

ASSEMBLY BILL NO. 405—COMMITTEE ON JUDICIARY

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to court programs for the treatment of mental illness or intellectual disabilities. (BDR 14-729)

FISCAL NOTE: Effect on Local Government: No.
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 criminal procedure; authorizing a justice court or municipal court to establish a program for the treatment of mental illness or intellectual disabilities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a district court to establish an appropriate program for
2 the treatment of mental illness or intellectual disabilities to which it may assign an
3 eligible defendant. Under existing law, a justice court or municipal court is
4 authorized, upon approval of a district court, to transfer original jurisdiction of a
5 case involving such an eligible defendant to the district court. (NRS 4.370, 5.050,
6 176A.250, 176A.255) **Sections 1-6** of this bill additionally authorize a justice court
7 or municipal court to establish such a program and to transfer original jurisdiction
8 of a case involving an eligible defendant to the district court if the justice court or
9 municipal court has not established such a program.

10 Existing law provides that upon a violation of a term or condition of such a
11 program, the court may: (1) enter a judgement of conviction and proceed as
12 provided in the section pursuant to which the defendant was charged; and (2) order
13 the defendant to the custody of the Department of Corrections if the offense is
14 punishable by imprisonment in the state prison. (NRS 176A.260) **Section 3**
15 authorizes the imposition of certain sanctions against a defendant for such a
16 violation.



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

1 **Section 1.** NRS 176A.250 is hereby amended to read as
2 follows:

3 176A.250 A *district court, justice court or municipal* court
4 may establish an appropriate program for the treatment of mental
5 illness or intellectual disabilities to which it may assign a defendant
6 pursuant to NRS 174.032, 176.211, 176A.260 or 176A.400. The
7 assignment must include the terms and conditions for successful
8 completion of the program and provide for progress reports at
9 intervals set by the court to ensure that the defendant is making
10 satisfactory progress towards completion of the program.

11 **Sec. 2.** NRS 176A.255 is hereby amended to read as follows:

12 176A.255 1. ~~{A}~~ *If a justice court or municipal court has*
13 *not established a program pursuant to NRS 176A.250, the* justice
14 court or ~~{a}~~ municipal court , *as applicable*, may, upon approval of
15 the district court, transfer original jurisdiction to the district court of
16 a case involving an eligible defendant.

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

19 (a) Has not tendered a plea of guilty, guilty but mentally ill or
20 nolo contendere to, or been found guilty or guilty but mentally ill of,
21 an offense that is a misdemeanor;

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

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

26 **Sec. 3.** NRS 176A.260 is hereby amended to read as follows:

27 176A.260 1. Except as otherwise provided in subparagraph
28 (1) of paragraph (a) of subsection 3 of NRS 176.211, if a defendant
29 who suffers from mental illness or is intellectually disabled tenders
30 a plea of guilty, guilty but mentally ill or nolo contendere to, or is
31 found guilty or guilty but mentally ill of, any offense for which the
32 suspension of sentence or the granting of probation is not prohibited
33 by statute, the *district court, justice court or municipal* court , *as*
34 *applicable*, may:

35 (a) Without entering a judgment of conviction and with the
36 consent of the defendant, suspend or defer further proceedings and
37 place the defendant on probation upon terms and conditions that
38 must include attendance and successful completion of a program
39 established pursuant to NRS 176A.250 if the *district court, justice*
40 *court or municipal* court determines that the defendant is eligible
41 for participation in such a program; or



1 (b) Enter a judgment of conviction and place the defendant on
2 probation upon terms and conditions that must include attendance
3 and successful completion of a program established pursuant to
4 NRS 176A.250, if the *district court, justice court or municipal*
5 court determines that the defendant is eligible for participation in
6 such a program.

7 2. Except as otherwise provided in subsection 4, a defendant is
8 eligible for participation in a program established pursuant to NRS
9 176A.250 if the defendant is diagnosed as having a mental illness or
10 an intellectual disability:

11 (a) After an in-person clinical assessment by:

12 (1) A counselor who is licensed or certified to make such a
13 diagnosis; or

14 (2) A duly licensed physician qualified by the Board of
15 Medical Examiners to make such a diagnosis; and

16 (b) If the defendant appears to suffer from a mental illness,
17 pursuant to a mental health screening that indicates the presence of a
18 mental illness.

19 3. A counselor or physician who diagnoses a defendant as
20 having a mental illness or intellectual disability shall submit a report
21 and recommendation to the *district court, justice court or*
22 *municipal* court concerning the length and type of treatment
23 required for the defendant within the maximum probation terms
24 applicable to the offense for which the defendant is convicted.

25 4. If the offense committed by the defendant is a category A
26 felony or a sexual offense as defined in NRS 179D.097 that is
27 punishable as a category B felony, the defendant is not eligible for
28 assignment to the program.

