

SENATE BILL NO. 366—SENATOR TOWNSEND

MARCH 16, 2001

JOINT SPONSOR: ASSEMBLYWOMAN LESLIE

Referred to Committee on Judiciary

SUMMARY—Enacts provisions governing establishment by district court of program for treatment of mentally ill offenders. (BDR 1-1006)

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

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

AN ACT relating to mental health; providing for the establishment by a district court of a program for the treatment of mentally ill offenders; authorizing justices' courts and municipal courts to transfer original jurisdiction of certain cases to the district court for the purpose of assigning offenders to the program of treatment; enacting various provisions pertaining to the program of treatment; 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 4.370 is hereby amended to read as follows:
2 4.370 1. Except as ~~limited by~~ *otherwise provided in* subsection 2,
3 justices' courts have jurisdiction of the following civil actions and
4 proceedings and no others except as provided by specific statute:
5 (a) In actions arising on contract for the recovery of money only, if the
6 sum claimed, exclusive of interest, does not exceed \$7,500.
7 (b) In actions for damages for injury to the person, or for taking,
8 detaining or injuring personal property, or for injury to real property where
9 no issue is raised by the verified answer of the defendant involving the title
10 to or boundaries of the real property, if the damage claimed does not
11 exceed \$7,500.
12 (c) Except as otherwise provided in paragraph (1) in actions for a fine,
13 penalty or forfeiture not exceeding \$7,500, given by statute or the
14 ordinance of a county, city or town, where no issue is raised by the answer
15 involving the legality of any tax, impost, assessment, toll or municipal fine.
16 (d) In actions upon bonds or undertakings conditioned for the payment
17 of money, if the sum claimed does not exceed \$7,500, though the penalty



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1 may exceed that sum. Bail bonds and other undertakings posted in criminal
2 matters may be forfeited regardless of amount.

3 (e) In actions to recover the possession of personal property, if the value
4 of the property does not exceed \$7,500.

5 (f) To take and enter judgment on the confession of a defendant, when
6 the amount confessed, exclusive of interest, does not exceed \$7,500.

7 (g) Of actions for the possession of lands and tenements where the
8 relation of landlord and tenant exists, when damages claimed do not exceed
9 \$7,500 or when no damages are claimed.

10 (h) Of actions when the possession of lands and tenements has been
11 unlawfully or fraudulently obtained or withheld, when damages claimed do
12 not exceed \$7,500 or when no damages are claimed.

13 (i) Of suits for the collection of taxes, where the amount of the tax sued
14 for does not exceed \$7,500.

15 (j) Of actions for the enforcement of mechanics' liens, where the
16 amount of the lien sought to be enforced, exclusive of interest, does not
17 exceed \$7,500.

18 (k) Of actions for the enforcement of liens of owners of facilities for
19 storage, where the amount of the lien sought to be enforced, exclusive of
20 interest, does not exceed \$7,500.

21 (l) In actions for a fine imposed for a violation of NRS 484.757.

22 (m) Except in a judicial district that includes a county whose population
23 is 100,000 or more, in any action for the issuance of a temporary or
24 extended order for protection against domestic violence.

25 (n) In small claims actions under the provisions of chapter 73 of NRS.

26 (o) In actions to contest the validity of liens on mobile homes or
27 manufactured homes.

28 (p) In any action pursuant to NRS 200.591 for the issuance of a
29 protective order against a person alleged to be committing the crime of
30 stalking, aggravated stalking or harassment.

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

35 3. Justices' courts have jurisdiction of all misdemeanors and no other
36 criminal offenses except as otherwise provided by specific statute. *Upon
37 approval of the district court, a justice's court may transfer original
38 jurisdiction of a misdemeanor to the district court for the purpose of
39 assigning an offender to a program established pursuant to section 5 of
40 this act.*

41 4. Except as otherwise provided in subsections 5 and 6, in criminal
42 cases the jurisdiction of justices of the peace extends to the limits of their
43 respective counties.

44 5. In the case of any arrest made by a member of the Nevada highway
45 patrol, the jurisdiction of the justices of the peace extends to the limits of
46 their respective counties and to the limits of all counties which have
47 common boundaries with their respective counties.



1 6. Each justice's court has jurisdiction of any violation of a regulation
2 governing vehicular traffic on an airport within the township in which the
3 court is established.

