

SENATE BILL NO. 360—COMMITTEE ON JUDICIARY

MARCH 10, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain crimes. (BDR 15-1640)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 crimes; revising the penalties for certain crimes; revising the provisions governing admission to bail for certain crimes; 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.** NRS 205.240 is hereby amended to read as follows:
2 205.240 1. Except as otherwise provided in NRS 205.220, 205.226,
3 205.228 and 475.105, a person commits petit larceny if the person:
4 (a) Intentionally steals, takes and carries away, leads away or drives
5 away:
6 (1) Personal goods or property, with a value of less than \$250, owned
7 by another person;
8 (2) Bedding, furniture or other property, with a value of less than
9 \$250, which the person, as a lodger, is to use in or with his lodging and
10 which is owned by another person; or
11 (3) Real property, with a value of less than \$250, that the person has
12 converted into personal property by severing it from real property owned
13 by another person.
14 (b) Intentionally steals, takes and carries away, leads away, drives away
15 or entices away one or more domesticated animals or domesticated birds,
16 with an aggregate value of less than \$250, owned by another person.
17 2. A person who commits petit larceny is guilty of a misdemeanor. In
18 addition to any other penalty, the court shall order the person to pay
19 restitution.

~~1 [3.— Except as otherwise provided in subsection 4 or 5, if a person is
2 convicted of petit larceny and within the 3 years immediately preceding and
3 including the date of that conviction, the person is or has been convicted of
4 petit larceny one other time, the court, in addition to any other penalty,
5 shall order the person to perform not less than 48 hours of community
6 service.~~

~~7 —4.— Except as otherwise provided in subsection 5, if a person is
8 convicted of petit larceny and within the 3 years immediately preceding and
9 including the date of that conviction, the person is or has been convicted of
10 petit larceny two other times, the court, in addition to any other penalty:~~

~~11 —(a) Shall sentence the person to a term of imprisonment of not less than
12 60 days nor more than 6 months; and~~

~~13 —(b) Shall not grant probation or suspend the sentence unless the court
14 orders as a condition of probation or suspension of sentence that the person
15 serve a term of imprisonment of not less than 60 days.~~

~~16 —5.— If a person is convicted of petit larceny and within the 3 years
17 immediately preceding and including the date of that conviction, the person
18 is or has been convicted of petit larceny three or more other times, the
19 court, in addition to any other penalty:~~

~~20 —(a) Shall sentence the person to a term of imprisonment of not less than
21 60 days nor more than 6 months;~~

~~22 —(b) Shall not grant probation or suspend the sentence unless the court
23 orders as a condition of probation or suspension of sentence that the person
24 serve a term of imprisonment of not less than 60 days; and~~

~~25 —(c) Shall impose a fine of at least \$500.~~

~~26 —6.— The provisions of subsections 3, 4 and 5 do not affect the provisions
27 of any other statute providing for a more severe penalty for a first or
28 subsequent conviction of petit larceny.]~~

Sec. 2. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The state board of parole commissioners directs the detention facility to admit the person to bail; or

(c) The division of parole and probation of the department of motor vehicles and public safety directs the detention facility to admit the person to bail.

1 3. A person arrested for a felony whose sentence has been suspended
2 pursuant to NRS 4.373 or 5.055 for a different offense or who has been
3 sentenced to a term of residential confinement pursuant to NRS 4.3762 or
4 5.076 for a different offense must not be admitted to bail unless:

5 (a) A court issues an order directing that the person be admitted to bail;
6 or

7 (b) A department of alternative sentencing directs the detention facility
8 to admit the person to bail.

9 4. A person arrested for murder of the first degree may be admitted to
10 bail unless the proof is evident or the presumption great by any competent
11 court or magistrate authorized by law to do so in the exercise of discretion,
12 giving due weight to the evidence and to the nature and circumstances of
13 the offense.

