Act.*

38 **2.** *Using the guidelines prescribed by the HOME Investment*
39 *Partnerships Act and the household income limit of the defendant*
40 *calculated pursuant to subsection 1, the court shall calculate the*
41 *ability of the defendant to pay a fine, administrative assessment or*
42 *fee and:*

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1 (a) Waive any fee assessed against the defendant if the
2 household income limit of the defendant is less than ~~400~~ 200
3 percent of the very low income limit for a family of equal size
4 to the defendant based on the guidelines prescribed by the
5 HOME Investment Partnerships Act; and
6 (b) Waive or reduce any administrative assessment or fine
7 imposed upon the defendant in accordance with subsection 3.
8 3. If the household income limit of the defendant is:
9 (a) Below the very low income limit for a family of equal size
10 to the defendant based on the guidelines prescribed by the HOME
11 Investment Partnerships Act, the court shall waive any
12 administrative assessment imposed against the defendant and reduce the
13 fine to the lowest fine allowed by law or \$10, whichever is higher.
14 (b) Greater than 100 percent but not more than ~~200~~ 125 percent
15 of the very low income limit for a family of equal size to
16 the defendant based on the guidelines prescribed by the
17 HOME Investment Partnerships Act, the court shall reduce by
18 75 percent the amount of any fine or administrative
19 assessment imposed against the defendant.
20 (c) Greater than ~~200~~ 125 percent but not more than ~~300~~ 150
21 percent of the very low income limit for a family of equal
22 size to the defendant based on the guidelines prescribed by
23 the HOME Investment Partnerships Act, the court shall reduce
24 by 50 percent the amount of any fine or administrative
25 assessment imposed against the defendant.
26 (d) Greater than ~~300~~ 150 percent but not more than ~~400~~ 200
27 percent of the very low income limit for a family of equal
28 size to the defendant based on the guidelines prescribed by
29 the HOME Investment Partnerships Act, the court shall reduce
30 by 25 percent the amount of any fine or administrative
31 assessment imposed against the defendant.
32 **Sec. 6.** NRS 176.002 is hereby amended to read as follows:
33 176.002 ~~As used in this chapter, unless the context otherwise~~
34 ~~requires,]~~ “Division” means the Division of Parole and Probation of
35 the Department of Public Safety.
36 **Sec. 7.** NRS 176.0643 is hereby amended to read as follows:
37 176.0643 1. For the purposes of this chapter, a person who
38 commits a minor traffic offense *or an offense punishable as a*
39 *misdemeanor* is presumed to be indigent and not to have the ability
40 to pay a fine, administrative assessment or fee imposed pursuant to
41 this chapter if the person:
42 (a) Receives public assistance, as that term is defined in
43 NRS 422A.065;
44 (b) Resides in public housing, as that term is defined in NRS
45 315.021; ~~or]~~

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1 (c) Has a household income that is less than ~~200~~ 400 percent
2 of the ~~federally designated level signifying poverty.~~ *very low*
3 *income limit for a family of equal size to the defendant based on*
4 *the guidelines prescribed by the HOME Investment Partnerships*
5 *Act;*

6 (d) *Has experienced homelessness at any time in the*
7 *immediately preceding 12 months; or*

8 (e) *Received treatment at a psychiatric facility at any time in*
9 *the immediately preceding 6 months.*

10 2. As used in this section ~~,"minor":~~

11 (a) *"Minor traffic offense"* means a violation of any state or
12 local law or ordinance governing the operation of a motor vehicle
13 upon any highway within this State other than:

14 ~~{(a)}~~ (1) A violation of chapters 484A to 484E, inclusive, or 706
15 of NRS that causes the death of a person;

16 ~~{(b)}~~ (2) A violation of NRS 484C.110 or 484C.120; or

17 ~~{(c)}~~ (3) A violation declared to be a felony.

18 (b) *"Psychiatric facility" means a psychiatric hospital or*
19 *facility which provides residential treatment for mental illness.*

20 **Sec. 8.** NRS 176.0647 is hereby amended to read as follows:

21 176.0647 1. Any delinquent fine, administrative assessment
22 or fee owed by a defendant pursuant to NRS 176.064 who commits
23 a minor traffic offense ~~as defined in NRS 176.0643~~ *or an offense*
24 *punishable as a misdemeanor* is deemed to be uncollectible if after
25 ~~10~~ 5 years it remains impossible or impracticable to collect the
26 delinquent amount.

