

ASSEMBLY BILL NO. 406—ASSEMBLYMEN HETTRICK, CEGAVSKE, ANDERSON, BACHE, TIFFANY, KOIVISTO, MCCLAIN, ANGLE, GUSTAVSON, CLABORN, MORTENSON, BEERS, NOLAN, BROWER, LESLIE, EVANS, PERKINS, HUMKE, BERMAN, COLLINS, THOMAS, LEE, DE BRAGA, NEIGHBORS, PARKS, VON TOBEL, SEGERBLOM, GOLDWATER, DINI, BUCKLEY, GIUNCHIGLIANI, ARBERRY, GIBBONS, CARPENTER AND MARVEL

MARCH 5, 1999

JOINT SPONSOR: SENATOR JACOBSEN

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning probationers who are supervised by departments of alternative sentencing. (BDR 16-1120)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to crime; making various changes concerning probationers who are supervised by departments of alternative sentencing; authorizing a court to take certain actions if such a probationer violates a condition of a suspended sentence; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 211A of NRS is hereby amended by adding thereto
2 a new section to read as follows:

3 ***1. If a probationer has violated a condition of his suspended***
4 ***sentence, the court may, upon its own motion or upon the report and***
5 ***recommendation of the chief or an assistant, do any or all of the***
6 ***following:***

7 ***(a) Modify the conditions of the suspension of the sentence.***

8 ***(b) Modify and extend the suspension of the sentence, in whole or in***
9 ***part, for a period of not more than 1 year after the date on which the***

1 *court finds that the probationer has committed the violation, unless a*
2 *longer period is authorized by specific statute.*

3 *(c) Revoke the suspension of the sentence, in whole or in part, and*
4 *cause all or part of the sentence to be executed.*

5 *2. Before taking any action described in subsection 1, the court shall*
6 *provide the probationer with notice of the proposed action and an*
7 *opportunity to be heard.*

8 **Sec. 2.** NRS 4.373 is hereby amended to read as follows:

9 4.373 1. Except as otherwise provided in subsection 2, ~~by~~ *section 1*
10 *of this act or another* specific statute , or unless the suspension of a
11 sentence is expressly forbidden, a justice of the peace may suspend, for not
12 more than 1 year, the sentence of a person convicted of a misdemeanor.
13 When the circumstances warrant, the justice of the peace may order as a
14 condition of suspension that the offender:

15 (a) Make restitution to the owner of any property that is lost, damaged
16 or destroyed as a result of the commission of the offense;

17 (b) Engage in a program of work for the benefit of the community, for
18 not more than 200 hours;

19 (c) Actively participate in a program of professional counseling at the
20 expense of the offender;

21 (d) Abstain from the use of alcohol and controlled substances;

22 (e) Refrain from engaging in any criminal activity;

23 (f) Engage or refrain from engaging in any other conduct deemed
24 appropriate by the justice of the peace;

25 (g) Submit to a search and seizure by the chief of a department of
26 alternative sentencing, an assistant alternative sentencing officer or any
27 other law enforcement officer at any time of the day or night without a
28 search warrant; and

29 (h) Submit to periodic tests to determine whether the offender is using a
30 controlled substance or consuming alcohol.

31 2. If a person is convicted of a misdemeanor that constitutes domestic
32 violence pursuant to NRS 33.018, the justice of the peace may, after the
33 person has served any mandatory minimum period of confinement, suspend
34 the remainder of the sentence of the person for not more than 3 years upon
35 the condition that the person actively participate in:

36 (a) A program of treatment for the abuse of alcohol or drugs which is
37 certified by the bureau of alcohol and drug abuse of the rehabilitation
38 division of the department of employment, training and rehabilitation;

39 (b) A program for the treatment of persons who commit domestic
40 violence that has been certified pursuant to NRS 228.470; or

41 (c) Both programs set forth in paragraphs (a) and (b),
42 and that he comply with any other condition of suspension ordered by the
43 justice of the peace.

1 3. The justice of the peace may order reports from a person whose
2 sentence is suspended at such times as he deems appropriate concerning the
3 compliance of the offender with the conditions of suspension. If the
4 offender complies with the conditions of suspension to the satisfaction of
5 the justice of the peace, the sentence may be reduced to not less than the
6 minimum period of confinement established for the offense.

7 4. The justice of the peace may issue a warrant for the arrest of an
8 offender who violates or fails to fulfill a condition of suspension.

9 **Sec. 3.** NRS 5.055 is hereby amended to read as follows:

10 5.055 1. Except as otherwise provided in subsection 2, ~~by~~ **section 1**
11 **of this act or another** specific statute , or unless the suspension of a
12 sentence is expressly forbidden, a municipal judge may suspend, for not
13 more than 1 year, the sentence of a person convicted of a misdemeanor.
14 When the circumstances warrant, the municipal judge may order as a
15 condition of suspension that the offender:

16 (a) Make restitution to the owner of any property that is lost, damaged
17 or destroyed as a result of the commission of the offense;

18 (b) Engage in a program of work for the benefit of the community, for
19 not more than 200 hours;

20 (c) Actively participate in a program of professional counseling at the
21 expense of the offender;

22 (d) Abstain from the use of alcohol and controlled substances;

23 (e) Refrain from engaging in any criminal activity;

24 (f) Engage or refrain from engaging in any other conduct deemed
25 appropriate by the municipal judge;

26 (g) Submit to a search and seizure by the chief of a department of
27 alternative sentencing, an assistant alternative sentencing officer or any
28 other law enforcement officer at any time of the day or night without a
29 search warrant; and

30 (h) Submit to periodic tests to determine whether the offender is using
31 any controlled substance or alcohol.

32 2. If a person is convicted of a misdemeanor that constitutes domestic
33 violence pursuant to NRS 33.018, the municipal judge may, after the
34 person has served any mandatory minimum period of confinement, suspend
35 the remainder of the sentence of the person for not more than 3 years upon
36 the condition that the person actively participate in:

37 (a) A program of treatment for the abuse of alcohol or drugs which is
38 certified by the bureau of alcohol and drug abuse of the rehabilitation
39 division of the department of employment, training and rehabilitation;

40 (b) A program for the treatment of persons who commit domestic
41 violence that has been certified pursuant to NRS 228.470; or

1 (c) Both programs set forth in paragraphs (a) and (b),
2 and that he comply with any other condition of suspension ordered by the
3 municipal judge.

4 3. The municipal judge may order reports from a person whose
5 sentence is suspended at such times as he deems appropriate concerning the
6 compliance of the offender with the conditions of suspension. If the
7 offender complies with the conditions of suspension to the satisfaction of
8 the municipal judge, the sentence may be reduced to not less than the
9 minimum period of confinement established for the offense.

10 4. The municipal judge may issue a warrant for the arrest of an
11 offender who violates or fails to fulfill a condition of suspension.

12 **Sec. 4.** The amendatory provisions of this act do not apply to offenses
13 that were committed before October 1, 1999.

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