

SENATE BILL NO. 360—COMMITTEE ON JUDICIARY

MARCH 10, 1999

Referred to Committee on Judiciary

SUMMARY—Revises penalties for 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 penalty for the crime of petit larceny; revising the penalty for the crime of driving a vehicle while under the influence of alcohol or a controlled substance; 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.

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

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

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

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

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

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

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

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

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

Sec. 2. NRS 484.3792 is hereby amended to read as follows:

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

(a) For the first offense within 7 years, is guilty of a misdemeanor.

Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

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

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform *not less than 48 hours, but not more than* 96 hours, of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

1 (3) Fine him not less than \$400 nor more than \$1,000.

2 (b) For a second offense within 7 years, is guilty of a misdemeanor.

3 Unless the sentence is reduced pursuant to NRS 484.3794, the court:

4 (1) Shall sentence him to:

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

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

10 (2) Shall fine him not less than \$750 nor more than \$1,000;

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

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

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

20 (c) For a third or subsequent offense within 7 years, is guilty of a
21 category B felony and shall be punished by imprisonment in the state prison
22 for a minimum term of not less than 1 year and a maximum term of not
23 more than 6 years, and shall be further punished by a fine of not less than
24 \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as
25 practicable, be segregated from offenders whose crimes were violent and,
26 insofar as practicable, be assigned to an institution or facility of minimum
27 security.

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

37 3. A person convicted of violating the provisions of NRS 484.379 must
38 not be released on probation, and a sentence imposed for violating those
39 provisions must not be suspended except, as provided in NRS 4.373, 5.055,
40 484.37937 and 484.3794, that portion of the sentence imposed that exceeds

1 the mandatory minimum. A prosecuting attorney shall not dismiss a charge
2 of violating the provisions of NRS 484.379 in exchange for a plea of guilty,
3 guilty but mentally ill or nolo contendere to a lesser charge or for any other
4 reason unless he knows or it is obvious that the charge is not supported by
5 probable cause or cannot be proved at the time of trial.

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

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

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

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

28 (b) Order him to complete an educational course by correspondence on
29 the abuse of alcohol and controlled substances approved by the department
30 within the time specified in the order,
31 and the court shall notify the department if the person fails to complete the
32 assigned course within the specified time.

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

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

- 1 **Sec. 3.** The amendatory provisions of this act do not apply to offenses
- 2 committed before the effective date of this act.
- 3 **Sec. 4.** Section 2 of this act becomes effective at 12:01 a.m. on
- 4 October 1, 1999.

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