27 2. *"Minor traffic offense" has the meaning ascribed to it in*
28 *NRS 176.0643.*

29 **Sec. 9.** NRS 176.085 is hereby amended to read as follows:

30 176.085 ~~{Whenever, after a fine and administrative assessment~~
31 ~~have been imposed but before they have been discharged by~~
32 ~~payment or confinement, it is made to appear to the judge or justice~~
33 ~~imposing the fine or administrative assessment or his or her~~
34 ~~successor:}~~

35 1. ~~{That}~~ *In addition to any other waiver or reduction to*
36 *which a defendant may be entitled pursuant to section 5 of this*
37 *act, the court may waive or reduce any fine, fees, or*
38 *administrative assessment imposed against a defendant pursuant to*
39 *this chapter upon a determination that the fine, fees, or*
40 *administrative assessment is excessive in relation to the financial*
41 *resources of the defendant. , the judge or justice or his or her*
42 *successor may reduce the fine accordingly.*

43 2. ~~{That the discharge of the}~~ *Upon a determination by the*
44 *court that payment of a fine, fees, or administrative assessment imposed*
against a defendant pursuant to this chapter is not within the

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1 defendant's present financial ability to pay, the ~~judge or justice or~~
2 ~~his or her successor~~ court may direct ~~that~~ the *defendant to pay*
3 *the fine, fees, ~~to be paid~~ or administrative assessment* in
4 installments. *If the court directs a defendant to pay a fine, fees,*
5 *or Administrative assessment in installments, the amount of each*
6 *installment must not exceed 2 percent of the annual income of the*
7 *defendant.*

8 **Sec. 10.** NRS 176.087 is hereby amended to read as follows:
9 176.087 1. Except where the imposition of a specific criminal
10 penalty is mandatory, a court may order a convicted person to
11 perform supervised community service:

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

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

16 2. The community service must be performed for and under the
17 supervising authority of ~~it~~: (a) A county, city, town or other
18 political subdivision or agency of the State of Nevada ;

19 (b) *An educational institution*; or ~~it~~

20 (c) A charitable organization that renders service to the
21 community or its residents.

22 3. ~~The court may require the convicted person to deposit with~~
23 ~~the court a reasonable sum of money to pay for the cost of policies~~
24 ~~of insurance against liability for personal injury and damage to~~
25 ~~property or for industrial insurance, or both, during those periods in~~
26 ~~which the person performs the community service, unless, in the~~
27 ~~case of industrial insurance, it is provided by the authority for which~~
28 ~~the person performs the community service.~~

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

31 (a) The court must fix the period of community service that is
32 imposed as punishment or a condition of probation and distribute
33 the period over weekends or over other appropriate times that will
34 allow the convicted person to continue employment and to care for
35 the person's family. The period of community service fixed by the
36 court must *not necessitate the performance of more than 16 hours*
37 *of community service per week and must* not exceed, for a:

38 (1) Misdemeanor, ~~200~~ 100 hours;

39 (2) Gross misdemeanor, 600 hours; or

40 (3) Felony, 1,000 hours.

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

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1 ~~jurisdiction of the court or, if that placement is not possible, the~~
2 ~~authority] may be located [outside the jurisdiction of the court.]~~
3 *anywhere that is accessible to a convicted person in person or*
4 *remotely.*

5 (c) Community service that a court requires pursuant to this
6 section must be supervised by an official of the supervising
7 authority or by a person designated by the authority. *An official or*
8 *designee may supervise the performance of community service in*
9 *person or remotely.*

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

14 5. For each hour of community service that is performed by a
15 person pursuant to this section, the court must provide a credit of
16 ~~\$10 or the amount of the state minimum wage if health insurance is~~
17 ~~not offered, whichever is greater~~ **\$20 or more**, toward the payment
18 of any fine, **fees, or Administrative Assessment** that was imposed
19 against the person for the commission of the offense for which
20 the person was ordered to perform community service. **The**
21 **Amount of any fine, fee or Administrative Assessment against**
22 **Which community service is credited to Section 4 and 5 of NRS**
23 **176.**

24 6. *As used in this section:*

25 (a) *“Community service” includes, without limitation:*

- 26 (1) *Public service;*
27 (2) *Work on public projects;*
28 (3) *Supervised work for the benefit of the community;*
29 (4) *Any other work or activity required by the court,*

30 *including, without limitation, participating in:*

- 31 (I) *A job skills training program;*
32 (II) *A program designed to prepare a person to take the*
33 *high school equivalency assessment selected by the State Board of*
34 *Education pursuant to NRS 390.055;*
35 (III) *A mentoring program;*
36 (IV) *Counseling; and*
37 (V) *A program for self-improvement.*

38 (b) *“Educational institution” includes, without limitation, a*
39 *public school, vocational or technical school or college or*
40 *university.*

41 **Sec. 11.** NRS 199.300 is hereby amended to read as follows:

42 199.300 1. A person shall not, directly or indirectly, address
43 any threat or intimidation to a public officer, public employee, juror,
44 referee, arbitrator, appraiser, assessor or any person authorized by
45 law to hear or determine any controversy or matter, *including,*
46 *without limitation, a tribal judge,* with the intent to induce such a
47 person contrary to his or her duty to do, make, omit or delay any act,

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1 decision or determination, if the threat or intimidation
2 communicates the intent, either immediately or in the future:

- 3 (a) To cause bodily injury to any person;
4 (b) To cause physical damage to the property of any person
5 other than the person addressing the threat or intimidation;
6 (c) To subject any person other than the person addressing the
7 threat or intimidation to physical confinement or restraint; or
8 (d) To do any other act which is not otherwise authorized by law
9 and is intended to harm substantially any person other than the
10 person addressing the threat or intimidation with respect to the
11 person's health, safety, business, financial condition or personal
12 relationships.

