

CHAPTER.....

AN ACT relating to criminal procedure; requiring a district court, in certain circumstances, to consider the facts and circumstances surrounding an offense committed by an offender who is a veteran or member of the military to determine eligibility for an appropriate program of treatment established by the district court; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a district court to place certain offenders who are veterans or members of the military on probation upon terms and conditions that must include attendance and successful completion of an appropriate program for the treatment of such offenders that is established by the district court. However, the court may not assign an offender to such a program without the prosecuting attorney stipulating to the assignment if: (1) the offense committed by the offender involved the use or threatened use of force or violence; or (2) the offender was previously convicted of a felony that involved the use or threatened use of force or violence. (NRS 176A.290) **Section 1.5** of this bill provides that in determining whether an offense involved the use or threatened use of force or violence, the court must consider the facts and circumstances surrounding the offense, including, without limitation, whether the offender intended to place another person in reasonable apprehension of bodily harm.

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

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 176A.290 is hereby amended to read as follows:

176A.290 1. Except as otherwise provided in subsection 2, if a defendant who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as described in NRS 176A.285 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280.



2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment. *For the purposes of this subsection, in determining whether an offense involved the use or threatened use of force or violence, the court shall consider the facts and circumstances surrounding the offense, including, without limitation, whether the defendant intended to place another person in reasonable apprehension of bodily harm.*

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

Sec. 2. (Deleted by amendment.)

Sec. 3. This act becomes effective on January 1, 2014.

