

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 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; revising provisions relating to certain crimes committed by homeless persons; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes certain diversionary and specialty court programs to
2 which certain defendants may be assigned, such as the preprosecution diversionary
3 program and specialty court programs for veterans and members of the military,
4 persons with mental illness and persons who use alcohol or other substances. (NRS
5 174.032, 176A.230, 176A.250, 176A.280) **Sections 4-8** of this bill authorize
6 homeless persons who commit certain misdemeanor offenses to be assigned to such
7 diversionary and specialty court programs. **Section 5** of this bill authorizes a court
8 that assigns a homeless person to complete such a program of treatment to waive or
9 reduce any fine, administrative assessment or fee that would otherwise be imposed
10 upon the homeless person for committing such an offense.

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

1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** (Deleted by amendment.)
3 **Sec. 3.** (Deleted by amendment.)
4 **Sec. 4.** NRS 174.032 is hereby amended to read as follows:
5 174.032 1. A justice court or municipal court may establish a
6 preprosecution diversion program to which it may assign a
7 defendant if he or she is determined to be eligible pursuant to
8 NRS 174.031.



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

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

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

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

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

24 4. If the justice court or municipal court determines that a
25 defendant may be rehabilitated by a program of treatment for
26 veterans and members of the military, persons with mental illness or
27 intellectual disabilities or the use of alcohol or other substances, the
28 court may refer the defendant to an appropriate program of
29 treatment established pursuant to NRS *176A.230*, 176A.250,
30 176A.280 or ~~[453.580.]~~ *section 5 of this act*. The court shall retain
31 jurisdiction over the defendant while the defendant completes such a
32 program of treatment.

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

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

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

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



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

5 (e) A notice relating to the provisions of subsection 3 of NRS
6 174.033.

7 6. A defendant assigned to a preprosecution diversion program
8 shall pay the cost of any program of treatment required by this
9 section to the extent of his or her financial resources. The court shall
10 not refuse to place a defendant in a program of treatment if the
11 defendant does not have the financial resources to pay any or all of
12 the costs of such program.

13 7. If restitution is ordered to be paid pursuant to subsection 5,
14 the defendant must make a good faith effort to pay the required
15 amount of restitution in full. If the justice court or municipal court
16 determines that a defendant is unable to pay such restitution, the
17 court must require the defendant to enter into a judgment by
18 confession for the amount of restitution.

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

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

25 *2. Notwithstanding any other provision of law, a court that*
26 *orders an eligible defendant to complete a program of treatment*
27 *pursuant to this section may waive or reduce any fine,*
28 *administrative assessment or fee that would otherwise be imposed*
29 *upon the eligible defendant for commission of the eligible offense*
30 *pursuant to specific statute.*

31 *3. As used in this section:*

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

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

37 *(1) NRS 202.450.*

38 *(2) NRS 205.860.*

39 *(3) NRS 206.010.*

40 *(4) NRS 206.040.*

41 *(5) NRS 206.140.*

42 *(6) NRS 206.310.*

43 *(7) NRS 207.030.*

44 *(8) NRS 207.200.*

45 *(9) NRS 207.203.*



1 (c) *“Homeless person” means a person:*

2 (1) *Who lacks a fixed, regular and adequate nighttime*
3 *residence;*

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

9 (3) *Living in a supervised publicly or privately operated*
10 *shelter designated to provide temporary living arrangements,*
11 *including, without limitation, transitional housing, hotels or*
12 *motels paid for by any federal, state or local governmental*
13 *program or any charitable organization.*

14 *↳ For the purpose of this paragraph, a person shall be deemed to*
15 *be a homeless person if the person provides sufficient proof to the*
16 *court that the person meets the criteria set forth in subparagraph*
17 *(1), (2) or (3) or the person has recently used public services for*
18 *homeless persons or if a public or private agency or entity that*
19 *provides services to homeless persons provides sufficient proof to*
20 *the court that the person is a homeless person.*

21 (d) *“Program of treatment” means a preprosecution diversion*
22 *program, specialty court program or other program designed to*
23 *assist homeless persons that is established pursuant to NRS*
24 *174.032, 176A.230, 176A.250, 176A.280 or another specific statute*
25 *or by court rule or court order.*

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

27 176A.235 1. A justice court or a municipal court may, upon
28 approval of the district court, transfer original jurisdiction to the
29 district court of a case involving an eligible defendant.

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

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

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

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

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

41 176A.255 1. A justice court or a municipal court may, upon
42 approval of the district court, transfer original jurisdiction to the
43 district court of a case involving an eligible defendant.

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



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

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

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

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

10 176A.285 If a justice court or municipal court has not
11 established a program pursuant to NRS 176A.280, the justice court
12 or municipal court, as applicable, may, upon approval of the district
13 court, transfer original jurisdiction to the district court of a case
14 involving a defendant who meets the qualifications of subsection 1
15 of NRS 176A.280 and *, except as otherwise provided in section 5 of*
16 *this act,* has not tendered a plea of guilty, guilty but mentally ill or
17 nolo contendere to, or been found guilty or guilty but mentally ill of,
18 an offense that is a misdemeanor.

