

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 imposition and collection of 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; authorizing a court to order the performance of community service in lieu of all or a part of any administrative assessment or fee in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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



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

41 **Section 2.5** of this bill additionally authorizes a court, under certain
42 circumstances, to order a convicted person to perform community service in lieu of
43 all or part of any administrative assessment or fee that may be imposed for the
44 commission of a misdemeanor.

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.*



1 **Sec. 2.** NRS 176.064 is hereby amended to read as follows:

2 176.064 1. If a fine, administrative assessment, fee or
3 restitution is imposed upon a defendant pursuant to this chapter,
4 whether or not the fine, administrative assessment, fee or restitution
5 is in addition to any other punishment, and the fine, administrative
6 assessment, fee or restitution or any part of it remains unpaid after
7 the time established by the court for its payment, the defendant is
8 liable for a collection fee, to be imposed by the court at the time it
9 finds that the fine, administrative assessment, fee or restitution is
10 delinquent, of:

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

13 (b) Not more than \$500, if the amount of the delinquency is
14 \$2,000 or greater, but is less than \$5,000.

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

17 2. A state or local entity that is responsible for collecting a
18 delinquent fine, administrative assessment, fee or restitution may, in
19 addition to attempting to collect the fine, administrative assessment,
20 fee or restitution through any other lawful means, take ~~any or all of~~
21 the following actions:

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

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

26 ~~(c)~~ (b) Contract with a collection agency licensed pursuant to
27 NRS 649.075 to collect the delinquent amount and the collection
28 fee. The collection agency must be paid as compensation for its
29 services an amount not greater than the amount of the collection fee
30 imposed pursuant to subsection 1, in accordance with the provisions
31 of the contract.

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

37 (a) Enter a civil judgment for the amount due in favor of the
38 state or local entity that is responsible for collecting the delinquent
39 fine, administrative assessment, fee or restitution. A civil judgment
40 entered pursuant to this paragraph may be enforced and renewed in
41 the manner provided by law for the enforcement and renewal of a
42 judgment for money rendered in a civil action. If the court has
43 entered a civil judgment pursuant to this paragraph and the person
44 against whom the judgment is entered is not indigent and has not



1 satisfied the judgment within the time established by the court, the
2 person may be dealt with as for contempt of court.

3 ~~(b) [Request that a prosecuting attorney undertake collection of~~
4 ~~the delinquency, including, without limitation, the original amount~~
5 ~~of the civil judgment entered pursuant to paragraph (a) and the~~
6 ~~collection fee, by attachment or garnishment of the defendant's~~
7 ~~property, wages or other money receivable.~~

8 ~~—(c) Order]~~ *If the court determines that the defendant has the*
9 *ability to pay the amount due and is willfully avoiding payment, or*
10 *if the defendant was given the opportunity to perform community*
11 *service to satisfy the amount due because the defendant is indigent*
12 *and the defendant has failed to perform such community service,*

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

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

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

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

41 (a) Except as otherwise provided in paragraph (d), if the money
42 is collected by or on behalf of a municipal court, the money must be
43 deposited in a special fund in the appropriate city treasury. The city
44 may use the money in the fund only to develop and implement a
45 program for the collection of fines, administrative assessments, fees



1 and restitution and to hire additional personnel necessary for the
2 success of such a program.

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

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

10 (2) Improve the operations of a court by providing funding
11 for:

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

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

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

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

27 **Sec. 2.5.** NRS 176.087 is hereby amended to read as follows:

28 176.087 1. Except where the imposition of a specific criminal
29 penalty is mandatory, a court may order a convicted person to
30 perform supervised community service:

31 (a) In lieu of all or a part of any fine, *administrative*
32 *assessment, fee* or imprisonment that may be imposed for the
33 commission of a misdemeanor; or

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

35 2. The community service must be performed for and under the
36 supervising authority of a county, city, town or other political
37 subdivision or agency of the State of Nevada or a charitable
38 organization that renders service to the community or its residents.

39 3. The court may require the convicted person to deposit with
40 the court a reasonable sum of money to pay for the cost of policies
41 of insurance against liability for personal injury and damage to
42 property or for industrial insurance, or both, during those periods in
43 which the person performs the community service, unless, in the
44 case of industrial insurance, it is provided by the authority for which
45 the person performs the community service.



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

3 (a) The court must fix the period of community service that is
4 imposed as punishment or a condition of probation and distribute
5 the period over weekends or over other appropriate times that will
6 allow the convicted person to continue employment and to care for
7 the person's family. The period of community service fixed by the
8 court must not exceed, for a:

9 (1) Misdemeanor, 200 hours;

10 (2) Gross misdemeanor, 600 hours; or

11 (3) Felony, 1,000 hours.

12 (b) A supervising authority listed in subsection 2 must agree to
13 accept the convicted person for community service before the court
14 may require the convicted person to perform community service for
15 that supervising authority. The supervising authority must be located
16 in or be the town or city of the convicted person's residence or, if
17 that placement is not possible, one located within the jurisdiction of
18 the court or, if that placement is not possible, the authority may be
19 located outside the jurisdiction of the court.

20 (c) Community service that a court requires pursuant to this
21 section must be supervised by an official of the supervising
22 authority or by a person designated by the authority.

23 (d) The court may require the supervising authority to report
24 periodically to the court or to a probation officer the convicted
25 person's performance in carrying out the punishment or condition of
26 probation.

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

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

