

## Senate Bill No. 55—Committee on Judiciary

### CHAPTER.....

AN ACT relating to courts; revising provisions governing the clerks of a justice court; revising provisions relating to the jurisdiction of justice courts in criminal cases; revising the amount of credit a court must provide for community service; repealing obsolete provisions relating to the successors of a justice of the peace; and providing other matters properly relating thereto.

#### **Legislative Counsel’s Digest:**

Existing law provides for the appointment of a deputy clerk for the justice court who, under the supervision of the justice of the peace, performs clerical functions for the justice court. Existing law requires the deputy clerk to: (1) take the constitutional oath of office; and (2) give an official bond. Existing law also provides that the county clerk is not personally liable on his or her bond or otherwise for the acts of a deputy clerk. (NRS 4.350) **Section 4** of this bill: (1) changes the title of the position of “deputy clerk” for the justice court to “clerk of the court”; and (2) revises the manner in which such a clerk is appointed. **Section 4** also removes the requirement that such a clerk take an oath of office or give an official bond. Finally, **section 4** removes provisions limiting the liability of the county clerk for the acts of a clerk of the court. **Sections 2, 7 and 9-12** of this bill make conforming changes related to the change in title.

With certain exceptions, existing law provides that, in criminal cases, the jurisdiction of a justice of the peace extends to the limit of the county line of the county of the justice of the peace. (NRS 4.370) **Section 5** of this bill removes one such exception, which extends the jurisdiction of a justice of the peace in the case of an arrest made by a member of the Nevada Highway Patrol.

Existing law authorizes a justice court to transfer a criminal case to another justice court in this State in certain circumstances, if: (1) the case involves criminal conduct that occurred outside the county or township where the court is located, and the defendant has appeared before a magistrate; (2) the transfer is necessary to promote access to justice for the defendant; or (3) the defendant agrees to participate in a program of treatment. (NRS 4.3713) **Section 6** of this bill removes the requirement that a defendant must have appeared before a magistrate in order to transfer a case that involves criminal conduct that occurred outside a county or township where the court is located. **Section 6** also authorizes a justice court to transfer a case if all of the justices of the peace in the court have either recused themselves or been disqualified from presiding over the case. Finally, **section 6** removes a prohibition against transferring certain cases until a plea agreement has been reached or the court has made a final disposition.

Existing law authorizes a court, under certain circumstances, to order a convicted person to perform community service in lieu of all or a part of any fine, administrative assessment, fee or imprisonment that may be imposed for the commission of a misdemeanor. Existing law requires a court that ordered a convicted person to perform community service to provide a credit of \$10 or the amount of the state minimum wage if health insurance is not offered, whichever is greater, toward the payment of any fine that was imposed against the person for the commission of the offense for which the person was ordered to perform community service. (NRS 176.087) **Section 8** of this bill revises this requirement by requiring a



court to provide a credit of not less than the state minimum wage toward the payment of a fine.

**Section 13** of this bill removes certain obsolete provisions of law relating to successors of a justice of the peace. (NRS 4.290, 4.300)

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 1.170 is hereby amended to read as follows:

1.170 The clerk of each court, or the:

1. Deputy clerk;
2. Justice of the peace if a ~~deputy~~ clerk *of the court* has not been appointed for the justice court; or
3. Judge of a municipal court designated as a court of record pursuant to NRS 5.010 if a deputy clerk has not been appointed for that court,  
↳ shall keep the seal of the court.

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

**Sec. 4.** NRS 4.350 is hereby amended to read as follows:

4.350 1. ~~Except as otherwise provided in subsection 5, the county clerk, with the approval of the board of county commissioners and the justice of the peace, may appoint a deputy clerk for the justice court.]~~ *The justices of the peace of each justice court where there is more than one justice of the peace shall appoint a clerk of the court, who may also be known as the justice court administrator. In a justice court where there is only one justice of the peace, the justice of the peace shall be deemed to be the clerk of the court unless the justice of the peace appoints another person as the clerk of the court.*

2. The compensation of a clerk so appointed must be fixed by the board of county commissioners.

~~[2.—The deputy clerk shall take the constitutional oath of office and give bond in the sum of \$2,000 for the faithful discharge of the duties of the office, and in the same manner as is required of other officers of the township and county. The county clerk is not personally liable, on his or her official bond or otherwise, for the acts of a deputy clerk appointed pursuant to this section.]~~

3. The ~~deputy~~ clerk of the court may, under the direct supervision of the justice of the peace, administer oaths, take and certify affidavits and acknowledgments, issue process, enter suits on the docket, and do all clerical work in connection with the keeping



of the records, files and dockets of the court, and shall perform any other duties in connection with the office as the justice of the peace prescribes.

