

ASSEMBLY BILL NO. 369—ASSEMBLYMEN ORENTLICHER
AND GONZÁLEZ

MARCH 21, 2023

Referred to Committee on Judiciary

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

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 the judiciary; revising provisions relating to certain fines, administrative assessments and fees; revising provisions relating to community service performed in lieu of certain administrative assessments or fees; prohibiting a person from threatening or intimidating a tribal judge under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the imposition of certain fines, administrative assessments and fees against a defendant. (Chapter 176 of NRS) Existing law establishes the circumstances in which a person who commits a minor traffic offense is presumed to be indigent and prohibits a court from taking certain actions against an indigent person. (NRS 176.0643, 176.075) **Section 7** of this bill: (1) expands the circumstances in which a person is presumed to be indigent; and (2) makes the presumption of indigence applicable to a person who commits an offense punishable as a misdemeanor.

Under certain circumstances, existing law authorizes a judge or justice or his or her successor to reduce a fine imposed against a defendant. (NRS 176.085) **Section 4** of this bill requires: (1) the court to inform a defendant who commits a minor traffic offense or an offense punishable as a misdemeanor that the defendant may be eligible for a waiver or reduction of the fine, administrative assessment or fee if the defendant is presumed indigent; and (2) a defendant who wishes to have a fine, administrative assessment or fee waived or reduced to file an ability to pay assessment. **Section 5** of this bill requires the court to calculate the household income limit of a defendant who is presumed indigent pursuant to **section 7**. Using the guidelines prescribed by the HOME Investment Partnerships Act and the household income limit of the defendant, **section 5** requires the court to: (1) waive



20 any fee assessed against a defendant if the household income limit of the defendant
21 is less than 400 percent of the very low income limit for a family of equal size to
22 the defendant; and (2) waive or reduce any administrative assessment or fine
23 imposed against the defendant based upon the household income limit of the
24 defendant. **Section 3** of this bill defines the term "HOME Investment Partnerships
25 Act" for the purposes of **sections 5 and 7**. **Sections 2 and 6** of this bill make
26 conforming changes related to the definition prescribed by **section 3**.

27 Existing law provides that any delinquent fine, administrative assessment or fee
28 owed by a defendant for the commission of a minor traffic offense is deemed to be
29 uncollectible if after 10 years it remains impossible or impracticable to collect the
30 delinquent amount. (NRS 176.0647) **Section 8** of this bill: (1) reduces that period to
31 5 years; and (2) deems any delinquent fine, administrative assessment or fee owed
32 by a defendant who commits an offense punishable as a misdemeanor uncollectible
33 under the same circumstances.

34 Under certain circumstances, existing law authorizes a judge or justice or his or
35 her successor to direct that a fine be paid in installments. (NRS 176.085) **Section 9**
36 of this bill instead authorizes the court to direct a defendant to pay a fine or
37 administrative assessment in installments. If the court directs a defendant to pay a
38 fine or administrative assessment in installments, **section 9** provides that the
39 amount of each installment must not exceed 2 percent of the annual income of the
40 defendant.

41 Existing law authorizes a court to order a convicted person or a person who
42 commits a minor traffic offense to perform supervised community service in lieu of
43 all or part of certain fines, administrative assessments or fees. (NRS 176.087,
44 484A.7045) **Sections 10 and 12** of this bill define "community service" for the
45 purpose of any such order to include public service, work on public projects,
46 supervised work for the benefit of the community and participation in certain
47 programs and counseling. **Sections 10 and 12** also prohibit a court from ordering a
48 person who commits an offense punishable as a misdemeanor or a person who
49 commits a minor traffic offense to perform more than 100 hours of community
50 service. **Sections 10 and 12** also revise certain requirements relating to a
51 supervising authority.

52 Existing law establishes various crimes against public justice. (Chapter 199 of
53 NRS) One such crime prohibits a person from threatening or intimidating a public
54 officer, public employee or certain other persons authorized to hear or determine a
55 controversy or matter with the intent to induce the officer, employee or person to
56 act in a manner contrary to his or her duties with regard to the controversy or
57 matter. (NRS 199.300) **Section 11** of this bill makes this prohibition applicable to a
58 person who threatens or intimidates a tribal judge with such intent. Under existing
59 law, a person who violates this prohibition is guilty of: (1) a category B or C
60 felony, if physical force or the immediate threat of physical force is used; and (2) a
61 gross misdemeanor, if no physical force or immediate threat of physical force is
62 used. (NRS 199.300) **Section 11** thereby makes a person who violates this
63 prohibition by threatening or intimidating a tribal judge guilty of a category B or C
64 felony or a gross misdemeanor, depending on the circumstances.



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:*



1 (a) Waive any fee assessed against the defendant if the
2 household income limit of the defendant is less than 400 percent
3 of the very low income limit for a family of equal size to the
4 defendant based on the guidelines prescribed by the HOME
5 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 fine or
12 administrative assessment imposed against the defendant.

