

ASSEMBLY BILL NO. 552—COMMITTEE ON WAYS AND MEANS

MARCH 28, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions related to the collection of biological specimens for genetic marker analysis. (BDR 14-539)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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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 genetic marker analysis; imposing an administrative assessment upon a defendant convicted of any crime; requiring that a biological specimen be obtained from a person arrested for a felony; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill imposes an additional administrative assessment of \$1 for every \$10 in fines or fees imposed on a person convicted of a misdemeanor, gross misdemeanor or felony. **Section 2** also provides that the money collected from the assessments must be used to defray the costs associated with obtaining biological specimens and genetic marker analysis.

Under existing law, if a defendant is convicted of a felony or certain other specified offenses, the court, as part of the defendant's sentence, must order that a biological specimen be obtained from the defendant and that the specimen be used for analysis to determine the genetic markers of the specimen. (NRS 176.0911-176.0917) **Section 3** of this bill requires that a biological specimen be obtained if a person is arrested for a felony or a sexual offense. **Section 3** also provides that if the person is convicted of the felony on the sexual offense, the specimen must be kept, but if the person is not convicted, the specimen and all records relating thereto must be destroyed and expunged.

Existing law prohibits a person from sharing or disclosing certain information relating to another person's biological specimen or genetic marker analysis and makes such conduct a misdemeanor. (NRS 176.0913) **Sections 3 and 8** of this bill increase the penalty for such conduct from a misdemeanor to a gross misdemeanor with a maximum fine of \$2,500.



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

1 **Section 1.** Chapter 176 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *1. In addition to any other administrative*
4 *assessment imposed, when a defendant pleads guilty, is found*
5 *guilty or enters a plea of nolo contendere to a misdemeanor, gross*
6 *misdemeanor or felony, including the violation of any municipal*
7 *ordinance, the justice or judge of the justice, municipal or district*
8 *court, as applicable, shall include in the sentence the sum of \$1*
9 *for every \$10 or fraction thereof upon every fine or fee imposed*
10 *and collected by the courts as an administrative assessment for*
11 *obtaining a biological specimen and conducting genetic marker*
12 *analysis and shall render a judgment against the defendant for the*
13 *assessment. If a defendant is sentenced to perform community*
14 *service in lieu of a fine, the sentence must include the*
15 *administrative assessment required pursuant to this subsection.*

16 *2. The money collected for an administrative assessment for*
17 *the provision of genetic marker analysis must not be deducted*
18 *from the fine imposed by the justice or judge but must be taxed*
19 *against the defendant in addition to the fine. The money collected*
20 *for such an administrative assessment must be stated separately on*
21 *the court's docket and must be included in the amount posted for*
22 *bail. If bail is forfeited, the administrative assessment included in*
23 *the bail pursuant to this subsection must be disbursed pursuant to*
24 *subsection 3. If the defendant is found not guilty or the charges*
25 *are dismissed, the money deposited with the court must be*
26 *returned to the defendant. If the justice or judge cancels a fine*
27 *because the fine has been determined to be uncollectible, any*
28 *balance of the fine and the administrative assessment remaining*
29 *unpaid shall be deemed to be uncollectible, and the defendant is*
30 *not required to pay it. If a fine is determined to be uncollectible,*
31 *the defendant is not entitled to a refund of the fine or*
32 *administrative assessment he or she has paid, and the justice or*
33 *judge shall not recalculate the administrative assessment.*

34 *3. If the justice or judge permits the fine and administrative*
35 *assessment for the provision of genetic marker analysis to be paid*
36 *in installments, the payments must be applied in the following*
37 *order:*

38 *(a) To pay the unpaid balance of an administrative assessment*
39 *imposed pursuant to NRS 176.059;*



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(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613;

(d) To pay the unpaid balance of an administrative assessment for the provision of genetic marker analysis pursuant to this section; and

(e) To pay the fine.

4. The money collected for an administrative assessment for the provision of genetic marker analysis must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month for credit to the fund for genetic marker analysis pursuant to NRS 176.0915.

Sec. 3. 1. If a person is arrested for a felony or a sexual offense, and a court or magistrate makes a determination that probable cause exists for the person's arrest, the law enforcement agency making the arrest shall:

(a) Submit the name, social security number, date of birth and any other information identifying the person to the Central Repository for Nevada Records of Criminal History; and

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person through a cheek swab pursuant to the provisions of this section so that the specimen can be used for an analysis to determine the genetic markers of the specimen. The biological specimen may be collected by any authorized agent of a law enforcement agency.

2. If the person is arrested without a warrant, the biological specimen obtained must not be submitted for genetic marker analysis pursuant to subsection 3 until a court or magistrate makes a determination that probable cause existed for the person's arrest.

