

Amendment No. 571

Senate Amendment to Assembly Bill No. 196 First Reprint (BDR 14-557)

Proposed by: Senate Committee on Judiciary

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 196 (§§ 9, 12).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MNM/BAW



Date: 5/12/2011

A.B. No. 196—Revises provisions governing the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR 14-557)



ASSEMBLY BILL NO. 196—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION
ON THE ADMINISTRATION OF JUSTICE)

FEBRUARY 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the collection of fines, administrative assessments, ~~and~~ **and** fees ~~and restitution~~ owed by certain convicted persons. (BDR 14-557)

FISCAL NOTE: Effect on Local Government: No.
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 the State Controller; authorizing a county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning the responsibility of collecting fines, administrative assessments, ~~and~~ **and** fees ~~and restitution~~ from certain criminal defendants; making various changes relating to the collection of fines, administrative assessments, ~~and~~ **and** fees ~~and restitution~~ from certain criminal defendants; making various changes relating to debt collection between this State and the Federal Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a fine, administrative assessment, fee or restitution imposed upon a defendant is delinquent: (1) the defendant is liable for a collection fee; (2) the entity responsible for collecting the delinquent amount may report the delinquency to credit reporting agencies, may contract with a collection agency and may request that the court take appropriate action; and (3) the court may request that a prosecuting attorney undertake collection efforts, may order the suspension of the driver's license of the defendant and may, in the case of a delinquent fine or administrative assessment, order that the defendant be confined in the appropriate prison, jail or detention facility. (NRS 176.064)

Sections 7 and 11 of this bill require the district court to forward to the county treasurer the necessary information for the collection of the debt of a criminal defendant. If a county is unable to collect the debt, **sections 7, 11 and 14** of this bill authorize the county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning to the Office of the State Controller the responsibility for collecting the debt.

Under existing law, a judgment entered by the court ordering a defendant to pay a fine, administrative assessment or restitution constitutes a lien. (NRS 176.275) **Section 8** of this bill requires a district court judge to inform a defendant at the time of sentencing of the provisions of NRS 176.275, and that if the lien is not satisfied, collection efforts may be undertaken against the defendant.

Sections 9 and 12 of this bill require a defendant to pay costs and fees associated with the efforts to collect a debt.

Section 14 authorizes the Office of the State Controller to enter into a cooperative agreement with a governmental entity for the purpose of establishing the Office of the State Controller as the collection agent for the governmental entity.

Section 15 of this bill authorizes the State Controller or his or her designee to enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this act.

Sec. 7. 1. *If a fine, administrative assessment ~~or fee~~ ~~for restitution~~ is imposed pursuant to this chapter upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court entering the judgment of conviction shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fine, administrative assessment ~~or fee~~ ~~for restitution~~. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fine, administrative assessment ~~or fee~~ ~~for restitution~~.*

2. *If the county treasurer or other office assigned by the county to make collections is unable to collect the fine, administrative assessment ~~or fee~~ ~~for restitution~~ after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fine, administrative assessment ~~or fee~~ ~~for restitution~~ through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.*

3. *If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For the purposes of this section, the information necessary to collect the fine, administrative assessment ~~or fee~~ ~~for restitution~~ shall be considered and limited to:*

- (a) The name of the defendant;*
- (b) The date of birth of the defendant;*
- (c) The social security number of the defendant;*
- (d) The last known address of the defendant; and*
- (e) The nature and the amount of money owed by the defendant.*

4. *If the Office of the State Controller is successful in collecting the fine, administrative assessment ~~or fee~~ ~~for restitution~~, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fine, administrative assessment ~~or fee~~ ~~for restitution~~ pursuant to section 9 of this act.*

5. Any money collected pursuant to subsection 4 must be deposited in the State Treasury, pursuant to NRS 176.265.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fine, administrative assessment ~~or fee~~ ~~or fee for restitution~~ pursuant to this section ~~has~~ has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 8. If a district court imposes a fine, administrative assessment ~~or fee~~ ~~for restitution~~ upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court judge shall advise the defendant at the time of sentencing that:

1. The judgment constitutes a lien, pursuant to NRS 176.275; and

2. If the defendant does not satisfy the lien, collection efforts may be undertaken against the defendant pursuant to the laws of this State.

Sec. 9. 1. A defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill who owes a fine, administrative assessment ~~or fee~~ ~~or fee for restitution~~ pursuant to section 7 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fine, administrative assessment ~~or fee~~ ~~or fee for restitution~~:

(a) The costs and fees actually incurred in collecting the fine, administrative assessment ~~or fee~~ ~~or fee for restitution~~; and

(b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fine, administrative assessment ~~or fee~~ ~~or fee for restitution~~ assigned to the county treasurer or other office assigned by the county to make collections.

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fine, administrative assessment ~~or fee~~ ~~or fee for restitution~~ or \$50,000, whichever is less.

Sec. 10. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.

Sec. 11. 1. If a district court orders a defendant to pay for expenses incurred by the county or State in providing the defendant with an attorney pursuant to NRS 178.3975 or makes an execution on the property of the defendant pursuant to NRS 178.398, the district court entering the judgment shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fee. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fee.

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fee after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fee through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For purposes of this section, the information necessary to collect the fee shall be considered and limited to:

- (a) *The name of the defendant;*
- (b) *The date of birth of the defendant;*
- (c) *The social security number of the defendant;*
- (d) *The last known address of the defendant; and*
- (e) *The nature and the amount of money owed by the defendant.*

4. *If the Office of the State Controller is successful in collecting the fee, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fee.*

5. *Any money collected must be paid to the county or state public defender's office which bore the expense and which was not reimbursed by another governmental agency, pursuant to NRS 178.3975.*

6. *Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.*

7. *Unless otherwise prohibited by law, the entity responsible for collecting the fee pursuant to this section, has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.*

Sec. 12. 1. *A defendant who owes a fee pursuant to section 11 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections, the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fee:*

(a) *The costs and fees actually incurred in collecting the fee; and*

(b) *A fee payable to the county treasurer in the amount of 2 percent of the amount of the fee assigned to the county treasurer or other office assigned by the county to make collections.*

2. *The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fee or \$50,000, whichever is less.*

Sec. 13. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. *The Office of the State Controller may act as the collection agent for any governmental entity pursuant to a cooperative agreement entered into between the Office of the State Controller and the governmental entity.*

Sec. 15. *The State Controller or his or her designee may enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness, pursuant to which the State will offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to the departments, agencies or institutions of this State, non tax related debt owed to the Federal Government, and the Federal Government will offset from federal payments to vendors and taxpayers debt owed to the State of Nevada.*

Sec. 16. This act becomes effective on July 1, 2011.