14 5. A person arrested for a battery upon his spouse, former spouse, a
15 person to whom he is related by blood, a person with whom he is or was
16 actually residing or with whom he has a child in common, his minor child
17 or a minor child of that person, must not be admitted to bail sooner than 12
18 hours after his arrest. ~~If the person is admitted to bail more than 12 hours~~

19 ~~after his arrest, pursuant to subsection 5 of NRS 171.178, without~~
20 ~~appearing personally before a magistrate, the amount of bail must be:~~

21 ~~—(a) Three thousand dollars, if the person has no previous convictions of~~
22 ~~battery upon a person listed in this subsection and there is no reason to~~
23 ~~believe that the battery for which he has been arrested resulted in~~
24 ~~substantial bodily harm;~~

25 ~~—(b) Five thousand dollars, if the person has:~~

26 ~~—(1) No previous convictions of battery upon a person listed in this~~
27 ~~subsection, but there is reason to believe that the battery for which he has~~
28 ~~been arrested resulted in substantial bodily harm; or~~

29 ~~—(2) One previous conviction of battery upon a person listed in this~~
30 ~~subsection, but there is no reason to believe that the battery for which he~~
31 ~~has been arrested resulted in substantial bodily harm; or~~

32 ~~—(c) Fifteen thousand dollars, if the person has:~~

33 ~~—(1) One previous conviction of battery upon a person listed in this~~
34 ~~subsection and there is reason to believe that the battery for which he has~~
35 ~~been arrested resulted in substantial bodily harm; or~~

36 ~~—(2) Two or more previous convictions of battery upon one or more~~
37 ~~persons listed in this subsection.~~

38 ~~The provisions of this subsection do not affect the authority of a magistrate~~
39 ~~or a court to set the amount of bail when the person personally appears~~
40 ~~before the magistrate or the court.]~~

41 6. The court may, before releasing a person arrested for an offense
42 punishable as a felony, require the surrender to the court of any passport the
43 person possesses.

1 7. Before releasing a person arrested for any crime, the court may
2 impose such reasonable conditions on the person as it deems necessary to
3 protect the health, safety and welfare of the community and to ensure that
4 the person will appear at all times and places ordered by the court,
5 including, without limitation:

6 (a) Requiring the person to remain in this state or a certain county within
7 this state;

8 (b) Prohibiting the person from contacting or attempting to contact a
9 specific person or from causing or attempting to cause another person to
10 contact that person on his behalf;

11 (c) Prohibiting the person from entering a certain geographic area; or

12 (d) Prohibiting the person from engaging in specific conduct that may be
13 harmful to his own health, safety or welfare, or the health, safety or welfare
14 of another person.

15 In determining whether a condition is reasonable, the court shall consider
16 the factors listed in NRS 178.4853.

17 8. If a person fails to comply with a condition imposed pursuant to
18 subsection 7, the court may, after providing the person with reasonable
19 notice and an opportunity for a hearing:

20 (a) Deem such conduct a contempt pursuant to NRS 22.010; or

21 (b) Increase the amount of bail pursuant to NRS 178.499.

22 9. An order issued pursuant to this section that imposes a condition on
23 a person admitted to bail must include a provision ordering any law
24 enforcement officer to arrest the person if he has probable cause to believe
25 that the person has violated a condition of his bail.

26 10. Before a person may be admitted to bail, he must sign a document
27 stating that:

28 (a) He will appear at all times and places as ordered by the court
29 releasing him and as ordered by any court before which the charge is
30 subsequently heard;

31 (b) He will comply with the other conditions which have been imposed
32 by the court and are stated in the document; and

33 (c) If he fails to appear when so ordered and is taken into custody
34 outside of this state, he waives all his rights relating to extradition
35 proceedings.

36 The signed document must be filed with the clerk of the court of competent
37 jurisdiction as soon as practicable, but in no event later than the next
38 business day.

39 11. If a person admitted to bail fails to appear as ordered by a court
40 and the jurisdiction incurs any cost in returning the person to the
41 jurisdiction to stand trial, the person who failed to appear is responsible for
42 paying those costs as restitution.

1 **Sec. 3.** NRS 484.3792 is hereby amended to read as follows:

2 484.3792 1. A person who violates the provisions of NRS 484.379:

3 (a) For the first offense within 7 years, is guilty of a misdemeanor.
4 Unless he is allowed to undergo treatment as provided in NRS 484.37937,
5 the court shall:

6 (1) Except as otherwise provided in subsection 6, order him to pay
7 tuition for an educational course on the abuse of alcohol and controlled
8 substances approved by the department and complete the course within the
9 time specified in the order, and the court shall notify the department if he
10 fails to complete the course within the specified time;

11 (2) Unless the sentence is reduced pursuant to NRS 484.37937,
12 sentence him to imprisonment for not less than 2 days nor more than 6
13 months in jail, or to perform ~~196~~ 48 hours of work for the community
14 while dressed in distinctive garb that identifies him as having violated the
15 provisions of NRS 484.379; and

16 (3) Fine him not less than \$200 nor more than \$1,000.

