

Amendment No. 396

Assembly Amendment to Assembly Bill No. 369	(BDR 14-67)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter 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; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KMD/BAW



Date: 4/19/2023

A.B. No. 369—Revises provisions governing the administration of justice.
(BDR 14-67)



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 fines, 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 any fee assessed against a defendant if the household income limit of the defendant is less than ~~400~~ **200** percent of the very low income limit for a family of equal size to the defendant; and (2) waive or reduce any administrative assessment or fine imposed against the defendant based upon the household income limit of the defendant. **Section 3** of this bill defines the term “HOME Investment Partnerships Act” for the purposes of **sections 5 and 7**. **Sections 2 and 6** of this bill make conforming changes related to the definition prescribed by **section 3**.

Existing law provides that any delinquent fine, administrative assessment or fee owed by a defendant for the commission of a minor traffic offense is deemed to be uncollectible if after 10 years it remains impossible or impracticable to collect the delinquent amount. (NRS

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27 176.0647) **Section 8** of this bill: (1) reduces that period to 5 years; and (2) deems any
 28 delinquent fine, administrative assessment or fee owed by a defendant who commits an
 29 offense punishable as a misdemeanor uncollectible under the same circumstances.

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

36 Existing law authorizes a court to order a convicted person or a person who commits a
 37 minor traffic offense to perform supervised community service in lieu of all or part of certain
 38 fines, administrative assessments or fees. Existing law additionally requires a court to
 39 provide a credit of \$10 or the amount of the state minimum wage if health insurance is
 40 not offered, whichever is greater, for each hour of community service. (NRS 176.087,
 41 484A.7045) **Sections 10 and 12** of this bill define “community service” for the purpose of any
 42 such order to include public service, work on public projects, supervised work for the benefit
 43 of the community and participation in certain programs and counseling. **Sections 10 and 12**
 44 also prohibit a court from ordering a person who commits an offense punishable as a
 45 misdemeanor or a person who commits a minor traffic offense to perform more than 100
 46 hours of community service. **Sections 10 and 12** also revise certain requirements relating to a
 47 supervising authority. Sections 10 and 12 additionally remove the ability of a court to
 48 require a convicted person to deposit a reasonable sum of money to pay for the cost of
 49 certain insurance relating to community service. Sections 10 and 12 also increase the
 50 credit that a court provides for community service from \$10 or the amount of the state
 51 minimum wage if health insurance is not offered, whichever is greater, to not less than
 52 \$20. Sections 10 and 12 additionally clarify that such credit is to be counted toward the
 53 payment of any fine, administrative assessment or fee.

54 Existing law establishes various crimes against public justice. (Chapter 199 of NRS) One
 55 such crime prohibits a person from threatening or intimidating a public officer, public
 56 employee or certain other persons authorized to hear or determine a controversy or matter
 57 with the intent to induce the officer, employee or person to act in a manner contrary to his or
 58 her duties with regard to the controversy or matter. (NRS 199.300) **Section 11** of this bill
 59 makes this prohibition applicable to a person who threatens or intimidates a tribal judge with
 60 such intent. Under existing law, a person who violates this prohibition is guilty of: (1) a
 61 category B or C felony, if physical force or the immediate threat of physical force is used; and
 62 (2) a gross misdemeanor, if no physical force or immediate threat of physical force is used.
 63 (NRS 199.300) **Section 11** thereby makes a person who violates this prohibition by
 64 threatening or intimidating a tribal judge guilty of a category B or C felony or a gross
 65 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 thereto the
 2 provisions set forth as sections 2 to 5, inclusive, of this act.

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

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

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

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

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

4 2. A defendant who wishes to have a fine, administrative assessment or fee
5 waived or reduced by the court must file, on a form provided by the court, an
6 ability to pay assessment, which must include a declaration that complies with the
7 provisions of NRS 53.045.

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

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

12 (a) Calculating the monthly income of the defendant, excluding any
13 payments received by the defendant pursuant to the Social Security Act,
14 including, without limitation, supplemental security income benefits and child
15 support payments that are processed pursuant to Part D of Title IV of the Social
16 Security Act; and

17 (b) Adjusting the monthly income of the defendant based on the size of the
18 family of the defendant in accordance with the guidelines prescribed by the
19 HOME Investment Partnerships Act.

20 2. Using the guidelines prescribed by the HOME Investment Partnerships
21 Act and the household income limit of the defendant calculated pursuant to
22 subsection 1, the court shall calculate the ability of the defendant to pay a fine,
23 administrative assessment or fee and:

24 (a) Waive any fee assessed against the defendant if the household income
25 limit of the defendant is less than ~~400~~ 200 percent of the very low income limit
26 for a family of equal size to the defendant based on the guidelines prescribed by
27 the HOME Investment Partnerships Act; and

28 (b) Waive or reduce any administrative assessment or fine imposed upon the
29 defendant in accordance with subsection 3.

