

ASSEMBLY BILL NO. 92—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

FEBRUARY 21, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing suspension of sentence of person convicted of misdemeanor. (BDR 1-529)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 crime; increasing the period of time that a justice of the peace or a municipal judge may suspend the sentence of a person convicted of a misdemeanor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, a justice of the peace or a municipal judge may suspend the
- 2 sentence of a person convicted of a misdemeanor. The suspension of the sentence
- 3 must not exceed a period of 1 year. (NRS 4.373, 5.055)
- 4 This bill increases the time that a misdemeanor sentence may be suspended to a
- 5 period not to exceed 2 years.

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

- 1 **Section 1.** NRS 4.373 is hereby amended to read as follows:
- 2 4.373 1. Except as otherwise provided in subsection 2, NRS
- 3 211A.127 or another specific statute, or unless the suspension of a
- 4 sentence is expressly forbidden, a justice of the peace may suspend,
- 5 for not more than ~~1 year,~~ ***2 years***, the sentence of a person
- 6 convicted of a misdemeanor. If the circumstances warrant, the
- 7 justice of the peace may order as a condition of suspension that the
- 8 offender:



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

3 (b) Engage in a program of community service, for not more
4 than 200 hours;

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

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

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

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

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

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

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

23 (a) A program of treatment for the abuse of alcohol or drugs
24 which is certified by the Health Division of the Department of
25 Human Resources;

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

29 (c) The programs set forth in paragraphs (a) and (b),
30 ➡ and that he comply with any other condition of suspension
31 ordered by the justice of the peace.

32 3. The justice of the peace may order reports from a person
33 whose sentence is suspended at such times as he deems appropriate
34 concerning the compliance of the offender with the conditions of
35 suspension. If the offender complies with the conditions of
36 suspension to the satisfaction of the justice of the peace, the
37 sentence may be reduced to not less than the minimum period of
38 confinement established for the offense.

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

41 **Sec. 2.** NRS 5.055 is hereby amended to read as follows:

42 5.055 1. Except as otherwise provided in subsection 2, NRS
43 211A.127 or another specific statute, or unless the suspension of a
44 sentence is expressly forbidden, a municipal judge may suspend, for



1 not more than ~~1 year,~~ 2 years, the sentence of a person convicted
2 of a misdemeanor. If the circumstances warrant, the municipal judge
3 may order as a condition of suspension that the offender:

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

6 (b) Engage in a program of community service, for not more
7 than 200 hours;

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

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

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

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

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

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

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

26 (a) A program of treatment for the abuse of alcohol or drugs
27 which is certified by the Health Division of the Department of
28 Human Resources;

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

32 (c) The programs set forth in paragraphs (a) and (b),
33 and that he comply with any other condition of suspension
34 ordered by the municipal judge.

35 3. The municipal judge may order reports from a person whose
36 sentence is suspended at such times as he deems appropriate
37 concerning the compliance of the offender with the conditions of
38 suspension. If the offender complies with the conditions of
39 suspension to the satisfaction of the municipal judge, the sentence
40 may be reduced to not less than the minimum period of confinement
41 established for the offense.

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