13 (b) Greater than 100 percent but not more than 200 percent of
14 the very low income limit for a family of equal size to the
15 defendant based on the guidelines prescribed by the HOME
16 Investment Partnerships Act, the court shall reduce by 75 percent
17 the amount of any fine or administrative assessment imposed
18 against the defendant.

19 (c) Greater than 200 percent but not more than 300 percent of
20 the very low income limit for a family of equal size to the
21 defendant based on the guidelines prescribed by the HOME
22 Investment Partnerships Act, the court shall reduce by 50 percent
23 the amount of any fine or administrative assessment imposed
24 against the defendant.

25 (d) Greater than 300 percent but not more than 400 percent of
26 the very low income limit for a family of equal size to the
27 defendant based on the guidelines prescribed by the HOME
28 Investment Partnerships Act, the court shall reduce by 25 percent
29 the amount of any fine or administrative assessment imposed
30 against the defendant.

31 **Sec. 6.** NRS 176.002 is hereby amended to read as follows:

32 176.002 ~~[As used in this chapter, unless the context otherwise~~
33 ~~requires.]~~ “Division” means the Division of Parole and Probation of
34 the Department of Public Safety.

35 **Sec. 7.** NRS 176.0643 is hereby amended to read as follows:

36 176.0643 1. For the purposes of this chapter, a person who
37 commits a minor traffic offense *or an offense punishable as a*
38 *misdemeanor* is presumed to be indigent and not to have the ability
39 to pay a fine, administrative assessment or fee imposed pursuant to
40 this chapter if the person:

41 (a) Receives public assistance, as that term is defined in
42 NRS 422A.065;

43 (b) Resides in public housing, as that term is defined in NRS
44 315.021; ~~[or]~~



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 ~~[(e)]~~ (3) A violation declared to be a felony.

18 (b) *"Psychiatric facility"* means *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 or administrative*
38 *assessment imposed against a defendant pursuant to this chapter*
39 *upon a determination that the fine or administrative assessment is*
40 *excessive in relation to the financial resources of the defendant .* ~~[~~
41 ~~the judge or justice or his or her successor may reduce the fine~~
42 ~~accordingly.]~~

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



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 ~~to be paid~~ or administrative assessment* in installments. *If*
4 *the court directs a defendant to pay a fine or administrative*
5 *assessment in installments, the amount of each installment must*
6 *not exceed 2 percent of the annual income of the defendant.*

7 **Sec. 10.** NRS 176.087 is hereby amended to read as follows:

8 176.087 1. Except where the imposition of a specific criminal
9 penalty is mandatory, a court may order a convicted person to
10 perform supervised community service:

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

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

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

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

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

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

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

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

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

38 (2) Gross misdemeanor, 600 hours; or

39 (3) Felony, 1,000 hours.

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



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, toward the payment of any fine
18 that was imposed against the person for the commission of the
19 offense for which the person was ordered to perform community
20 service.

21 **6. As used in this section:**

22 (a) *"Community service" includes, without limitation:*

23 (1) *Public service;*

24 (2) *Work on public projects;*

25 (3) *Supervised work for the benefit of the community;*

26 (4) *Any other work or activity required by the court,*
27 *including, without limitation, participating in:*

28 (I) *A job skills training program;*

29 (II) *A program designed to prepare a person to take the*
30 *high school equivalency assessment selected by the State Board of*
31 *Education pursuant to NRS 390.055;*

32 (III) *A mentoring program;*

33 (IV) *Counseling; and*

34 (V) *A program for self-improvement.*

35 (b) *"Educational institution" includes, without limitation, a*
36 *public school, vocational or technical school or college or*
37 *university.*

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

39 199.300 1. A person shall not, directly or indirectly, address
40 any threat or intimidation to a public officer, public employee, juror,
41 referee, arbitrator, appraiser, assessor or any person authorized by
42 law to hear or determine any controversy or matter, *including,*
43 *without limitation, a tribal judge,* with the intent to induce such a
44 person contrary to his or her duty to do, make, omit or delay any act,



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:



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 ~~the~~:

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

10 (b) *An educational institution*; or ~~the~~

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.



1 (e) A person performing community service in lieu of the
2 payment of a civil penalty must receive credit toward the civil
3 penalty at a rate per hour of community service performed that is
4 equal to at least \$10 or the state minimum wage for an employee
5 who is not provided health benefits by his or her employer,
6 whichever is greater.

7 **5. As used in this section:**

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

9 (1) ***Public service;***

10 (2) ***Work on public projects;***

11 (3) ***Supervised work for the benefit of the community;***

12 (4) ***Any other work or activity required by the court,***
13 ***including, without limitation, participating in:***

14 (I) ***A job skills training program;***

15 (II) ***A program designed to prepare a person to take the***
16 ***high school equivalency assessment selected by the State Board of***
17 ***Education pursuant to NRS 390.055;***

18 (III) ***A mentoring program;***

19 (IV) ***Counseling; and***

20 (V) ***A program for self-improvement.***

21 (b) ***“Educational institution” includes, without limitation, a***
22 ***public school, vocational or technical school or college or***
23 ***university.***