30 3. If the household income limit of the defendant is:

31 (a) Below the very low income limit for a family of equal size to the
32 defendant based on the guidelines prescribed by the HOME Investment
33 Partnerships Act, the court shall waive any ~~fine or~~ administrative assessment
34 imposed against the defendant ~~and reduce any fine to the lowest fine allowed~~
35 by law or \$10, whichever is greater.

36 (b) Greater than 100 percent but not more than ~~200~~ 125 percent of the very
37 low income limit for a family of equal size to the defendant based on the
38 guidelines prescribed by the HOME Investment Partnerships Act, the court shall
39 reduce by 75 percent the amount of any fine or administrative assessment
40 imposed against the defendant.

41 (c) Greater than ~~200~~ 125 percent but not more than ~~300~~ 150 percent of
42 the very low income limit for a family of equal size to the defendant based on the
43 guidelines prescribed by the HOME Investment Partnerships Act, the court shall
44 reduce by 50 percent the amount of any fine or administrative assessment
45 imposed against the defendant.

46 (d) Greater than ~~300~~ 150 percent but not more than ~~400~~ 200 percent of
47 the very low income limit for a family of equal size to the defendant based on the
48 guidelines prescribed by the HOME Investment Partnerships Act, the court shall
49 reduce by 25 percent the amount of any fine or administrative assessment
50 imposed against the defendant.

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

2 176.002 ~~[As used in this chapter, unless the context otherwise requires,]~~
3 “Division” means the Division of Parole and Probation of the Department of Public
4 Safety.

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

6 176.0643 1. For the purposes of this chapter, a person who commits a minor
7 traffic offense *or an offense punishable as a misdemeanor* is presumed to be
8 indigent and not to have the ability to pay a fine, administrative assessment or fee
9 imposed pursuant to this chapter if the person:

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

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

12 (c) Has a household income that is less than 200 ~~[400]~~ percent of the ~~[federally~~
13 ~~designated level signifying poverty.]~~ *very low income limit for a family of equal*
14 *size to the defendant based on the guidelines prescribed by the HOME Investment*
15 *Partnerships Act;*

16 (d) *Has experienced homelessness at any time in the immediately preceding*
17 *12 months; or*

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

20 2. As used in this section ~~[, “minor”]~~:

21 (a) *“Minor traffic offense”* means a violation of any state or local law or
22 ordinance governing the operation of a motor vehicle upon any highway within this
23 State other than:

24 ~~[(a)]~~ (1) A violation of chapters 484A to 484E, inclusive, or 706 of NRS that
25 causes the death of a person;

26 ~~[(b)]~~ (2) A violation of NRS 484C.110 or 484C.120; or

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

28 (b) *“Psychiatric facility”* means *a psychiatric hospital or facility which*
29 *provides residential treatment for mental illness.*

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

31 176.0647 1. Any delinquent fine, administrative assessment or fee owed by
32 a defendant pursuant to NRS 176.064 who commits a minor traffic offense ~~[as~~
33 ~~defined in NRS 176.0643]~~ *or an offense punishable as a misdemeanor* is deemed to
34 be uncollectible if after ~~[10]~~ 5 years it remains impossible or impracticable to
35 collect the delinquent amount.

36 2. *“Minor traffic offense”* has the meaning ascribed to it in NRS 176.0643.

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

38 176.085 ~~[Whenever, after a fine and administrative assessment have been~~
39 ~~imposed but before they have been discharged by payment or confinement, it is~~
40 ~~made to appear to the judge or justice imposing the fine or administrative~~
41 ~~assessment or his or her successor;]~~

42 1. ~~[That]~~ *In addition to any other waiver or reduction to which a defendant*
43 *may be entitled pursuant to section 5 of this act, the court may waive or reduce*
44 *any fine, ~~[or]~~ administrative assessment or fee imposed against a defendant*
45 *pursuant to this chapter upon a determination that the fine, ~~[or]~~ administrative*
46 *assessment or fee is excessive in relation to the financial resources of the defendant*
47 ~~[, the judge or justice or his or her successor may reduce the fine accordingly.]~~

48 2. ~~[That the discharge of the]~~ *Upon a determination by the court that*
49 *payment of a fine, ~~[or]~~ administrative assessment or fee imposed against a*
50 *defendant pursuant to this chapter is not within the defendant’s present financial*
51 *ability to pay, the ~~[judge or justice or his or her successor]~~ court may direct ~~[that]~~*
52 *the defendant to pay the fine, ~~[be paid or]~~ administrative assessment or fee in*
53 *installments. If the court directs a defendant to pay a fine, ~~[or]~~ administrative*