29 5. Upon violation of a term or condition:

30 (a) *The district court, justice court or municipal court, as*
31 *applicable, may impose sanctions against the defendant for the*
32 *violation, but allow the defendant to remain in the program.*
33 *Before imposing a sanction, the court shall notify the defendant of*
34 *the violation and provide the defendant an opportunity to respond.*
35 *Any sanction imposed pursuant to this paragraph:*

36 (1) *Must be in accordance with any applicable guidelines*
37 *for sanctions established by the National Association of Drug*
38 *Court Professionals or any successor organization; and*

39 (2) *May include, without limitation, imprisonment in a*
40 *county or city jail or detention facility for a term set by the court,*
41 *which must not exceed 25 days.*

42 (b) The *district court, justice court or municipal* court , *as*
43 *applicable*, may enter a judgment of conviction, if applicable, and
44 proceed as provided in the section pursuant to which the defendant
45 was charged.



1 ~~[(b)]~~ (c) Notwithstanding the provisions of paragraph (e) of
2 subsection 2 of NRS 193.130, the *district* court may order the
3 defendant to the custody of the Department of Corrections if the
4 offense is punishable by imprisonment in the state prison.

5 6. Except as otherwise provided in subsection 8, upon
6 fulfillment of the terms and conditions, the *district court, justice*
7 *court or municipal* court ~~[(c)]~~, as applicable:

8 (a) Shall discharge the defendant and dismiss the proceedings or
9 set aside the judgment of conviction, as applicable, unless the
10 defendant:

11 (1) Has been previously convicted in this State or in any
12 other jurisdiction of a felony; or

13 (2) Has previously failed to complete a specialty court
14 program; or

15 (b) May discharge the defendant and dismiss the proceedings or
16 set aside the judgment of conviction, as applicable, if the defendant:

17 (1) Has been previously convicted in this State or in any
18 other jurisdiction of a felony; or

19 (2) Has previously failed to complete a specialty court
20 program.

21 7. Discharge and dismissal pursuant to this section is without
22 adjudication of guilt and is not a conviction for purposes of this
23 section or for purposes of employment, civil rights or any statute or
24 regulation or license or questionnaire or for any other public or
25 private purpose, but is a conviction for the purpose of additional
26 penalties imposed for second or subsequent convictions or the
27 setting of bail. Discharge and dismissal restores the defendant, in the
28 contemplation of the law, to the status occupied before the arrest,
29 indictment or information. The defendant may not be held thereafter
30 under any law to be guilty of perjury or otherwise giving a false
31 statement by reason of failure to recite or acknowledge that arrest,
32 indictment, information or trial in response to an inquiry made of
33 the defendant for any purpose.

34 8. If the defendant was charged with a violation of NRS
35 200.485, 484C.110 or 484C.120, upon fulfillment of the terms and
36 conditions, the district court, justice court or municipal court, as
37 applicable, may conditionally dismiss the charges or set aside the
38 judgment of conviction, as applicable. If a court conditionally
39 dismisses the charges or sets aside the judgment of conviction, the
40 court shall notify the defendant that any conditionally dismissed
41 charge or judgment of conviction that is set aside is a conviction for
42 the purpose of additional penalties imposed for second or
43 subsequent convictions or the setting of bail in a future case, but is
44 not a conviction for purposes of employment, civil rights or any
45 statute or regulation or license or questionnaire or for any other



1 public or private purpose. Conditional dismissal or having a
2 judgment of conviction set aside restores the defendant, in the
3 contemplation of the law, to the status occupied before the arrest,
4 complaint, indictment or information. The defendant may not be
5 held thereafter under any law to be guilty of perjury or otherwise
6 giving a false statement by reason of failure to recite or
7 acknowledge that arrest, complaint, indictment, information or trial
8 in response to an inquiry made of the defendant for any purpose.

9 **Sec. 4.** NRS 176A.265 is hereby amended to read as follows:

10 176A.265 1. Except as otherwise provided in subsection 2,
11 after a defendant is discharged from probation or a case is dismissed
12 pursuant to NRS 176A.260, the *district court, justice court or*
13 *municipal court, as applicable*, shall order sealed all documents,
14 papers and exhibits in the defendant's record, minute book entries
15 and entries on dockets, and other documents relating to the case in
16 the custody of such other agencies and officers as are named in the
17 court's order if the defendant fulfills the terms and conditions
18 imposed by the court and the Division. The *district court, justice*
19 *court or municipal court, as applicable*, shall order those records
20 sealed without a hearing unless the Division petitions the court, for
21 good cause shown, not to seal the records and requests a hearing
22 thereon.

23 2. If the defendant is charged with a violation of NRS 200.485,
24 484C.110 or 484C.120 and the charges are conditionally dismissed
25 or the judgment of conviction is set aside as provided in NRS
26 176A.260, not sooner than 7 years after the charges are
27 conditionally dismissed or the judgment of conviction is set aside
28 and upon the filing of a petition by the defendant, the justice court,
29 municipal court or district court, as applicable, shall order that all
30 documents, papers and exhibits in the defendant's record, minute
31 book entries and entries on dockets, and other documents relating to
32 the case in the custody of such other agencies and officers as are
33 named in the court's order be sealed. The justice court, municipal
34 court or district court, as applicable, shall order those records sealed
35 without a hearing unless the Division petitions the court, for good
36 cause shown, not to seal the records and requests a hearing thereon.

