

ASSEMBLY BILL NO. 180—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE CITY OF SPARKS)

FEBRUARY 26, 2007

Referred to Committee on Judiciary

SUMMARY—Increases the amount of community service required for placing graffiti on or otherwise defacing property. (BDR 15-467)

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 crimes; increasing the amount of community service that must be performed by a person who places graffiti on or otherwise defaces property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill increases the amount of community service that must be
2 performed by a person who places graffiti on or otherwise defaces the public or
3 private property of another, without the permission of the owner, from a minimum
4 of 50 hours to a minimum of 250 hours for the first offense. **Section 1** also
5 increases the amount of community service required for a second and third
6 subsequent offense from a minimum of 100 and 200 hours, respectively, to a
7 minimum of 500 hours for the second and each subsequent offense. (NRS 206.330)
8 **Sections 2-4** of this bill make technical changes to other sections of the Nevada
9 Revised Statutes which provide generally that a person convicted of a misdemeanor
10 may be required to perform up to 200 hours of community service. (NRS 4.373,
11 5.055, 176.087)



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

Section 1. NRS 206.330 is hereby amended to read as follows:
206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.

(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses may be aggregated for the purpose of determining the penalty prescribed in subsection 1.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, perform not less than ~~50 hours, but not more than 99 hours,~~ 250 hours of community service.

(b) For the second ~~offense, perform not less than 100 hours, but not more than 199 hours, of community service.~~

~~—(c) For the third~~ and each subsequent offense, perform not less than ~~200~~ 500 hours of community service.

➤ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. The parent or legal guardian of a person under the age of 18 years who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

5. If a person who is 18 years of age or older is found guilty of violating this section, the court may issue an order suspending the driver's license of the person for a period not to exceed 6 months in addition to any other penalty imposed. If such an order is issued, the court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court may issue an order prohibiting the person from applying for a driver's license within the 6 months immediately following the



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1 date of the order. The court shall, within 5 days after issuing the
2 order, forward to the Department of Motor Vehicles any licenses
3 together with a copy of the order.

4 6. The Department of Motor Vehicles:

5 (a) Shall not treat a violation of this section in the manner
6 statutorily required for a moving traffic violation.

7 (b) Shall report the suspension of a driver's license pursuant to
8 this section to an insurance company or its agent inquiring about the
9 person's driving record. An insurance company shall not use any
10 information obtained pursuant to this paragraph for purposes related
11 to establishing premium rates or determining whether to underwrite
12 the insurance.

13 7. A criminal penalty imposed pursuant to this section is in
14 addition to any civil penalty or other remedy available pursuant to
15 another statute for the same conduct.

16 8. As used in this section, "impairment" means the disruption
17 of ordinary and incidental services, the temporary loss of use or the
18 removal of the property from service for repair of damage.

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

20 4.373 1. Except as otherwise provided in subsection 2, NRS
21 211A.127 or another specific statute, or unless the suspension of a
22 sentence is expressly forbidden, a justice of the peace may suspend,
23 for not more than 2 years, the sentence of a person convicted of a
24 misdemeanor. If the circumstances warrant, the justice of the peace
25 may order as a condition of suspension that the offender:

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

28 (b) Engage in a program of community service, for not more
29 than 200 hours ~~H~~, *unless a specific statute provides for a different*
30 *number of hours of community service;*

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

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

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

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

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

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

43 2. If a person is convicted of a misdemeanor that constitutes
44 domestic violence pursuant to NRS 33.018, the justice of the peace
45 may, after the person has served any mandatory minimum period of



1 confinement, suspend the remainder of the sentence of the person
2 for not more than 3 years upon the condition that the person actively
3 participate in:

4 (a) A program of treatment for the abuse of alcohol or drugs
5 which is certified by the Health Division of the Department of
6 Health and Human Services;

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

10 (c) The programs set forth in paragraphs (a) and (b),
11 ➤ and that he comply with any other condition of suspension
12 ordered by the justice of the peace.

13 3. The justice of the peace may order reports from a person
14 whose sentence is suspended at such times as he deems appropriate
15 concerning the compliance of the offender with the conditions of
16 suspension. If the offender complies with the conditions of
17 suspension to the satisfaction of the justice of the peace, the
18 sentence may be reduced to not less than the minimum period of
19 confinement established for the offense.

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

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

23 5.055 1. Except as otherwise provided in subsection 2, NRS
24 211A.127 or another specific statute, or unless the suspension of a
25 sentence is expressly forbidden, a municipal judge may suspend, for
26 not more than 2 years, the sentence of a person convicted of a
27 misdemeanor. If the circumstances warrant, the municipal judge
28 may order as a condition of suspension that the offender:

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

31 (b) Engage in a program of community service, for not more
32 than 200 hours **✚**, *unless a specific statute provides for a different*
33 *number of hours of community service;*

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

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

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

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

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

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



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

(a) A program of treatment for the abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services;

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

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

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

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

Sec. 4. NRS 176.087 is hereby amended to read as follows:

176.087 1. Except where the imposition of a specific criminal penalty is mandatory, a court may order a convicted person to perform supervised community service:

(a) In lieu of all or a part of any fine or imprisonment that may be imposed for the commission of a misdemeanor; or

(b) As a condition of probation granted for another offense.

2. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

3. The court may require the convicted person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which he performs the community service, unless, in the case of industrial insurance, it is provided by the authority for which he performs the community service.

4. The following conditions apply to any such community service imposed by the court:



(a) The court must fix the period of community service that is imposed as punishment or a condition of probation and distribute the period over weekends or over other appropriate times that will allow the convicted person to continue at his employment and to care for his family. ~~The~~ *Except as otherwise provided by specific statute, the* period of community service fixed by the court must not exceed, for a:

- (1) Misdemeanor, 200 hours;
- (2) Gross misdemeanor, 600 hours; or
- (3) Felony, 1,000 hours.

(b) A supervising authority listed in subsection 2 must agree to accept the convicted person for community service before the court may require him to perform community service for that supervising authority. The supervising authority must be located in or be the town or city of the convicted person's residence or, if that placement is not possible, one located within the jurisdiction of the court or, if that placement is not possible, the authority may be located outside the jurisdiction of the court.

(c) Community service that a court requires pursuant to this section must be supervised by an official of the supervising authority or by a person designated by the authority.

(d) The court may require the supervising authority to report periodically to the court or to a probation officer the convicted person's performance in carrying out the punishment or condition of probation.

Sec. 5. This act becomes effective upon passage and approval.

