

Amendment No. 478

Senate Amendment to Senate Bill No. 155	(BDR 20-244)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: Yes 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.

MR/BAW



Date: 4/22/2023

S.B. No. 155—Revises provisions relating to homeless persons. (BDR 20-244)



SENATE BILL NO. 155—SENATOR OHRENSCHALL

FEBRUARY 14, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to certain crimes committed by homeless persons. (BDR ~~[20-244]~~ 14-244)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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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 homeless persons; ~~[prohibiting a county board of commissioners and the city council or other governing body of an incorporated city from enacting and enforcing ordinances that discriminate against a homeless person;]~~ revising provisions relating to certain crimes committed by homeless persons; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law ~~authorizes a county board of commissioners and the city council or other~~
2 ~~governing body of an incorporated city to enact and enforce certain ordinances related to~~
3 ~~health and safety. (Chapters 244 and 268 of NRS) Sections 1 and 2 of this bill prohibit a~~
4 ~~county board of commissioners and the city council or other governing body of an~~
5 ~~incorporated city, respectively, from enacting and enforcing any ordinance that discriminates~~
6 ~~against a homeless person by prohibiting a homeless person from engaging in life-sustaining~~
7 ~~activities in a public space, including, without limitation: (1) resting in a nonobstructive~~
8 ~~manner; (2) sheltering from the elements in a nonobstructive manner; (3) eating, sharing,~~
9 ~~accepting or giving food in public spaces where food is not prohibited; and (4) with certain~~
10 ~~exceptions, occupying a motor vehicle. Sections 1 and 2 also define certain terms related to~~
11 ~~life-sustaining activities.~~
12 ~~—Section 3 of this bill declares that any ordinance enacted by a board of county~~
13 ~~commissioners or a city council or other governing body of an incorporated city before, on or~~
14 ~~after October 1, 2023, that conflicts with the provisions of section 1 or 2 is void and~~
15 ~~unenforceable.]~~ establishes certain diversionary and specialty court programs to which
16 certain defendants may be assigned, such as the preprosecution diversionary program
17 and specialty court programs for veterans and members of the military, persons with
18 mental illness and persons who use alcohol or other substances. (NRS 174.032, 176A.230,
19 176A.250, 176A.280) Sections 4-8 of this bill authorize homeless persons who commit
20 certain misdemeanor offenses to be assigned to such diversionary and specialty court
21 programs. Section 5 of this bill authorizes a court that assigns a homeless person to
22 complete such a program of treatment to waive or reduce any fine, administrative
23 assessment or fee that would otherwise be imposed upon the homeless person for
24 committing such an offense.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** ~~[Chapter 244 of NRS is hereby amended by adding thereto a new~~
2 ~~section to read as follows:~~

3 ~~1. A board of county commissioners shall not enact or enforce any~~
4 ~~ordinance that discriminates against a homeless person by prohibiting a homeless~~
5 ~~person from engaging in life sustaining activities in a public space, including,~~
6 ~~without limitation:~~

7 ~~—(a) Resting in a nonobstructive manner;~~

8 ~~—(b) Sheltering from the elements in a nonobstructive manner;~~

9 ~~—(c) Eating, sharing, accepting or giving food in any public space where food~~
10 ~~is not prohibited; and~~

11 ~~—(d) Occupying a motor vehicle, provided that the motor vehicle is legally~~
12 ~~parked on public property or parked on private property with the permission of~~
13 ~~the property owner.~~

14 ~~2. As used this section:~~

15 ~~—(a) “Nonobstructive manner” means in a manner that does not render a~~
16 ~~passageway impassable or hazardous.~~

17 ~~—(b) “Public space” means an outdoor property that is owned or leased by the~~
18 ~~State, a county or a city, or an easement designated for public use.~~

19 ~~—(c) “Resting” means a state of not moving and holding certain postures in a~~
20 ~~nonobstructive manner, including, without limitation, sitting, standing, leaning,~~
21 ~~kneeling, squatting, sleeping or lying down.] (Deleted by amendment.)~~

22 **Sec. 2.** ~~[Chapter 268 of NRS is hereby amended by adding thereto a new~~
23 ~~section to read as follows:~~

24 ~~1. A city council or other governing body of an incorporated city, shall not~~
25 ~~enact or enforce any ordinance that discriminates against a homeless person by~~
26 ~~prohibiting a homeless person from engaging in life sustaining activities in a~~
27 ~~public space, including, without limitation:~~

28 ~~—(a) Resting in a nonobstructive manner;~~

29 ~~—(b) Sheltering from the elements in a nonobstructive manner;~~

30 ~~—(c) Eating, sharing, accepting or giving food in any public space where food~~
31 ~~is not prohibited; and~~

32 ~~—(d) Occupying a motor vehicle, provided that the motor vehicle is legally~~
33 ~~parked on public property or parked on private property with the permission of~~
34 ~~the property owner.~~

35 ~~2. As used this section:~~

36 ~~—(a) “Nonobstructive manner” means in a manner that does not render a~~
37 ~~passageway impassable or hazardous.~~

38 ~~—(b) “Public space” means an outdoor property that is owned or leased by the~~
39 ~~State, a county or a city, or an easement designated for public use.~~

40 ~~—(c) “Resting” means a state of not moving and holding certain postures in a~~
41 ~~nonobstructive manner, including, without limitation, sitting, standing, leaning,~~
42 ~~kneeling, squatting, sleeping or lying down.] (Deleted by amendment.)~~

43 **Sec. 3.** ~~[Any ordinance enacted by a board of county commissioners or a city~~
44 ~~council or other governing body of an incorporated city before, on or after October~~
45 ~~1, 2023, which conflicts with the provisions of this act is void and unenforceable.]~~
46 ~~(Deleted by amendment.)~~

47 **Sec. 4.** NRS 174.032 is hereby amended to read as follows:

1 174.032 1. A justice court or municipal court may establish a
2 preprosecution diversion program to which it may assign a defendant if he or she is
3 determined to be eligible pursuant to NRS 174.031.

