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FIRST REPRINT

A.B. 416

ASSEMBLY BILL NO. 416—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE COMMITTEE TO STUDY THE
ADVISABILITY AND FEASIBILITY OF TREATING
CERTAIN TRAFFIC AND RELATED
VIOLATIONS AS CIVIL INFRACTIONS)

MARCH 25, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution. (BDR 14-429)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; revising provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to impose a collection fee against a defendant for any delinquent fine, administrative assessment, fee or restitution. Existing law authorizes a state or local entity responsible for collecting such a delinquent fine, administrative assessment, fee or restitution to take certain actions, including reporting the delinquency to credit reporting agencies. Existing law also authorizes the court to take certain actions, including: (1) entering a civil judgment for the amount due in favor of the state or local entity responsible for collecting the delinquent amount; (2) requesting that a prosecuting attorney undertake collection of the delinquency by attachment or garnishment of the property of the defendant, wages or other money receivable; (3) ordering the suspension of the driver's license of the defendant or prohibiting the defendant from applying for a driver's license for a specified period; and (4) for a delinquent fine or administrative assessment, ordering the confinement of the person in the appropriate prison, jail or detention facility. (NRS 176.064)

Section 2 of this bill revises provisions relating to the procedure for collecting such delinquent fines, administrative assessments, fees or restitution. **Section 2** removes the ability of a state or local entity responsible for collecting a delinquent amount to report the delinquency to credit reporting agencies and removes the



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19 ability of the court to request that a prosecuting attorney undertake collection of the
20 delinquency. **Section 2** also specifies that a court may only order the suspension of
21 the driver's license of a defendant or prohibit a defendant from applying for a
22 driver's license for a specified period if the court determines that the defendant: (1)
23 has the ability to pay the amount due and is willfully avoiding payment; or (2) was
24 given the opportunity to perform community service to satisfy the amount due
25 because the defendant is indigent and the defendant has failed to perform such
26 community service. **Section 2** thereby authorizes a state or local entity responsible
27 for collecting a delinquent amount to: (1) request that the court enter a civil
28 judgment for the amount due in favor of the state or local entity, suspend the
29 driver's license of the defendant or prohibit the defendant from applying for a
30 driver's license in such specified circumstances and, if the court determines that the
31 defendant has the ability to pay the amount due and is willfully avoiding payment,
32 order the confinement of the defendant in the appropriate prison, jail or detention
33 facility; and (2) contract with a licensed collection agency to collect the delinquent
34 amount and the collection fee.

35 **Section 1.7** of this bill provides that any delinquent fine, administrative
36 assessment or fee owed by a defendant is deemed to be uncollectible if after 8 years
37 it remains impossible or impracticable to collect the delinquent amount.

38 **Section 1.3** of this bill establishes the circumstances in which a person is
39 presumed to be indigent and not to have the ability to pay a fine, administrative
40 assessment or fee.

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 1.3 and 1.7 of this act.

3 **Sec. 1.3.** *For the purposes of this chapter, a person is*
4 *presumed to be indigent and not to have the ability to pay a fine,*
5 *administrative assessment or fee imposed pursuant to this chapter*
6 *if the person:*

7 1. *Receives public assistance, as that term is defined in*
8 *NRS 422A.065;*

9 2. *Resides in public housing, as that term is defined in NRS*
10 *315.021; or*

11 3. *Has a household income that is less than 200 percent of*
12 *the federally designated level signifying poverty.*

13 **Sec. 1.7.** *Any delinquent fine, administrative assessment or*
14 *fee owed by a defendant pursuant to NRS 176.064 is deemed to be*
15 *uncollectible if after 8 years it remains impossible or impracticable*
16 *to collect the delinquent amount.*

17 **Sec. 2.** NRS 176.064 is hereby amended to read as follows:
18 176.064 1. If a fine, administrative assessment, fee or
19 restitution is imposed upon a defendant pursuant to this chapter,
20 whether or not the fine, administrative assessment, fee or restitution
21 is in addition to any other punishment, and the fine, administrative
22 assessment, fee or restitution or any part of it remains unpaid after



1 the time established by the court for its payment, the defendant is
2 liable for a collection fee, to be imposed by the court at the time it
3 finds that the fine, administrative assessment, fee or restitution is
4 delinquent, of:

5 (a) Not more than \$100, if the amount of the delinquency is less
6 than \$2,000.

7 (b) Not more than \$500, if the amount of the delinquency is
8 \$2,000 or greater, but is less than \$5,000.

9 (c) Ten percent of the amount of the delinquency, if the amount
10 of the delinquency is \$5,000 or greater.

11 2. A state or local entity that is responsible for collecting a
12 delinquent fine, administrative assessment, fee or restitution may, in
13 addition to attempting to collect the fine, administrative assessment,
14 fee or restitution through any other lawful means, take ~~any or all of~~
15 the following actions:

16 (a) ~~Report the delinquency to reporting agencies that assemble~~
17 ~~or evaluate information concerning credit.~~

18 ~~(b)~~ Request that the court take appropriate action pursuant to
19 subsection 3.