3. The law enforcement agency obtaining the biological specimen shall provide the specimen to the forensic laboratory that has been designated by the county in which the person was arrested to conduct or oversee genetic marker analysis for the county pursuant to NRS 176.0917. Each designated laboratory is authorized to contract with individuals or organizations for services to perform genetic marker analysis. The identification characteristics resulting from the genetic marker analysis must be stored and maintained by the forensic laboratory in CODIS and only may be made available as provided in section 4 of this act.

4. Any cost that is incurred to obtain a biological specimen from a person pursuant to this section is a charge against the



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1 *county in which the person was arrested and must be paid as*
2 *provided in NRS 176.0915.*

3 *5. A law enforcement agency shall not obtain a biological*
4 *specimen from a person who has previously submitted such a*
5 *specimen for an arrest or conviction of a prior offense unless the*
6 *law enforcement agency, court or magistrate determines that an*
7 *additional specimen is necessary.*

8 *6. A court or magistrate shall make the provision of a*
9 *biological specimen a condition of any person being admitted to*
10 *bail or released on the person's own recognizance.*

11 *7. The Attorney General or a district attorney may petition a*
12 *district court for an order requiring a person under this section to:*

13 *(a) Provide a biological specimen; or*

14 *(b) Provide a biological specimen by alternative means if the*
15 *person will not cooperate.*

16 *Nothing in this subsection shall be construed to prevent the*
17 *collection of a biological specimen by order of a court of*
18 *competent jurisdiction or the collection of a biological specimen of*
19 *persons required to provide such a specimen under this section.*

20 *8. The detention, arrest or conviction of a person based upon*
21 *a match in CODIS or other information in CODIS is not*
22 *invalidated if the biological specimen was obtained or placed in*
23 *CODIS by mistake, provided that the forensic laboratory can*
24 *demonstrate that a good faith effort has been made to comply with*
25 *all laws and regulations governing the inclusion of such*
26 *information in CODIS.*

27 *9. Upon completion of any genetic marker analysis, the*
28 *forensic laboratory shall inform the Central Repository for*
29 *Nevada Records of Criminal History of the existence of such*
30 *information pursuant to this section.*

31 *10. The Central Repository for Nevada Records of Criminal*
32 *History shall include an indication on the criminal history record*
33 *regarding the collection of a biological specimen, but may not*
34 *include the results of the genetic marker analysis or any other*
35 *information relating to the forensic laboratory's records.*

36 *11. A person whose genetic marker analysis has been*
37 *included in the Central Repository for Nevada Records of*
38 *Criminal History and CODIS pursuant to this section may request*
39 *that it be automatically expunged on the grounds:*

40 *(a) That the conviction on which the authority for keeping the*
41 *biological specimen or the result of the genetic marker analysis*
42 *has been reversed and the case dismissed; or*

43 *(b) That the arrest which led to the inclusion of the biological*
44 *specimen or the result of the genetic marker analysis has:*



1 (1) *Resulted in a felony or sexual offense charge that has*
2 *been resolved by a dismissal, nolle prosequi, successful completion*
3 *of a preprosecution diversion program or a conditional discharge*
4 *or acquittal; or*

5 (2) *Not resulted in any additional criminal charges for a*
6 *felony or sexual offense within 10 years after the arrest.*

7 12. *Except as otherwise provided in subsection 13, the*
8 *forensic laboratory holding the biological specimen shall*
9 *automatically purge all records and identifiable information*
10 *pertaining to the person and destroy all specimens from the person*
11 *upon receipt and confirmation of a written request that such data*
12 *be expunged pursuant to this section, and:*

13 (a) *A certified copy of the court order reversing and dismissing*
14 *the conviction; or*

15 (b) *For biological specimens included pursuant to arrest:*

16 (1) *A certified copy of the dismissal, nolle prosequi,*
17 *successful completion of a preprosecution diversion program or a*
18 *conditional discharge, or acquittal; or*

19 (2) *A sworn affidavit that no felony or sexual offense*
20 *charges arising out of the arrest have been filed within 1 year after*
21 *the arrest.*

22 13. *The forensic laboratory shall not expunge a person's*
23 *biological specimen and genetic marker analysis if the person has*
24 *a prior felony or sexual offense conviction, a new felony or sexual*
25 *offense arrest or a pending felony or sexual offense charge for*
26 *which collection of a biological specimen is authorized pursuant*
27 *to this section.*

28 14. *When a person's biological specimen and genetic marker*
29 *analysis are expunged pursuant to this section, the forensic*
30 *laboratory shall ensure that the person's biological specimen and*
31 *genetic marker analysis are expunged from the Central Repository*
32 *for Nevada Records of Criminal History and CODIS.*