37 3. If the *district court, justice court or municipal court, as*
38 *applicable*, orders sealed the record of a defendant who is
39 discharged from probation, whose case is dismissed, whose charges
40 were conditionally dismissed or whose judgment of conviction was
41 set aside pursuant to NRS 176A.260, the court shall send a copy of
42 the order to each agency or officer named in the order. Each such
43 agency or officer shall notify the *district court, justice court or*
44 *municipal court, as applicable*, in writing of its compliance with
45 the order.



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

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

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

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

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

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

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

25 (f) To take and enter judgment on the confession of a defendant,
26 when the amount confessed, exclusive of interest, does not exceed
27 \$15,000.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

10 (w) In any action to determine whether a person has committed
11 a civil infraction punishable pursuant to NRS 484A.703 to
12 484A.705, inclusive.

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

17 3. Justice courts have jurisdiction of all misdemeanors and no
18 other criminal offenses except as otherwise provided by specific
19 statute. Upon approval of the district court, a justice court may
20 transfer original jurisdiction of a misdemeanor to the district court
21 for the purpose of assigning an offender to , *if the justice court has
22 not established its own program pursuant to:*

23 (a) *NRS 176A.250*, a program established *by the district court*
24 pursuant to ~~[NRS 176A.250 or, if the justice court has not~~
25 ~~established a program pursuant to]~~ *that section.*

26 (b) NRS 176A.280, ~~[to]~~ a program established *by the district*
27 *court* pursuant to that section.

28 4. Except as otherwise provided in subsections 5, 6 and 7, in
29 criminal cases the jurisdiction of justices of the peace extends to the
30 limits of their respective counties.

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

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

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

42 **Sec. 6.** NRS 5.050 is hereby amended to read as follows:

43 5.050 1. Municipal courts have jurisdiction of civil actions or
44 proceedings:

45 (a) For the violation of any ordinance of their respective cities.



1 (b) To determine whether a person has committed a civil
2 infraction punishable pursuant to NRS 484A.703 to 484A.705,
3 inclusive.

4 (c) To prevent or abate a nuisance within the limits of their
5 respective cities.

6 2. Except as otherwise provided in subsection 2 of NRS
7 173.115, the municipal courts have jurisdiction of all misdemeanors
8 committed in violation of the ordinances of their respective cities.
9 Upon approval of the district court, a municipal court may transfer
10 original jurisdiction of a misdemeanor to the district court for the
11 purpose of assigning an offender to , *if the municipal court has not*
12 *established its own program pursuant to:*

13 (a) *NRS 176A.250*, a program established *by the district court*
14 pursuant to ~~NRS 176A.250 or, if the municipal court has not~~
15 ~~established a program pursuant to~~ *that section.*

16 (b) NRS 176A.280, ~~to~~ a program established *by the district*
17 *court* pursuant to that section.

18 3. The municipal courts have jurisdiction of:

19 (a) Any action for the collection of taxes or assessments levied
20 for city purposes, when the principal sum thereof does not exceed
21 \$2,500.

22 (b) Actions to foreclose liens in the name of the city for the
23 nonpayment of those taxes or assessments when the principal sum
24 claimed does not exceed \$2,500.

25 (c) Actions for the breach of any bond given by any officer or
26 person to or for the use or benefit of the city, and of any action for
27 damages to which the city is a party, and upon all forfeited
28 recognizances given to or for the use or benefit of the city, and upon
29 all bonds given on appeals from the municipal court in any of the
30 cases named in this section, when the principal sum claimed does
31 not exceed \$2,500.

32 (d) Actions for the recovery of personal property belonging to
33 the city, when the value thereof does not exceed \$2,500.

34 (e) Actions by the city for the collection of any damages, debts
35 or other obligations when the amount claimed, exclusive of costs or
36 attorney's fees, or both if allowed, does not exceed \$2,500.

37 (f) Actions seeking an order pursuant to NRS 441A.195.

38 4. Nothing contained in subsection 3 gives the municipal court
39 jurisdiction to determine any such cause when it appears from the
40 pleadings that the validity of any tax, assessment or levy, or title to
41 real property, is necessarily an issue in the cause, in which case the
42 court shall certify the cause to the district court in like manner and
43 with the same effect as provided by law for certification of causes
44 by justice courts.

45 5. The municipal courts may hold a jury trial for any matter:



- 1 (a) Within the jurisdiction of the municipal court; and
- 2 (b) Required by the United States Constitution, the Nevada
- 3 Constitution or statute.
- 4 **Sec. 7.** This act becomes effective on July 1, 2023.