20 ~~(c)~~ (b) Contract with a collection agency licensed pursuant to
21 NRS 649.075 to collect the delinquent amount and the collection
22 fee. The collection agency must be paid as compensation for its
23 services an amount not greater than the amount of the collection fee
24 imposed pursuant to subsection 1, in accordance with the provisions
25 of the contract.

26 3. The court may, on its own motion or at the request of a state
27 or local entity that is responsible for collecting the delinquent fine,
28 administrative assessment, fee or restitution, take ~~any or all of~~ the
29 following actions : ~~in the following order of priority if~~
30 ~~practicable:~~

31 (a) Enter a civil judgment for the amount due in favor of the
32 state or local entity that is responsible for collecting the delinquent
33 fine, administrative assessment, fee or restitution. A civil judgment
34 entered pursuant to this paragraph may be enforced and renewed in
35 the manner provided by law for the enforcement and renewal of a
36 judgment for money rendered in a civil action. If the court has
37 entered a civil judgment pursuant to this paragraph and the person
38 against whom the judgment is entered is not indigent and has not
39 satisfied the judgment within the time established by the court, the
40 person may be dealt with as for contempt of court.

41 (b) ~~Request that a prosecuting attorney undertake collection of~~
42 ~~the delinquency, including, without limitation, the original amount~~
43 ~~of the civil judgment entered pursuant to paragraph (a) and the~~
44 ~~collection fee, by attachment or garnishment of the defendant's~~
45 ~~property, wages or other money receivable.~~



1 ~~—(e) Order~~ *If the court determines that the defendant has the*
2 *ability to pay the amount due and is willfully avoiding payment, or*
3 *if the defendant was given the opportunity to perform community*
4 *service to satisfy the amount due because the defendant is indigent*
5 *and the defendant has failed to perform such community service,*

6 *order* the suspension of the driver's license of the defendant. If the
7 defendant does not possess a driver's license, the court may prohibit
8 the defendant from applying for a driver's license for a specified
9 period. If the defendant is already the subject of a court order
10 suspending or delaying the issuance of the defendant's driver's
11 license, the court may order the additional suspension or delay, as
12 appropriate, to apply consecutively with the previous order. At the
13 time the court issues an order suspending the driver's license of a
14 defendant pursuant to this paragraph, the court shall require the
15 defendant to surrender to the court all driver's licenses then held by
16 the defendant. The court shall, within 5 days after issuing the order,
17 forward to the Department of Motor Vehicles the licenses, together
18 with a copy of the order. At the time the court issues an order
19 pursuant to this paragraph delaying the ability of a defendant to
20 apply for a driver's license, the court shall, within 5 days after
21 issuing the order, forward to the Department of Motor Vehicles a
22 copy of the order. The Department of Motor Vehicles shall report a
23 suspension pursuant to this paragraph to an insurance company or
24 its agent inquiring about the defendant's driving record, but such a
25 suspension must not be considered for the purpose of rating or
26 underwriting.

27 ~~[(d) For a delinquent fine or administrative assessment,]~~

28 *(c) If the court determines that the defendant has the ability to*
29 *pay the amount due and is willfully avoiding payment,* order the
30 confinement of the ~~person~~ *defendant* in the appropriate prison, jail
31 or detention facility, as provided in NRS 176.065 and 176.075.

32 4. Money collected from a collection fee imposed pursuant to
33 subsection 1 must be distributed in the following manner:

34 (a) Except as otherwise provided in paragraph (d), if the money
35 is collected by or on behalf of a municipal court, the money must be
36 deposited in a special fund in the appropriate city treasury. The city
37 may use the money in the fund only to develop and implement a
38 program for the collection of fines, administrative assessments, fees
39 and restitution and to hire additional personnel necessary for the
40 success of such a program.

41 (b) Except as otherwise provided in paragraph (d), if the money
42 is collected by or on behalf of a justice court or district court, the
43 money must be deposited in a special fund in the appropriate county
44 treasury. The county may use the money in the special fund only to:



1 (1) Develop and implement a program for the collection of
2 fines, administrative assessments, fees and restitution and to hire
3 additional personnel necessary for the success of such a program; or

4 (2) Improve the operations of a court by providing funding
5 for:

6 (I) A civil law self-help center; or

7 (II) Court security personnel and equipment for a regional
8 justice center that includes the justice courts of that county.

9 (c) Except as otherwise provided in paragraph (d), if the money
10 is collected by a state entity, the money must be deposited in an
11 account, which is hereby created in the State Treasury. The Court
12 Administrator may use the money in the account only to develop
13 and implement a program for the collection of fines, administrative
14 assessments, fees and restitution in this State and to hire additional
15 personnel necessary for the success of such a program.

16 (d) If the money is collected by a collection agency, after the
17 collection agency has been paid its fee pursuant to the terms of the
18 contract, any remaining money must be deposited in the state, city
19 or county treasury, whichever is appropriate, to be used only for the
20 purposes set forth in paragraph (a), (b) or (c) of this subsection.

21 **Sec. 3.** (Deleted by amendment.)

22 **Sec. 4.** (Deleted by amendment.)