~~[4.—Except as otherwise provided in subsection 5, where there is more than one justice of the peace serving in any township, the county clerk may, with the approval of the board of county commissioners and the justices of the peace, appoint a second deputy who shall comply with the requirements of subsection 2 and has the powers and duties prescribed in subsection 3.~~

~~—5.—In a county whose population is 700,000 or more, the board of county commissioners, with the approval of the justice of the peace, may appoint a deputy clerk for a justice court. If there is more than one justice of the peace serving in any township, the board, with the approval of the justices of the peace, may appoint one or more additional deputy clerks.~~

~~—6.—If no deputy clerk is appointed for a township, the justice of the peace shall be deemed to be the clerk of the court and may appoint as many deputy clerks for the justice court as the justice of the peace determines necessary.]~~

**Sec. 5.** NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justice courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed \$15,000.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed \$15,000.

(c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty or forfeiture not exceeding \$15,000, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed \$15,000, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed \$15,000.



(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed \$15,000.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed \$15,000 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$15,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed \$15,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

(l) In actions for a civil penalty imposed for a violation of NRS 484D.680.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence pursuant to NRS 33.020. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is 100,000 or more and less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more;

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court; or

(4) Where the adverse party against whom the order is sought is under 18 years of age.

(n) Except as otherwise provided in this paragraph, in any action for the issuance of an emergency or extended order for protection against high-risk behavior pursuant to NRS 33.570 or 33.580. A justice court does not have jurisdiction in an action for the issuance of an emergency or extended order for protection against high-risk behavior:



(1) In a county whose population is 100,000 or more but less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more;

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court; or

(4) Where the adverse party against whom the order is sought is under 18 years of age.

(o) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive, where the adverse party against whom the order is sought is 18 years of age or older.

(p) In small claims actions under the provisions of chapter 73 of NRS.

(q) In actions to contest the validity of liens on mobile homes or manufactured homes.

(r) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment where the adverse party against whom the order is sought is 18 years of age or older.

(s) In any action pursuant to NRS 200.378 for the issuance of a protective order against a person alleged to have committed the crime of sexual assault where the adverse party against whom the order is sought is 18 years of age or older.

(t) In actions transferred from the district court pursuant to NRS 3.221.

(u) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

(v) In any action seeking an order pursuant to NRS 441A.195.

(w) In any action to determine whether a person has committed a civil infraction punishable pursuant to NRS 484A.703 to 484A.705, inclusive.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established



pursuant to NRS 176A.250 or, if the justice court has not established a program pursuant to NRS 176A.280, to a program established pursuant to that section.

4. Except as otherwise provided in subsections 5 ~~{;}~~ and 6 , ~~{and 7.}~~ in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. A justice of the peace may conduct a pretrial release hearing for a person located outside of the township of the justice of the peace.

6. ~~{In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.}~~

~~—7.}~~ Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

**Sec. 6.** NRS 4.3713 is hereby amended to read as follows:

4.3713 1. A justice court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to another justice court or a municipal court if:

(a) The case involves criminal conduct that occurred outside the limits of the county or township where the court is located ; ~~{and the defendant has appeared before a magistrate pursuant to NRS 171.178.}~~

(b) Such a transfer is necessary to promote access to justice for the defendant and the justice court has noted its findings concerning that issue in the record; ~~{or}~~

(c) The defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to NRS 176A.230, 176A.250 or 176A.280, or to access other services located elsewhere in this State ~~{;}~~ ; *or*

*(d) All the justices of the peace in the justice court have either recused themselves or been disqualified from presiding over the case.*

2. A justice court may not issue an order for the transfer of a case pursuant to paragraph ~~{(b)-or}~~ (c) of subsection 1 until a plea agreement has been reached or the final disposition of the case, whichever occurs first.

3. An order issued by a justice court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the justice court or municipal court to which the case was transferred. If a justice court or municipal court



refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the justice court which sought the transfer.

**Sec. 7.** NRS 6.160 is hereby amended to read as follows:

6.160 The clerk of the court in cases in the district court and ~~the deputy clerk of the~~ justice court ~~in cases in the justice court~~ shall keep a payroll, enrolling thereon the names of all jurors, the number of days in attendance and the actual number of miles traveled by the shortest and most practical route in going to and returning from the place where the court is held, and at the conclusion of a trial may:

1. Give a statement of the amounts due to the jurors to the county auditor, who shall draw warrants upon the county treasurer for the payment thereof; or

2. Make an immediate payment in cash of the amount owing to each juror.

↳ These payments must be made from and to the extent allowed by the fees collected from the demanding party, pursuant to the provisions of NRS 6.150, and from and to the extent allowed by any other fees which have been collected pursuant to law. The clerk shall obtain from each juror so paid a receipt signed by him or her and indicating the date of payment, the date of service and the amount paid. A duplicate of this receipt must be immediately delivered to the appropriate county auditor, county recorder or county comptroller.