4 **Sec. 2.** NRS 5.050 is hereby amended to read as follows:

5 5.050 1. Municipal courts have jurisdiction of civil actions or
6 proceedings:

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

8 (b) To prevent or abate a nuisance within the limits of their respective
9 cities.

10 2. The municipal courts have jurisdiction of all misdemeanors
11 committed in violation of the ordinances of their respective cities. *Upon*
12 *approval of the district court, a municipal court may transfer original*
13 *jurisdiction of a misdemeanor to the district court for the purpose of*
14 *assigning an offender to a program established pursuant to section 5 of*
15 *this act.*

16 3. The municipal courts have jurisdiction of:

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

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

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

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

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

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

39 **Sec. 3.** Chapter 176A of NRS is hereby amended by adding thereto
40 the provisions set forth as sections 4 to 8, inclusive, of this act.

41 **Sec. 4.** *"Mental illness" means an organic disorder of the brain or a*
42 *clinically significant disorder of thought, mood, perception, orientation,*
43 *memory or behavior which is listed in the most recent edition of the*
44 *clinical manual of the International Classification of Diseases, ICD-9-*
45 *CM, code range 290 to 302.99, inclusive, or 306 to 316, inclusive, or the*
46 *corresponding code in the most recent edition of the American*
47 *Psychiatric Association's Diagnostic and Statistical Manual of Mental*
48 *Disorders, DSM-MD, Axes I, II or III, and which seriously limits the*
49 *capacity of a person to function in the primary aspects of daily living,*



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1 including, without limitation, personal relations, living arrangements,
2 employment and recreation.

3 **Sec. 5.** *A court may establish an appropriate program for the*
4 *treatment of mental illness to which it may assign a defendant pursuant*
5 *to section 7 of this act. The assignment must include the terms and*
6 *conditions for successful completion of the program and provide for*
7 *progress reports at intervals set by the court to ensure that the defendant*
8 *is making satisfactory progress towards completion of the program.*

9 **Sec. 6.** *1. A justice's court or a municipal court may, upon*
10 *approval of the district court, transfer original jurisdiction to the district*
11 *court of a case involving an eligible defendant.*

12 *2. As used in this section, "eligible defendant" means a person who:*

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

15 *(b) Appears to suffer from mental illness; and*

16 *(c) Would benefit from assignment to a program established pursuant*
17 *to section 5 of this act.*

18 **Sec. 7.** *1. Except as otherwise provided in subsection 2, if a*
19 *defendant who suffers from mental illness tenders a plea of guilty, guilty*
20 *but mentally ill or nolo contendere to, or is found guilty of, any offense*
21 *for which the suspension of sentence or the granting of probation is not*
22 *prohibited by statute, the court may, without entering a judgment of*
23 *conviction and with the consent of the defendant, suspend further*
24 *proceedings and place the defendant on probation upon terms and*
25 *conditions that must include attendance and successful completion of a*
26 *program established pursuant to section 5 of this act.*

27 *2. If the offense committed by the defendant involved the use or*
28 *threatened use of force or violence or if the defendant was previously*
29 *convicted in this state or in any other jurisdiction of a felony that*
30 *involved the use or threatened use of force or violence, the court may not*
31 *assign the defendant to the program unless the prosecuting attorney*
32 *stipulates to the assignment.*

33 *3. Upon violation of a term or condition:*

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

36 *(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of*
37 *NRS 193.130, the court may order the defendant to the custody of the*
38 *department of prisons if the offense is punishable by imprisonment in the*
39 *state prison.*

40 *4. Upon fulfillment of the terms and conditions, the court shall*
41 *discharge the defendant and dismiss the proceedings against him. Except*
42 *as otherwise provided in subsection 5, discharge and dismissal pursuant*
43 *to this section is without adjudication of guilt and is not a conviction for*
44 *purposes of this section or for purposes of employment, civil rights or any*
45 *statute or regulation or license or questionnaire or for any other public*
46 *or private purpose, but is a conviction for the purpose of additional*
47 *penalties imposed for second or subsequent convictions or the setting of*
48 *bail. Discharge and dismissal restores the defendant, in the*
49 *contemplation of the law, to the status occupied before the arrest,*