33 15. *Except as otherwise authorized by federal law or specific*
34 *statute, a biological specimen obtained pursuant to this section,*
35 *the results of a genetic marker analysis and any information*
36 *identifying or matching a biological specimen with a person must*
37 *not knowingly be shared with or knowingly disclosed to any*
38 *person other than the authorized personnel who have possession*
39 *and control of the biological specimen, results of a genetic marker*
40 *analysis or information identifying or matching a biological*
41 *specimen with a person, except pursuant to:*

42 (a) *A court order; or*

43 (b) *A request from a law enforcement agency during the*
44 *course of an investigation.*



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1 16. A person who violates any provision of subsection 15 is
2 guilty of a gross misdemeanor and shall be punished by
3 imprisonment in the county jail for not more than 1 year, or by a
4 fine of not more than \$2,500, or by both fine and imprisonment.

5 17. For the purposes of this section:

6 (a) "Sexual offense" means any of the following offenses:

7 (1) Murder of the first degree committed in the perpetration
8 or attempted perpetration of sexual assault or of sexual abuse or
9 sexual molestation of a child less than 14 years of age pursuant to
10 paragraph (b) of subsection 1 of NRS 200.030.

11 (2) Sexual assault pursuant to NRS 200.366.

12 (3) Statutory sexual seduction pursuant to NRS 200.368.

13 (4) Battery with intent to commit sexual assault pursuant to
14 subsection 4 of NRS 200.400.

15 (5) An offense involving the administration of a drug to
16 another person with the intent to enable or assist the commission
17 of a felony pursuant to NRS 200.405, if the felony is an offense
18 listed in this section.

19 (6) An offense involving the administration of a controlled
20 substance to another person with the intent to enable or assist the
21 commission of a crime of violence pursuant to NRS 200.408, if the
22 crime of violence is an offense listed in this section.

23 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
24 involved sexual abuse or sexual exploitation.

25 (8) An offense involving pornography and a minor
26 pursuant to NRS 200.710 to 200.730, inclusive.

27 (9) Incest pursuant to NRS 201.180.

28 (10) Solicitation of a minor to engage in acts constituting
29 the infamous crime against nature pursuant to NRS 201.195.

30 (11) Open or gross lewdness pursuant to NRS 201.210.

31 (12) Indecent or obscene exposure pursuant to
32 NRS 201.220.

33 (13) Lewdness with a child pursuant to NRS 201.230.

34 (14) Sexual penetration of a dead human body pursuant to
35 NRS 201.450.

36 (15) Luring a child or a person with mental illness
37 pursuant to NRS 201.560, if punished as a felony.

38 (16) Any other offense that has an element involving a
39 sexual act or sexual conduct with another.

40 (17) An attempt or conspiracy to commit an offense listed
41 in subparagraphs (1) to (16), inclusive.

42 (18) An offense that is determined to be sexually motivated
43 pursuant to NRS 175.547 or 207.193.

44 (19) An offense committed in another jurisdiction that, if
45 committed in this State, would be an offense listed in this section.



This subparagraph includes, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(20) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subparagraph includes, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(III) A court having jurisdiction over juveniles.

(b) "Sexual offense" does not include an offense involving consensual sexual conduct if the victim was:

(1) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or

(2) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 4. 1. *If information related to a biological specimen or genetic marker analysis contained in CODIS is requested, the forensic laboratory shall comply with all applicable federal law and specific statutes and regulations governing the release of such information. In addition, the identity and authority of the requester must be verified. All requests must be directed through the forensic laboratory and the CODIS administrator.*

2. *To minimize duplication in collection of biological specimens and genetic marker analysis, a forensic laboratory may make information available to local, state and federal law enforcement agencies, the Department of Corrections, city or county jails or any detention facility to verify whether a biological specimen has been collected from a person. Information provided under this subsection must not include any results of genetic marker analysis.*

Sec. 5. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, **and**



1 *section 2 of this act*, an administrative assessment for the provision
2 of court facilities.

3 2. Except as otherwise provided in subsection 3, in any
4 jurisdiction in which an administrative assessment for the provision
5 of court facilities has been authorized, when a defendant pleads
6 guilty or guilty but mentally ill or is found guilty or guilty but
7 mentally ill of a misdemeanor, including the violation of any
8 municipal ordinance, the justice or judge shall include in the
9 sentence the sum of \$10 as an administrative assessment for the
10 provision of court facilities and render a judgment against
11 the defendant for the assessment. If the justice or judge sentences
12 the defendant to perform community service in lieu of a fine, the
13 justice or judge shall include in the sentence the administrative
14 assessment required pursuant to this subsection.