**Sec. 8.** NRS 176.087 is hereby amended to read as follows:

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

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

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

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

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



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

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

- (1) Misdemeanor, 200 hours;
- (2) Gross misdemeanor, 600 hours; or
- (3) Felony, 1,000 hours.

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

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

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

5. For each hour of community service that is performed by a person pursuant to this section, the court must provide a credit of ~~[\$10 or]~~ **not less than** the amount of the state minimum wage ~~[if health insurance is not offered, whichever is greater,]~~ toward the payment of any fine that was imposed against the person for the commission of the offense for which the person was ordered to perform community service.

**Sec. 9.** NRS 178.544 is hereby amended to read as follows:

178.544 1. Whenever a person is admitted to bail in a Justice Court and the bail is put in by a written undertaking, the ~~[deputy]~~ clerk of the Justice Court shall record:

- (a) The name of the defendant;
- (b) The names of the sureties;
- (c) The amount of the bond;
- (d) The name of the court;
- (e) The number of the case; and





(f) Such other information as is reasonably necessary to complete the record.

2. When the bond is exonerated or forfeited, the [deputy] clerk of the Justice Court shall record:

(a) The date of the exonerated or forfeited;

(b) The book and page of the minute order declaring the exonerated or forfeited; and

(c) The date of notice to the district attorney of any forfeited of the bond.

**Sec. 10.** NRS 178.548 is hereby amended to read as follows:

178.548 The county clerk, the [deputy] clerk of the justice court, or the Clerk of the Supreme Court shall notify the district attorney of the appropriate county, in writing, promptly upon the receipt of information indicating that a bail bond has been forfeited.

**Sec. 11.** NRS 178.606 is hereby amended to read as follows:

178.606 A docket must be kept by the [deputy] clerk of the justice court, in which the [deputy] clerk shall enter each action [.] and the minutes of the proceedings of the court therein.

**Sec. 12.** NRS 239.110 is hereby amended to read as follows:

239.110 1. In addition to any other requirement of this section, the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court, a deputy clerk of a district court, a [deputy] clerk of a justice court or a clerk of a municipal court may destroy a court record only in accordance with a schedule for the retention and disposition of court records which is approved by the Supreme Court.

2. The Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court or a deputy clerk of a district court who destroys a court record pursuant to this section may do so only if an image of the court record has been placed on microfilm or has been saved in an electronic recordkeeping system which permits the retrieval of the information contained in the court record and the reproduction of the court record.

3. Except as otherwise prohibited by law, a [deputy] clerk of a justice court or [a clerk of a] municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the court record on microfilm or saving an image of the court record in an electronic recordkeeping system.

4. A reproduction of an image of a court record that has been placed on microfilm or saved pursuant to this section shall be



deemed to be the original court record, regardless of whether the original exists.

5. A microfilmed image of a court record or an image of a court record saved in an electronic recordkeeping system pursuant to this section must be durable, accurate, complete and clear.

6. If, pursuant to this section, an image of a court record is placed on microfilm or is saved in an electronic recordkeeping system, the clerk who does so shall promptly store at least one copy of the microfilm or any tape, disc or other medium used for the storage of the saved image in a manner and place:

- (a) So as to protect it reasonably from loss or damage; and
- (b) As prescribed by the Supreme Court.

7. The Supreme Court may provide by rule for the destruction, without prior microfilming, of such other documents of the several courts of this State as are held in the offices of the clerks but which:

- (a) No longer serve any legal, financial or administrative purpose; and
- (b) Do not have any historical value.

8. The Court Administrator may request the Division to advise and assist the Supreme Court in its establishment of the rules or of a schedule for the retention and disposition of court records.

9. As used in this section, "court record" means any document, device or item, regardless of physical form or characteristic, that:

- (a) Is created by, received by or comes under the jurisdiction of the Supreme Court, the Court of Appeals or a district court, justice court or municipal court; and

- (b) Documents the organization, functions, policies, decisions, procedures, operations or any other activities of the Supreme Court, Court of Appeals, district court, justice court or municipal court.

**Sec. 13.** NRS 4.290 and 4.300 are hereby repealed.