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

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

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

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

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

22 4. If the justice court or municipal court determines that a defendant may be
23 rehabilitated by a program of treatment for veterans and members of the military,
24 persons with mental illness or intellectual disabilities or the use of alcohol or other
25 substances, the court may refer the defendant to an appropriate program of
26 treatment established pursuant to NRS 176A.230, 176A.250, 176A.280 or
27 ~~453.580~~ section 5 of this act. The court shall retain jurisdiction over the
28 defendant while the defendant completes such a program of treatment.

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

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

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

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

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

41 (e) A notice relating to the provisions of subsection 3 of NRS 174.033.

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

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

52 Sec. 5. Chapter 176 of NRS is hereby amended by adding thereto a new
53 section to read as follows:

1 1. A justice court, municipal court or district court, as applicable, that has
2 jurisdiction over an eligible defendant who is charged with or convicted of an
3 eligible offense may order the eligible defendant to complete a program of
4 treatment.

5 2. Notwithstanding any other provision of law, a court that orders an
6 eligible defendant to complete a program of treatment pursuant to this section
7 may waive or reduce any fine, administrative assessment or fee that would
8 otherwise be imposed upon the eligible defendant for commission of the eligible
9 offense pursuant to specific statute.

10 3. As used in this section:

11 (a) "Eligible defendant" means a homeless person who is charged with or
12 convicted of an eligible offense.

13 (b) "Eligible offense" means a violation of any of the following statutory
14 provisions, or any local ordinance prohibiting the same or similar conduct, that is
15 punishable as a misdemeanor:

16 (1) NRS 202.450.

17 (2) NRS 205.860.

18 (3) NRS 206.010.

19 (4) NRS 206.040.

20 (5) NRS 206.140.

21 (6) NRS 206.310.

22 (7) NRS 207.030.

23 (8) NRS 207.200.

24 (9) NRS 207.203.

25 (c) "Homeless person" means a person:

26 (1) Who lacks a fixed, regular and adequate nighttime residence;

27 (2) With a primary nighttime residence that is a public or private place
28 not designed for or ordinarily used as a regular sleeping accommodation for
29 human beings, including, without limitation, a car, a park, an abandoned
30 building, a bus or train station, an airport or a camping ground; or

31 (3) Living in a supervised publicly or privately operated shelter
32 designated to provide temporary living arrangements, including, without
33 limitation, transitional housing, hotels or motels paid for by any federal, state or
34 local governmental program or any charitable organization.

35 ↳ For the purpose of this paragraph, a person shall be deemed to be a homeless
36 person if the person provides sufficient proof to the court that the person meets
37 the criteria set forth in subparagraph (1), (2) or (3) or the person has recently
38 used public services for homeless persons or if a public or private agency or entity
39 that provides services to homeless persons provides sufficient proof to the court
40 that the person is a homeless person.

41 (d) "Program of treatment" means a preprosecution diversion program,
42 specialty court program or other program designed to assist homeless persons
43 that is established pursuant to NRS 174.032, 176A.230, 176A.250, 176A.280 or
44 another specific statute or by court rule or court order.

45 Sec. 6. NRS 176A.235 is hereby amended to read as follows:

46 176A.235 1. A justice court or a municipal court may, upon approval of the
47 district court, transfer original jurisdiction to the district court of a case involving an
48 eligible defendant.

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

50 (a) ~~Has~~ Except as otherwise provided in section 5 of this act, has not
51 tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been
52 found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

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

3 (c) Would benefit from assignment to a program established pursuant to NRS
4 176A.230.

5 **Sec. 7. NRS 176A.255 is hereby amended to read as follows:**

6 176A.255 1. A justice court or a municipal court may, upon approval of the
7 district court, transfer original jurisdiction to the district court of a case involving an
8 eligible defendant.

9 2. As used in this section, “eligible defendant” means a person who:

10 (a) ~~Has~~ **Except as otherwise provided in section 5 of this act, has** not
11 tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been
12 found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

13 (b) Appears to suffer from mental illness or to be intellectually disabled; and

14 (c) Would benefit from assignment to a program established pursuant to NRS
15 176A.250.

16 **Sec. 8. NRS 176A.285 is hereby amended to read as follows:**

17 176A.285 If a justice court or municipal court has not established a program
18 pursuant to NRS 176A.280, the justice court or municipal court, as applicable, may,
19 upon approval of the district court, transfer original jurisdiction to the district court
20 of a case involving a defendant who meets the qualifications of subsection 1 of
21 NRS 176A.280 and **, except as otherwise provided in section 5 of this act,** has not
22 tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been
23 found guilty or guilty but mentally ill of, an offense that is a misdemeanor.