15 3. The provisions of subsection 2 do not apply to:

16 (a) An ordinance regulating metered parking; or

17 (b) An ordinance that is specifically designated as imposing a
18 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

19 4. The money collected for an administrative assessment for
20 the provision of court facilities must not be deducted from the fine
21 imposed by the justice or judge but must be taxed against the
22 defendant in addition to the fine. The money collected for such an
23 administrative assessment must be stated separately on the court's
24 docket and must be included in the amount posted for bail. If bail is
25 forfeited, the administrative assessment included in the amount
26 posted for bail pursuant to this subsection must be disbursed in the
27 manner set forth in subsection 6 or 7. If the defendant is found not
28 guilty or the charges are dismissed, the money deposited with the
29 court must be returned to the defendant. If the justice or judge
30 cancels a fine because the fine has been determined to be
31 uncollectible, any balance of the fine and the administrative
32 assessment remaining unpaid shall be deemed to be uncollectible
33 and the defendant is not required to pay it. If a fine is determined to
34 be uncollectible, the defendant is not entitled to a refund of the fine
35 or administrative assessment the defendant has paid and the justice
36 or judge shall not recalculate the administrative assessment.

37 5. If the justice or judge permits the fine and administrative
38 assessment for the provision of court facilities to be paid in
39 installments, the payments must be applied in the following order:

40 (a) To pay the unpaid balance of an administrative assessment
41 imposed pursuant to NRS 176.059;

42 (b) To pay the unpaid balance of an administrative assessment
43 for the provision of court facilities pursuant to this section;



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(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; ~~and~~

(d) *To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting genetic marker analysis pursuant to section 2 of this act; and*

(e) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

➤ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall



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1 deposit the money received to a special revenue fund. The county
2 may use the money in the special revenue fund only to:

3 (a) Acquire land on which to construct additional facilities for
4 the justice courts or a regional justice center that includes the justice
5 courts.

6 (b) Construct or acquire additional facilities for the justice
7 courts or a regional justice center that includes the justice courts.

8 (c) Renovate or remodel existing facilities for the justice courts.

9 (d) Acquire furniture, fixtures and equipment necessitated by the
10 construction or acquisition of additional facilities or the renovation
11 of an existing facility for the justice courts or a regional justice
12 center that includes the justice courts. This paragraph does not
13 authorize the expenditure of money from the fund for furniture,
14 fixtures or equipment for judicial chambers.

15 (e) Acquire advanced technology for use in the additional or
16 renovated facilities.

17 (f) Pay debt service on any bonds issued pursuant to subsection
18 3 of NRS 350.020 for the acquisition of land or facilities or the
19 construction or renovation of facilities for the justice courts or a
20 regional justice center that includes the justice courts.

21 ➔ Any money remaining in the special revenue fund after 5 fiscal
22 years must be deposited in the county general fund for the continued
23 maintenance of court facilities if it has not been committed for
24 expenditure pursuant to a plan for the construction or acquisition of
25 court facilities or improvements to court facilities. The county
26 treasurer shall provide, upon request by a justice court, monthly
27 reports of the revenue credited to and expenditures made from the
28 special revenue fund.

29 8. If money collected pursuant to this section is to be used to
30 acquire land on which to construct a regional justice center, to
31 construct a regional justice center or to pay debt service on bonds
32 issued for these purposes, the county and the participating cities
33 shall, by interlocal agreement, determine such issues as the size of
34 the regional justice center, the manner in which the center will be
35 used and the apportionment of fiscal responsibility for the center.

36 **Sec. 6.** NRS 176.0613 is hereby amended to read as follows:

37 176.0613 1. The justices or judges of the justice or municipal
38 courts shall impose, in addition to an administrative assessment
39 imposed pursuant to NRS 176.059 and 176.0611, *and section 2 of*
40 *this act*, an administrative assessment for the provision of specialty
41 court programs.

42 2. Except as otherwise provided in subsection 3, when a
43 defendant pleads guilty or guilty but mentally ill or is found guilty
44 or guilty but mentally ill of a misdemeanor, including the violation
45 of any municipal ordinance, the justice or judge shall include in the



1 sentence the sum of \$7 as an administrative assessment for the
2 provision of specialty court programs and render a judgment against
3 the defendant for the assessment. If a defendant is sentenced to
4 perform community service in lieu of a fine, the sentence must
5 include the administrative assessment required pursuant to this
6 subsection.