13 2. The provisions of this section must not be construed as
14 prohibiting a person from making any statement in good faith of an
15 intention to report any misconduct or malfeasance by a public
16 officer or employee.

17 3. A person who violates subsection 1 is guilty of:

18 (a) If physical force or the immediate threat of physical force is
19 used in the course of the intimidation or in the making of the threat:

20 (1) For a first offense, a category C felony and shall be
21 punished as provided in NRS 193.130.

22 (2) For a second or subsequent offense, a category B felony
23 and shall be punished by imprisonment in the state prison for a
24 minimum term of not less than 2 years and a maximum term of not
25 more than 10 years, and may be further punished by a fine of not
26 more than \$10,000.

27 (b) If no physical force or immediate threat of physical force is
28 used in the course of the intimidation or in the making of the threat,
29 a gross misdemeanor.

30 4. As used in this section, "public employee" means any person
31 who performs public duties for compensation paid by the State, a
32 county, city, local government or other political subdivision of the
33 State or an agency thereof, including, without limitation, a person
34 who performs a service for compensation pursuant to a contract with
35 the State, county, city, local government or other political
36 subdivision of the State or an agency thereof.

37 **Sec. 12.** NRS 484A.7045 is hereby amended to read as
38 follows:

39 484A.7045 1. Except where the imposition of a specific civil
40 penalty is mandatory, a court may order a person who is found to
41 have committed a civil infraction pursuant to NRS 484A.703 to
42 484A.705, inclusive, to perform community service that is
43 supervised in accordance with subsection 2:

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1 (a) In lieu of all or a part of any civil penalty or administrative
2 assessment, or both, that may be imposed for the commission of the
3 civil infraction; or

4 (b) As all or part of the punishment for the commission of the
5 civil infraction.

6 2. The community service must be performed for and under the
7 supervising authority of ~~{a}~~:

8 (a) A county, city, town or other political subdivision or agency
9 of the State of Nevada ;

10 (b) *An educational institution*; or ~~{a}~~

11 (c) A charitable organization that renders service to the
12 community or its residents.

13 3. ~~The court may require the person who committed the civil
14 infraction to deposit with the court a reasonable sum of money to
15 pay for the cost of policies of insurance against liability for personal
16 injury and damage to property or for industrial insurance, or both,
17 during those periods in which the person performs the community
18 service, unless, in the case of industrial insurance, it is provided by
19 the authority for which the person performs the community service.~~

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

22 (a) The court must fix the period of community service that is
23 imposed and distribute the period over weekends or over other
24 appropriate times that will allow the person to continue employment
25 and to care for his or her family. The period of community service
26 fixed by the court must not *necessitate the performance of more
27 than 16 hours of community service per week and must not* exceed
28 ~~{200}~~ 100 hours.

29 (b) A supervising authority listed in subsection 2 must agree to
30 accept the person for community service before the court may
31 require the person to perform community service for that
32 supervising authority. The supervising authority ~~{must be located in
33 or be the town or city of the person's residence or, if that placement
34 is not possible, one located within the jurisdiction of the court or, if
35 that placement is not possible, the authority}~~ may be located ~~{outside
36 the jurisdiction of the court.}~~ *anywhere that is accessible to a
37 person in person or remotely.*

38 (c) Community service that a court requires pursuant to this
39 section must be supervised by an official of the supervising
40 authority or by a person designated by the authority. *An official or
41 designee may supervise the performance of community service in
42 person or remotely.*

43 (d) The court may require the supervising authority to report
44 periodically to the court the person's performance in carrying out
45 the community service.

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1 (e) A person performing community service in lieu of the
2 payment of a civil penalty must receive credit toward the
3 civil penalty, **Administrative Assessment, and any fees** at a rate
4 per hour of community service performed that is equal to at
5 least ~~\$10 or the state minimum wage for an employee~~
6 ~~who is not provided health benefits by his or her~~
7 ~~employer~~ **\$20 or more, whichever is greater. The amount of any**
8 **fine, fee or Administrative Assessment against which**
9 **community service is credited must be determined pursuant to**
10 **Sections 4 and 5 of NRS 176.**
11 **5. As used in this section:**
12 **(a) "Community service" includes, without limitation:**
13 **(1) Public service;**
14 **(2) Work on public projects;**
15 **(3) Supervised work for the benefit of the community;**
16 **(4) Any other work or activity required by the court,**
17 **including, without limitation, participating in:**
18 **(I) A job skills training program;**
19 **(II) A program designed to prepare a person to take the**
20 **high school equivalency assessment selected by the State Board of**
21 **Education pursuant to NRS 390.055;**
22 **(III) A mentoring program;**
23 **(IV) Counseling; and**
24 **(V) A program for self-improvement.**
25 **(b) "Educational institution" includes, without limitation, a**
26 **public school, vocational or technical school or college or**
27 **university.**

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