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1 *indictment or information. The defendant may not be held thereafter*
2 *under any law to be guilty of perjury or otherwise giving a false*
3 *statement by reason of failure to recite or acknowledge that arrest,*
4 *indictment, information or trial in response to an inquiry made of him*
5 *for any purpose.*

6 5. *A professional licensing board may consider a proceeding under*
7 *this section in determining suitability for a license or liability to*
8 *discipline for misconduct. Such a board is entitled for those purposes to a*
9 *truthful answer from the applicant or licensee concerning any such*
10 *proceeding with respect to him.*

11 **Sec. 8.** 1. *Except as otherwise provided in subsection 3, 3 years*
12 *after a defendant is discharged from probation pursuant to section 7 of*
13 *this act, the court shall order sealed all documents, papers and exhibits*
14 *in the defendant's record, minute book entries and entries on dockets,*
15 *and other documents relating to the case in the custody of such other*
16 *agencies and officers as are named in the court's order if the defendant*
17 *fulfills the terms and conditions imposed by the court and the division.*
18 *The court shall order those records sealed without a hearing unless the*
19 *division petitions the court, for good cause shown, not to seal the records*
20 *and requests a hearing thereon.*

21 2. *If the court orders sealed the record of a defendant discharged*
22 *pursuant to section 7 of this act, the court shall send a copy of the order*
23 *to each agency or officer named in the order. Each such agency or*
24 *officer shall notify the court in writing of its compliance with the order.*

25 3. *A professional licensing board is entitled, for the purpose of*
26 *determining suitability for a license or liability to discipline for*
27 *misconduct, to inspect and to copy from a record sealed pursuant to this*
28 *section.*

29 **Sec. 9.** NRS 176A.010 is hereby amended to read as follows:

30 176A.010 As used in this chapter, unless the context otherwise
31 requires, the words and terms defined in NRS 176A.020 to 176A.080,
32 inclusive, *and section 4 of this act*, have the meanings ascribed to them in
33 those sections.

34 **Sec. 10.** NRS 176A.500 is hereby amended to read as follows:

35 176A.500 1. The period of probation or suspension of sentence may
36 be indeterminate or may be fixed by the court and may at any time be
37 extended or terminated by the court, but the period, including any
38 extensions thereof, must not be more than:

39 (a) Three years for a:

40 (1) Gross misdemeanor; or

41 (2) Suspension of sentence pursuant to NRS 453.3363 ~~§~~ or *section 7*
42 *of this act; or*

43 (b) Five years for a felony.

44 2. At any time during probation or suspension of sentence, the court
45 may issue a warrant for violating any of the conditions of probation or
46 suspension of sentence and cause the defendant to be arrested. Except for
47 the purpose of giving a dishonorable discharge from probation, and except
48 as otherwise provided in this subsection, the time during which a warrant
49 for violating any of the conditions of probation is in effect is not part of the



1 period of probation. If the warrant is canceled or probation is reinstated, the
2 court may include any amount of that time as part of the period of
3 probation.

4 3. Any parole and probation officer or any peace officer with power to
5 arrest may arrest a probationer without a warrant, or may deputize any
6 other officer with power to arrest to do so by giving him a written
7 statement setting forth that the probationer has, in the judgment of the
8 parole and probation officer, violated the conditions of probation. Except
9 as otherwise provided in subsection 4, the parole and probation officer, or
10 the peace officer, after making an arrest shall present to the detaining
11 authorities, if any, a statement of the charges against the probationer. The
12 parole and probation officer shall at once notify the court which granted
13 probation of the arrest and detention or residential confinement of the
14 probationer and shall submit a report in writing showing in what manner
15 the probationer has violated the conditions of probation.

16 4. A parole and probation officer or a peace officer may immediately
17 release from custody without any further proceedings any person he arrests
18 without a warrant for violating a condition of probation if the parole and
19 probation officer or peace officer determines that there is no probable
20 cause to believe that the person violated the condition of probation.