7 3. The provisions of subsection 2 do not apply to:

8 (a) An ordinance regulating metered parking; or

9 (b) An ordinance which is specifically designated as imposing a
10 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

11 4. The money collected for an administrative assessment
12 for the provision of specialty court programs must not be deducted
13 from the fine imposed by the justice or judge but must be taxed
14 against the defendant in addition to the fine. The money collected
15 for such an administrative assessment must be stated separately on
16 the court's docket and must be included in the amount posted for
17 bail. If bail is forfeited, the administrative assessment included in
18 the bail pursuant to this subsection must be disbursed pursuant to
19 subsection 6 or 7. If the defendant is found not guilty or the charges
20 are dismissed, the money deposited with the court must be returned
21 to the defendant. If the justice or judge cancels a fine because the
22 fine has been determined to be uncollectible, any balance of the fine
23 and the administrative assessment remaining unpaid shall be
24 deemed to be uncollectible and the defendant is not required to pay
25 it. If a fine is determined to be uncollectible, the defendant is not
26 entitled to a refund of the fine or administrative assessment the
27 defendant has paid and the justice or judge shall not recalculate the
28 administrative assessment.

29 5. If the justice or judge permits the fine and administrative
30 assessment for the provision of specialty court programs to be paid
31 in installments, the payments must be applied in the following
32 order:

33 (a) To pay the unpaid balance of an administrative assessment
34 imposed pursuant to NRS 176.059;

35 (b) To pay the unpaid balance of an administrative assessment
36 for the provision of court facilities pursuant to NRS 176.0611;

37 (c) To pay the unpaid balance of an administrative assessment
38 for the provision of specialty court programs; ~~and~~

39 (d) *To pay the unpaid balance of an administrative assessment*
40 *for obtaining a biological specimen and conducting genetic*
41 *marker analysis pursuant to section 2 of this act; and*

42 (e) To pay the fine.

43 6. The money collected for an administrative assessment for
44 the provision of specialty court programs in municipal court must be
45 paid by the clerk of the court to the city treasurer on or before the



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1 fifth day of each month for the preceding month. On or before the
2 15th day of that month, the city treasurer shall deposit the money
3 received for each administrative assessment with the State
4 Controller for credit to a special account in the State General Fund
5 administered by the Office of Court Administrator.

6 7. The money collected for an administrative assessment for
7 the provision of specialty court programs in justice courts must be
8 paid by the clerk of the court to the county treasurer on or before the
9 fifth day of each month for the preceding month. On or before the
10 15th day of that month, the county treasurer shall deposit the money
11 received for each administrative assessment with the State
12 Controller for credit to a special account in the State General Fund
13 administered by the Office of Court Administrator.

14 8. The Office of Court Administrator shall allocate the money
15 credited to the State General Fund pursuant to subsections 6 and 7 to
16 courts to assist with the funding or establishment of specialty court
17 programs.

18 9. Money that is apportioned to a court from administrative
19 assessments for the provision of specialty court programs must be
20 used by the court to:

21 (a) Pay for the treatment and testing of persons who participate
22 in the program; and

23 (b) Improve the operations of the specialty court program by any
24 combination of:

25 (1) Acquiring necessary capital goods;

26 (2) Providing for personnel to staff and oversee the specialty
27 court program;

28 (3) Providing training and education to personnel;

29 (4) Studying the management and operation of the program;

30 (5) Conducting audits of the program;

31 (6) Supplementing the funds used to pay for judges to
32 oversee a specialty court program; or

33 (7) Acquiring or using appropriate technology.

34 10. As used in this section:

35 (a) "Office of Court Administrator" means the Office of Court
36 Administrator created pursuant to NRS 1.320; and

37 (b) "Specialty court program" means a program established by a
38 court to facilitate testing, treatment and oversight of certain persons
39 over whom the court has jurisdiction and who the court has
40 determined suffer from a mental illness or abuses alcohol or drugs.
41 Such a program includes, without limitation, a program established
42 pursuant to NRS 176A.250, 176A.280 or 453.580.

43 **Sec. 7.** NRS 176.0911 is hereby amended to read as follows:

44 176.0911 As used in NRS 176.0911 to 176.0917, inclusive,
45 *and sections 2, 3 and 4 of this act*, unless the context otherwise



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1 requires, "CODIS" means the Combined DNA Indexing System
2 operated by the Federal Bureau of Investigation.

3 **Sec. 8.** NRS 176.0913 is hereby amended to read as follows:

4 176.0913 1. If a defendant is convicted of an offense listed in
5 subsection 4, the court, at sentencing, shall order that:

6 (a) The name, social security number, date of birth and any other
7 information identifying the defendant be submitted to the Central
8 Repository for Nevada Records of Criminal History; and

9 (b) A biological specimen be obtained from the defendant
10 pursuant to the provisions of this section and that the specimen be
11 used for an analysis to determine the genetic markers of the
12 specimen.

13 2. If the defendant is committed to the custody of the
14 Department of Corrections, the Department of Corrections shall
15 arrange for the biological specimen to be obtained from
16 the defendant. The Department of Corrections shall provide the
17 specimen to the forensic laboratory that has been designated by the
18 county in which the defendant was convicted to conduct or oversee
19 genetic marker testing for the county pursuant to NRS 176.0917.

