

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

Senate Committee on Government Affairs

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

SENATE BILL 155

Revises provisions relating to homeless persons. (BDR 20-244)

Sponsored By: Senator Ohrenschall
Date Heard: April 7, 2023
Fiscal Notes: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

Senate Bill 155 prohibits local governments from enacting and enforcing any ordinance that discriminates against a homeless person by prohibiting a homeless person from engaging in life-sustaining activities in a public space, including, without limitation: (1) resting in a nonobstructive manner; (2) sheltering from the elements in a nonobstructive manner; (3) eating, sharing, accepting, or giving food in public spaces where food is not prohibited; and (4) with certain exceptions, occupying a motor vehicle.

Amendments: There is one amendment proposed for this measure.

Senator Ohrenschall proposes to replace Section 2 to clarify a person charged with certain misdemeanors associated with homelessness who shows sufficient evidence that they are homeless may be:

1. Ordered to complete a program of diversion, a specialty court program, or any assistance deemed applicable by the court;
2. Sentenced in accordance with *Nevada Revised Statutes* 193.150; and
3. Exempt from the fines, administrative assessments, or fees related to the charge.

Finally, the amendment provides a definition of sufficient proof of homelessness; permits, but not require, justice courts and municipal courts to create treatment courts for preprosecution diversion for individuals who are chronically homeless; and makes various conforming changes.

PROPOSED AMENDMENTS TO SB155

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EXPLANATION: Matters in (1) *blue bold italics* is new language in the original bill; (2) variations of **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; and (5) **orange underlining** is deleted language in the original bill proposed to be retained in this amendment.

PROPOSE TO AMEND THE BILL: To clarify the process of the court and allow justice and municipal courts to utilize the specialty courts of district court if they do not have that specialty court. This amendment is working from the Conceptual Amendment provided by Senator Orenschall.

AMENDMENT #1: Amend Section 2 by replacing the entire section with the following:

2. A person charged with a misdemeanor as set forth in section 1 who shows sufficient evidence to establish that the person is homeless, may:

A. Be ordered to complete a program of diversion, a specialty court program, or any assistance deemed applicable by the court;

B. Be sentenced in accordance with NRS 193.150; and

B. Not be ordered to pay fines, administrative assessments, or fees related to the charges except as otherwise required by statute;

→ Sufficient evidence to establish that the person is homeless is established through proof of recent use of public services for the homeless, written confirmation from any public or private agency providing services to the homeless, or any other proof satisfactory to the court that they are homeless.

AMENDMENT #2: Amend NRS 176A.235 to conform with conflicting statutes to permit the transfer of jurisdiction from justice court or municipal court to district court specialty drug court

1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, "eligible defendant" means a person who:

(a) Has **or has** not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

(b) Has been diagnosed as having a substance use disorder after an in-person clinical assessment; and

(c) Would benefit from assignment to a program established pursuant to [NRS 176A.230](#).

AMENDMENT #3: Amend NRS 176A.255 to conform with conflicting statutes to permit the transfer of jurisdiction from justice court or municipal court to district court specialty mental health court

1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, "eligible defendant" means a person who:

(a) Has **or has** not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

- (b) Appears to suffer from mental illness or to be intellectually disabled; and
- (c) Would benefit from assignment to a program established pursuant to [NRS 176A.250](#).

AMENDMENT #4: Amend NRS 176A.285 to conform with conflicting statutes to permit the transfer of jurisdiction from justice court or municipal court to district court Veterans court

If a justice court or municipal court has not established a program pursuant to [NRS 176A.280](#), the justice court or municipal court, as applicable, may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving a defendant who meets the qualifications of subsection 1 of [NRS 176A.280](#) and has **or has** not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor.

AMENDMENT #5: Amend NRS 174.032 permit, but not require, justice courts and municipal courts to create treatment courts for preprosecution diversion for individuals who are chronically homeless.

1. A justice court or municipal court may establish a preprosecution diversion program to which it may assign a defendant if he or she is determined to be eligible pursuant to [NRS 174.031](#).

2. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to [NRS 174.031](#), the justice or municipal court must receive input from the prosecuting attorney, the attorney for the defendant, if any, and the defendant relating to the terms and conditions for the defendant's participation in the program.

3. A preprosecution diversion program established by a justice court or municipal court pursuant to this section may include, without limitation:

(a) A program of treatment which may rehabilitate a defendant, including, without limitation, educational programs, participation in a support group, anger management therapy, counseling or a program of treatment for veterans and members of the military, mental illness or intellectual disabilities or the use of alcohol or other substances, **or chronic homelessness**;

(b) Any appropriate sanctions to impose on a defendant, which may include, without limitation, community service, restitution, prohibiting contact with certain persons or the imposition of a curfew; and

(c) Any other factor which may be relevant to determining an appropriate program of treatment or sanctions to require for participation of a defendant in the preprosecution diversion program.

4. If the justice court or municipal court determines that a defendant may be rehabilitated by a program of treatment for veterans and members of the military, persons with mental illness or intellectual disabilities or the use of alcohol or other substances, the court may refer the defendant to an appropriate program of treatment established pursuant to [NRS 176A.250](#), [176A.280](#) or [453.580](#). The court shall retain jurisdiction over the defendant while the defendant completes such a program of treatment.

5. The justice court or municipal court shall, when assigning a defendant to a preprosecution diversion program, issue an order setting forth the terms and conditions for successful completion of the preprosecution diversion program, which may include, without limitation:

(a) Any program of treatment the defendant is required to complete;

(b) Any sanctions and the manner in which they must be carried out by the defendant;

(c) The date by which the terms and conditions must be completed by the defendant, which must not be more than 18 months after the date of the order;

(d) A requirement that the defendant appear before the court at least one time every 3 months for a status hearing on the progress of the defendant toward completion of the terms and conditions set forth in the order; and

(e) A notice relating to the provisions of subsection 3 of [NRS 174.033](#).

6. A defendant assigned to a preprosecution diversion program shall pay the cost of any program of treatment required by this section to the extent of his or her financial resources. The court shall not refuse to place a defendant in a program of treatment if the defendant does not have the financial resources to pay any or all of the costs of such program.

7. If restitution is ordered to be paid pursuant to subsection 5, the defendant must make a good faith effort to pay the required amount of restitution in full. If the justice court or municipal court determines that a defendant is unable to pay such restitution, the court must require the defendant to enter into a judgment by confession for the amount of restitution.