21 **Sec. 11.** NRS 179.245 is hereby amended to read as follows:

22 179.245 1. Except as otherwise provided in subsection 5 and NRS
23 453.3365, *and section 8 of this act*, a person who has been convicted of:

24 (a) Any felony may, after 15 years from the date of his conviction or, if
25 he is imprisoned, from the date of his release from actual custody;

26 (b) Any gross misdemeanor may, after 10 years from the date of his
27 conviction or release from custody;

28 (c) A violation of NRS 484.379 other than a felony, or a battery which
29 constitutes domestic violence pursuant to NRS 33.018 other than a felony
30 may, after 7 years from the date of his conviction or release from custody;
31 or

32 (d) Any other misdemeanor may, after 5 years from the date of his
33 conviction or release from custody,
34 petition the court in which the conviction was obtained for the sealing of
35 all records relating to the conviction.

36 2. A petition filed pursuant to subsection 1 must be accompanied by
37 current, verified records of the petitioner's criminal history received from:

38 (a) The central repository for Nevada records of criminal history; and

39 (b) The local law enforcement agency of the city or county in which the
40 conviction was entered.

41 3. Upon receiving a petition pursuant to this section, the court shall
42 notify:

43 (a) The prosecuting attorney for the county; or

44 (b) If the person was convicted in a municipal court, the prosecuting
45 attorney for the city.

46 The prosecuting attorney and any person having relevant evidence may
47 testify and present evidence at the hearing on the petition.



1 4. If, after the hearing, the court finds that, in the period prescribed in
2 subsection 1, the petitioner has not been arrested, except for minor moving
3 or standing traffic violations, the court may order sealed all records of the
4 conviction which are in the custody of the court, of another court in the
5 State of Nevada or of a public or private agency, company or official in the
6 State of Nevada, and may also order all such criminal identification records
7 of the petitioner returned to the file of the court where the proceeding was
8 commenced from, including, but not limited to, the Federal Bureau of
9 Investigation, the California *bureau of* identification and ~~investigation~~
10 ~~bureau,~~ *information*, sheriffs' offices and all other law enforcement
11 agencies reasonably known by either the petitioner or the court to have
12 possession of such records.

13 5. A person may not petition the court to seal records relating to a
14 conviction of a crime against a child or a sexual offense.

15 6. As used in this section:

16 (a) "Crime against a child" has the meaning ascribed to it in NRS
17 179D.210.

18 (b) "Sexual offense" has the meaning ascribed to it in NRS 179D.410.

19 **Sec. 12.** NRS 179.275 is hereby amended to read as follows:

20 179.275 Where the court orders the sealing of a record pursuant to
21 NRS 179.245, 179.255 or 453.3365, *or section 8 of this act*, a copy of the
22 order must be sent to:

23 1. The central repository for Nevada records of criminal history; and

24 2. Each public or private company, agency or official named in the
25 order, and that person shall seal the records in his custody which relate to
26 the matters contained in the order, shall advise the court of his compliance,
27 and shall then seal the order.

28 **Sec. 13.** NRS 179.285 is hereby amended to read as follows:

29 179.285 Except as otherwise provided in NRS 179.301, if the court
30 orders a record sealed pursuant to NRS 179.245, 179.255 or 453.3365, *or*
31 *section 8 of this act*, all proceedings recounted in the record are deemed
32 never to have occurred, and the person to whom it pertains may properly
33 answer accordingly to any inquiry concerning the arrest, conviction or
34 acquittal and the events and proceedings relating to the arrest, conviction or
35 acquittal.

36 **Sec. 14.** NRS 179.295 is hereby amended to read as follows:

37 179.295 1. The person who is the subject of the records that are
38 sealed pursuant to NRS 179.245, 179.255 or 453.3365 *or section 8 of this*
39 *act* may petition the court that ordered the records sealed to permit
40 inspection of the records by a person named in the petition, and the court
41 may order such inspection. Except as otherwise provided in this section
42 and NRS 179.301, the court may not order the inspection of the records
43 under any other circumstances.

44 2. If a person has been arrested, the charges have been dismissed and
45 the records of the arrest have been sealed, the court may order the
46 inspection of the records by a prosecuting attorney upon a showing that as
47 a result of newly discovered evidence, the person has been arrested for the
48 same or similar offense and that there is sufficient evidence reasonably to
49 conclude that he will stand trial for the offense.



1 3. The court may, upon the application of a prosecuting attorney or an
2 attorney representing a defendant in a criminal action, order an inspection
3 of such records for the purpose of obtaining information relating to persons
4 who were involved in the incident recorded.
5 **Sec. 15.** The amendatory provisions of this act do not apply to
6 offenses committed before October 1, 2001.