20 3. If the defendant is not committed to the custody of the
21 Department of Corrections, the Division shall arrange for the
22 biological specimen to be obtained from the defendant. The
23 Division shall provide the specimen to the forensic laboratory that
24 has been designated by the county in which the defendant was
25 convicted to conduct or oversee genetic marker testing for the
26 county pursuant to NRS 176.0917. Any cost that is incurred to
27 obtain a biological specimen from a defendant pursuant to this
28 subsection is a charge against the county in which the defendant was
29 convicted and must be paid as provided in NRS 176.0915.

30 4. Except as otherwise provided in subsection 5, the provisions
31 of subsection 1 apply to a defendant who is convicted of:

32 (a) A felony;

33 (b) A crime against a child as defined in NRS 179D.0357;

34 (c) A sexual offense as defined in NRS 179D.097;

35 (d) Abuse or neglect of an older person or a vulnerable person
36 pursuant to NRS 200.5099;

37 (e) A second or subsequent offense for stalking pursuant to
38 NRS 200.575;

39 (f) An attempt or conspiracy to commit an offense listed in
40 paragraphs (a) to (e), inclusive;

41 (g) Failing to register with a local law enforcement agency as a
42 convicted person as required pursuant to NRS 179C.100, if the
43 defendant previously was:

44 (1) Convicted in this State of committing an offense listed in
45 paragraph (a), (d), (e) or (f); or



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(2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), (d), (e) or (f) if committed in this State;

(h) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.450; or

(i) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. A court shall not order a biological specimen to be obtained from a defendant who has previously submitted such a specimen *pursuant to section 3 of this act or* for conviction of a prior offense unless the court determines that an additional sample is necessary.

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a *gross* misdemeanor ~~and~~ *and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,500, or by both fine and imprisonment.*

Sec. 9. NRS 176.0915 is hereby amended to read as follows:

176.0915 1. If a biological specimen is obtained from a ~~defendant~~ *person* pursuant to NRS 176.0913 ~~and~~ *or section 3 of this act, and the person is convicted of the offense for which the biological specimen was obtained,* the court, in addition to any other penalty, shall order the ~~defendant,~~ *person,* to the extent of the ~~defendant's~~ *person's* financial ability, to pay the sum of \$150 as a fee for obtaining the specimen and for conducting the analysis to determine the genetic markers of the specimen. The fee:

(a) Must be stated separately in the judgment of the court or on the docket of the court;

(b) Must be collected from the ~~defendant~~ *person* before or at the same time that any fine imposed by the court is collected from the ~~defendant;~~ *person;* and

(c) Must not be deducted from any fine imposed by the court.



2. All money that is collected pursuant to subsection 1 must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

3. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for genetic marker testing. The county treasurer shall deposit money that is collected pursuant to subsection 2 in the fund for genetic marker testing. The money must be accounted for separately within the fund.

4. Each month, the county treasurer shall use the money deposited in the fund for genetic marker testing to pay for the actual amount charged to the county for obtaining a biological specimen from a ~~defendant~~ person pursuant to NRS 176.0913 ~~or~~ *section 3 of this act.*

5. The board of county commissioners of each county may apply for and accept grants, gifts, donations, bequests or devises which the board of county commissioners shall deposit with the county treasurer for credit to the fund for genetic marker testing.

6. If money remains in the fund after the county treasurer makes the payments required by subsection 4, the county treasurer shall pay the remaining money each month to the forensic laboratory that is designated by the county pursuant to NRS 176.0917 to conduct or oversee genetic marker testing for the county. A forensic laboratory that receives money pursuant to this subsection shall use the money to cover any expense related to genetic marker testing.

Sec. 10. NRS 176.0917 is hereby amended to read as follows:

176.0917 1. The board of county commissioners of each county shall designate a forensic laboratory to conduct or oversee for the county any genetic marker testing that is ~~ordered or arranged~~ *required* pursuant to NRS 176.0913 or 176.0916 ~~or~~ *section 3 of this act.*

2. The forensic laboratory designated by the board of county commissioners pursuant to subsection 1:

(a) Must be operated by this State or one of its political subdivisions; and

(b) Must satisfy or exceed the standards for quality assurance that are established by the Federal Bureau of Investigation for participation in CODIS.