1 *assessment or fee in installments, the amount of each installment must not*
2 *exceed 2 percent of the annual income of the defendant.*

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

4 176.087 1. Except where the imposition of a specific criminal penalty is
5 mandatory, a court may order a convicted person to perform supervised community
6 service:

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

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

10 2. The community service must be performed for and under the supervising
11 authority of ~~[a]~~ :

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

14 (b) *An educational institution;* or ~~[a]~~

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

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

23 ~~4.]~~ The following conditions apply to any such community service imposed
24 by the court:

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

31 (1) Misdemeanor, ~~[200]~~ 100 hours;

32 (2) Gross misdemeanor, 600 hours; or

33 (3) Felony, 1,000 hours.

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

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

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

49 ~~[5.]~~ 4. For each hour of community service that is performed by a person
50 pursuant to this section, the court must provide a credit of ~~[\$10 or the amount of the~~
51 ~~state minimum wage if health insurance is not offered, whichever is greater,]~~ *not*
52 *less than \$20* toward the payment of any fine *, administrative assessment or fee*

1 that was imposed against the person for the commission of the offense for which
2 the person was ordered to perform community service.

3 ~~6~~ 5. *As used in this section:*

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

5 (1) *Public service;*

6 (2) *Work on public projects;*

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

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

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

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

14 (III) *A mentoring program;*

15 (IV) *Counseling; and*

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

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

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

20 199.300 1. A person shall not, directly or indirectly, address any threat or
21 intimidation to a public officer, public employee, juror, referee, arbitrator,
22 appraiser, assessor or any person authorized by law to hear or determine any
23 controversy or matter, *including, without limitation, a tribal judge*, with the intent
24 to induce such a person contrary to his or her duty to do, make, omit or delay any
25 act, decision or determination, if the threat or intimidation communicates the intent,
26 either immediately or in the future:

27 (a) To cause bodily injury to any person;

28 (b) To cause physical damage to the property of any person other than the
29 person addressing the threat or intimidation;

30 (c) To subject any person other than the person addressing the threat or
31 intimidation to physical confinement or restraint; or

32 (d) To do any other act which is not otherwise authorized by law and is
33 intended to harm substantially any person other than the person addressing the
34 threat or intimidation with respect to the person’s health, safety, business, financial
35 condition or personal relationships.

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

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

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

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

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

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

50 4. As used in this section, “public employee” means any person who performs
51 public duties for compensation paid by the State, a county, city, local government
52 or other political subdivision of the State or an agency thereof, including, without
53 limitation, a person who performs a service for compensation pursuant to a contract

1 with the State, county, city, local government or other political subdivision of the
2 State or an agency thereof.

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

4 484A.7045 1. Except where the imposition of a specific civil penalty is
5 mandatory, a court may order a person who is found to have committed a civil
6 infraction pursuant to NRS 484A.703 to 484A.705, inclusive, to perform
7 community service that is supervised in accordance with subsection 2:

8 (a) In lieu of all or a part of any civil penalty, ~~or~~ administrative assessment, ~~or~~
9 ~~or both,~~ or fee that may be imposed for the commission of the civil infraction; or

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

11 2. The community service must be performed for and under the supervising
12 authority of ~~the~~:

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

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

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

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

24 ~~4.~~ The following conditions apply to any such community service imposed
25 by the court:

26 (a) The court must fix the period of community service that is imposed and
27 distribute the period over weekends or over other appropriate times that will allow
28 the person to continue employment and to care for his or her family. The period of
29 community service fixed by the court must not *necessitate the performance of*
30 *more than 16 hours of community service per week and must not* exceed ~~200~~
31 *100* hours.

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

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

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

45 (e) A person performing community service in lieu of the payment of a civil
46 penalty, administrative assessment or fee must receive credit toward the civil
47 penalty, administrative assessment or fee at a rate per hour of community service
48 performed that is equal to at least ~~the state minimum wage for an employee~~
49 ~~who is not provided health benefits by his or her employer, whichever is greater.~~
50 \$20.

51 ~~5.~~ 4. *As used in this section:*

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

53 (1) *Public service;*

- 1 (2) *Work on public projects;*
2 (3) *Supervised work for the benefit of the community;*
3 (4) *Any other work or activity required by the court, including, without*
4 *limitation, participating in:*
5 (I) *A job skills training program;*
6 (II) *A program designed to prepare a person to take the high school*
7 *equivalency assessment selected by the State Board of Education pursuant to*
8 *NRS 390.055;*
9 (III) *A mentoring program;*
10 (IV) *Counseling; and*
11 (V) *A program for self-improvement.*
12 (b) *“Educational institution” includes, without limitation, a public school,*
13 *vocational or technical school or college or university.*