17 (b) For a second offense within 7 years, is guilty of a misdemeanor.
18 Unless the sentence is reduced pursuant to NRS 484.3794, the court:

19 (1) Shall sentence him to:

20 (I) Imprisonment for not less than 10 days nor more than 6 months
21 in jail; or

22 (II) Residential confinement for not less than 10 days nor more
23 than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive,
24 or 5.0755 to 5.078, inclusive;

25 (2) Shall fine him not less than \$500 nor more than \$1,000;

26 (3) Shall order him to perform not less than 100 hours, but not more
27 than 200 hours, of work for the community while dressed in distinctive garb
28 that identifies him as having violated the provisions of NRS 484.379,
29 unless the court finds that extenuating circumstances exist; and

30 (4) May order him to attend a program of treatment for the abuse of
31 alcohol or drugs pursuant to the provisions of NRS 484.37945.

32 A person who willfully fails or refuses to complete successfully a term of
33 residential confinement or a program of treatment ordered pursuant to this
34 paragraph is guilty of a misdemeanor.

35 (c) For a third or subsequent offense within 7 years, is guilty of a
36 category B felony and shall be punished by imprisonment in the state prison
37 for a minimum term of not less than 1 year and a maximum term of not
38 more than 6 years, and shall be further punished by a fine of not less than
39 \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as
40 practicable, be segregated from offenders whose crimes were violent and,
41 insofar as practicable, be assigned to an institution or facility of minimum
42 security.

1 2. An offense that occurred within 7 years immediately preceding the
2 date of the principal offense or after the principal offense constitutes a prior
3 offense for the purposes of this section when evidenced by a conviction,
4 without regard to the sequence of the offenses and convictions. The facts
5 concerning a prior offense must be alleged in the complaint, indictment or
6 information, must not be read to the jury or proved at trial but must be
7 proved at the time of sentencing and, if the principal offense is alleged to
8 be a felony, must also be shown at the preliminary examination or
9 presented to the grand jury.

10 3. A person convicted of violating the provisions of NRS 484.379 must
11 not be released on probation, and a sentence imposed for violating those
12 provisions must not be suspended except, as provided in NRS 4.373, 5.055,
13 484.37937 and 484.3794, that portion of the sentence imposed that exceeds
14 the mandatory minimum. A prosecuting attorney shall not dismiss a charge
15 of violating the provisions of NRS 484.379 in exchange for a plea of guilty,
16 guilty but mentally ill or nolo contendere to a lesser charge or for any other
17 reason unless he knows or it is obvious that the charge is not supported by
18 probable cause or cannot be proved at the time of trial.

19 4. A term of confinement imposed pursuant to the provisions of this
20 section may be served intermittently at the discretion of the judge or justice
21 of the peace, except that a person who is convicted of a second or
22 subsequent offense within 7 years must be confined for at least one segment
23 of not less than 48 consecutive hours. This discretion must be exercised
24 after considering all the circumstances surrounding the offense, and the
25 family and employment of the offender, but any sentence of 30 days or less
26 must be served within 6 months after the date of conviction or, if the
27 offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the
28 suspension of his sentence was revoked, within 6 months after the date of
29 revocation. Any time for which the offender is confined must consist of not
30 less than 24 consecutive hours.

31 5. Jail sentences simultaneously imposed pursuant to this section and
32 NRS 483.560 or 485.330 must run consecutively.

33 6. If the person who violated the provisions of NRS 484.379 possesses
34 a driver's license issued by a state other than the State of Nevada and does
35 not reside in the State of Nevada, in carrying out the provisions of
36 subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

37 (a) Order the person to pay tuition for and submit evidence of
38 completion of an educational course on the abuse of alcohol and controlled
39 substances approved by a governmental agency of the state of his residence
40 within the time specified in the order; or

1 (b) Order him to complete an educational course by correspondence on
2 the abuse of alcohol and controlled substances approved by the department
3 within the time specified in the order,
4 and the court shall notify the department if the person fails to complete the
5 assigned course within the specified time.

6 7. If the defendant was transporting a person who is less than 15 years
7 of age in the motor vehicle at the time of the violation, the court shall
8 consider that fact as an aggravating factor in determining the sentence of
9 the defendant.

10 8. As used in this section, unless the context otherwise requires,
11 "offense" means a violation of NRS 484.379 or 484.3795 or a homicide
12 resulting from the driving of a vehicle while under the influence of
13 intoxicating liquor or a controlled substance, or the violation of a law of
14 any other jurisdiction that prohibits the same or similar conduct.

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