Sec. 11. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the



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1 Reserve for Statutory Contingency Account upon approval by the
2 State Board of Examiners. In all other cases, they must be paid out
3 of the county treasury in the county wherein the crime is alleged to
4 have been committed. The expenses are:

5 (a) If the prisoner is returned to this State from another state, the
6 fees paid to the officers of the state on whose governor the
7 requisition is made;

8 (b) If the prisoner is returned to this State from a foreign country
9 or jurisdiction, the fees paid to the officers and agents of this State
10 or the United States; or

11 (c) If the prisoner is temporarily returned for prosecution to this
12 State from another state pursuant to this chapter or chapter 178 of
13 NRS and is then returned to the sending state upon completion of
14 the prosecution, the fees paid to the officers and agents of this State,
15 ➔ and the per diem allowance and travel expenses provided for state
16 officers and employees generally incurred in returning the prisoner.

17 2. If a person is returned to this State pursuant to this chapter or
18 chapter 178 of NRS and is convicted of, or pleads guilty, guilty but
19 mentally ill or nolo contendere to, the criminal charge for which the
20 person was returned or a lesser criminal charge, the court shall
21 conduct an investigation of the financial status of the person to
22 determine the ability to make restitution. In conducting the
23 investigation, the court shall determine if the person is able to pay
24 any existing obligations for:

25 (a) Child support;

26 (b) Restitution to victims of crimes; and

27 (c) Any administrative assessment required to be paid pursuant
28 to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062 ~~H~~ and
29 *section 2 of this act.*

30 3. If the court determines that the person is financially able to
31 pay the obligations described in subsection 2, it shall, in addition to
32 any other sentence it may impose, order the person to make
33 restitution for the expenses incurred by the Attorney General or
34 other governmental entity in returning the person to this State. The
35 court shall not order the person to make restitution if payment of
36 restitution will prevent the person from paying any existing
37 obligations described in subsection 2. Any amount of restitution
38 remaining unpaid constitutes a civil liability arising upon the date of
39 the completion of the sentence.

40 4. The Attorney General may adopt regulations to carry out the
41 provisions of this section.

42 **Sec. 12.** NRS 179A.075 is hereby amended to read as follows:

43 179A.075 1. The Central Repository for Nevada Records of
44 Criminal History is hereby created within the Records and
45 Technology Division of the Department.



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2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person ~~{who is convicted of an offense listed in subsection 4 of}~~ *from whom a biological specimen is obtained pursuant to NRS 176.0913 { } or section 3 of this act,* to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department, within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person ~~{who is convicted of an offense listed in subsection 4 of}~~ *from whom a biological specimen is obtained pursuant to NRS 176.0913 { } or section 3 of this act.*

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and



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(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 427A.735 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➔ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➔ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508,



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201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 427A.735, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The



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Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 13. NRS 179D.150 is hereby amended to read as follows:

179D.150 A record of registration must include, if the information is available:

1. Information identifying the offender or sex offender, including, but not limited to:

(a) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which he or she has been known;

(b) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

(c) The date of birth and the social security number of the offender or sex offender;

(d) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card;

(e) A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender pursuant to NRS 176.0913 **[§] or section 3 of this act;** and

(f) Any other information that identifies the offender or sex offender.



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2. Information concerning the residence of the offender or sex offender, including, but not limited to:

(a) The address at which the offender or sex offender resides;

(b) The length of time the offender or sex offender has resided at that address and the length of time the offender or sex offender expects to reside at that address;

(c) The address or location of any other place where the offender or sex offender expects to reside in the future and the length of time the offender or sex offender expects to reside there; and

(d) The length of time the offender or sex offender expects to remain in the county where the offender or sex offender resides and in this State.

3. Information concerning the offender's or sex offender's occupations, employment or work or expected occupations, employment or work, including, but not limited to, the name, address and type of business of all current and expected future employers of the offender or sex offender.

4. Information concerning the offender's or sex offender's volunteer service or expected volunteer service in connection with any activity or organization within this State, including, but not limited to, the name, address and type of each such activity or organization.

5. Information concerning the offender's or sex offender's enrollment or expected enrollment as a student in any public or private educational institution or school within this State, including, but not limited to, the name, address and type of each such educational institution or school.

6. Information concerning whether:

(a) The offender or sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of the offender or sex offender's enrollment at an institution of higher education; or

(b) The offender or sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of the offender or sex offender's work at an institution of higher education,

including, but not limited to, the name, address and type of each such institution of higher education.

7. The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender.

8. The level of registration and community notification of the offender or sex offender.

9. The criminal history of the offender or sex offender, including, without limitation:



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(a) The dates of all arrests and convictions of the offender or sex offender;

(b) The status of parole, probation or supervised release of the offender or sex offender;

(c) The status of the registration of the offender or sex offender; and

(d) The existence of any outstanding arrest warrants for the offender or sex offender.

10. The following information for each offense for which the offender or sex offender has been convicted:

(a) The court in which the offender or sex offender was convicted;

(b) The text of the provision of law defining each offense;

(c) The name under which the offender or sex offender was convicted;

(d) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender or sex offender was committed;

(e) The specific location where the offense was committed;

(f) The age, the gender, the race and a general physical description of the victim; and

(g) The method of operation that was used to commit the offense, including, but not limited to:

(1) Specific sexual acts committed against the victim;

(2) The method of obtaining access to the victim, such as the use of enticements, threats, forced entry or violence against the victim;

(3) The type of injuries inflicted on the victim;

(4) The types of instruments, weapons or objects used;

(5) The type of property taken; and

(6) Any other distinctive characteristic of the behavior or personality of the offender or sex offender.

11. Any other information required by federal law.

Sec. 14. NRS 179D.443 is hereby amended to read as follows:

179D.443 When an offender convicted of a crime against a child or a sex offender registers with a local law enforcement agency as required pursuant to NRS 179D.445, 179D.460 or 179D.480, or updates the registration as required pursuant to NRS 179D.447:

1. The offender or sex offender shall provide the local law enforcement agency with the following:

(a) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which the offender or sex offender has been known;

(b) The social security number of the offender or sex offender;



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(c) The address of any residence or location at which the offender or sex offender resides or will reside;

(d) The name and address of any place where the offender or sex offender is a worker or will be a worker;

(e) The name and address of any place where the offender or sex offender is a student or will be a student;

(f) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender; and

(g) Any other information required by federal law.

2. If the offender or sex offender has not previously provided a biological specimen pursuant to NRS 176.0913 or 176.0916, *or section 3 of this act*, the offender or sex offender shall provide a biological specimen to the local law enforcement agency. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender or sex offender resides, is present or is a worker or student to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. The local law enforcement agency shall ensure that the record of registration of the offender or sex offender includes, without limitation:

(a) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

(b) The text of the provision of law defining each offense for which the offender or sex offender is required to register;

(c) The criminal history of the offender or sex offender, including, without limitation:

(1) The dates of all arrests and convictions of the offender or sex offender;

(2) The status of parole, probation or supervised release of the offender or sex offender;

(3) The status of the registration of the offender or sex offender; and

(4) The existence of any outstanding arrest warrants for the offender or sex offender;

(d) A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender;

(e) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card; and

(f) Any other information required by federal law.



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Sec. 15. NRS 211.245 is hereby amended to read as follows:

211.245 1. If a prisoner fails to make a payment within 10 days after it is due, the district attorney for a county or the city attorney for an incorporated city may file a civil action in any court of competent jurisdiction within this State seeking recovery of:

(a) The amount of reimbursement due;

(b) Costs incurred in conducting an investigation of the financial status of the prisoner; and

(c) Attorney's fees and costs.

2. A civil action brought pursuant to this section must:

(a) Be instituted in the name of the county or city in which the jail, detention facility or alternative program is located;

(b) Indicate the date and place of sentencing, including, without limitation, the name of the court which imposed the sentence;

(c) Include the record of judgment of conviction, if available;

(d) Indicate the length of time served by the prisoner and, if the prisoner has been released, the date of his or her release; and

(e) Indicate the amount of reimbursement that the prisoner owes to the county or city.

3. The county or city treasurer of the county or incorporated city in which a prisoner is or was confined shall determine the amount of reimbursement that the prisoner owes to the city or county. The county or city treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action brought pursuant to this section. Such a statement is prima facie evidence of the amount due.

4. A court in a civil action brought pursuant to this section may award a money judgment in favor of the county or city in whose name the action was brought.

5. If necessary to prevent the disposition of the prisoner's property by the prisoner, or the prisoner's spouse or agent, a county or city may file a motion for a temporary restraining order. The court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing or in any way disposing of any property of the prisoner, real or personal, whether community or separate, except for necessary living expenses.

6. The payment, pursuant to a judicial order, of existing obligations for:

(a) Child support or alimony;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062, *and section 2 of this act*,



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1 ↪ has priority over the payment of a judgment entered pursuant to
2 this section.

3 **Sec. 16.** NRS 249.085 is hereby amended to read as follows:

4 249.085 On or before the 15th day of each month, the county
5 treasurer shall report to the State Controller the amount of the
6 administrative assessments paid by each justice court for the
7 preceding month pursuant to NRS 176.059 and 176.0613 ~~H~~ *and*
8 *section 2 of this act.*

9 **Sec. 17.** The amendatory provisions of this act apply to a
10 person arrested on or after July 1, 2012.

11 **Sec. 18.** 1. This section and sections 1, 2, 5, 6, 7, 11, 15 and
12 16 of this act become effective on July 1, 2011.

13 2. Sections 3, 4, 8, 9, 10, 12, 13, 14 and 17 of this act become
14 effective on July 1, 2012.

