

ASSEMBLY BILL NO. 415—COMMITTEE ON JUDICIARY

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to criminal justice. (BDR 15-804)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 criminal justice; revising provisions governing the crime of burglary; revising provisions governing the crime of vagrancy; authorizing the Advisory Commission on the Administration of Justice to apply for and accept certain money; requiring the Commission to study and report on certain issues; authorizing each county to establish a community court pilot project to provide an alternative to sentencing a person who is charged with a misdemeanor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who enters certain structures with the intent to commit grand or petit larceny, assault or battery, any felony or to obtain money by false pretenses is guilty of the crime of burglary. (NRS 205.060) Existing law also provides that a person commits the crime of petit larceny if the person intentionally steals, takes and carries, leads or drives away certain goods or property. (NRS 205.240) **Section 1** of this bill removes the crime of petit larceny from the underlying offenses which constitute burglary if the petit larceny was intended to be committed in a commercial establishment during business hours and the person has not: (1) twice previously been convicted of petit larceny within the previous 7 years; or (2) previously been convicted of a felony.

Existing law prohibits a person from lodging in any building, structure or place without certain permission. (NRS 207.030) **Section 1.5** of this bill further prohibits a person from lodging in such a place if the property is the subject of a notice of default and election to sell or is placed on a registry of vacant, abandoned or foreclosed property, unless the person is the owner, tenant or otherwise entitled to possession of the property.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the



elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) **Section 3** of this bill authorizes the Chair of the Commission to apply for grants and accept grants, bequests, devises, donations and gifts. **Section 8** of this bill requires the Commission to include certain items relating to criminal justice on an agenda for discussion and to issue a report.

Existing law provides that a misdemeanor is punishable by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or by both a fine and imprisonment. (NRS 193.150) **Section 10** of this bill authorizes each county to establish a community court pilot project within any of its justice courts located in the county to provide an alternative to sentencing a person who is charged with a misdemeanor. **Section 11** of this bill requires the community court to evaluate each defendant to determine whether services or treatment is likely to assist the defendant to modify behavior or obtain skills that may prevent the defendant from engaging in further criminal activity. The services or treatment that the community court may order the defendant to receive may include, without limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or any other services or treatment that the community court deems appropriate. **Section 11** provides that if the defendant successfully completes all conditions imposed by the community court, the sentence to which the defendant agreed upon with the justice court must not be executed or recorded. If the defendant does not successfully complete the conditions imposed, the case will be transferred back to the justice court, and the sentence must be carried out.

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

Section 1. NRS 205.060 is hereby amended to read as follows:

205.060 1. ~~1A~~ *Except as otherwise provided in subsection 5, a* person who, by day or night, enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary.

2. Except as otherwise provided in this section, a person convicted of burglary is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence.

3. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with



1 reasonable certainty be ascertained in what county the crime was
2 committed, the offender may be arrested and tried in any county
3 through which the vessel, vehicle, vehicle trailer, semitrailer, house
4 trailer, airplane, glider, boat or railroad car traveled during the time
5 the burglary was committed.

6 4. A person convicted of burglary who has in his or her
7 possession or gains possession of any firearm or deadly weapon at
8 any time during the commission of the crime, at any time before
9 leaving the structure or upon leaving the structure, is guilty of a
10 category B felony and shall be punished by imprisonment in the
11 state prison for a minimum term of not less than 2 years and a
12 maximum term of not more than 15 years, and may be further
13 punished by a fine of not more than \$10,000.

14 *5. The crime of burglary does not include the act of entering*
15 *a commercial establishment during business hours with the intent*
16 *to commit petit larceny unless the person has previously been*
17 *convicted:*

18 *(a) Two or more times for committing petit larceny within the*
19 *immediately preceding 7 years; or*

20 *(b) Of a felony.*

21 **Sec. 1.5.** NRS 207.030 is hereby amended to read as follows:

22 207.030 1. It is unlawful to:

23 (a) Offer or agree to engage in or engage in lewd or dissolute
24 conduct in any public place or in any place open to the public or
25 exposed to public view;

26 (b) Offer or agree to engage in, engage in or aid and abet any act
27 of prostitution;

28 (c) Be a pimp, panderer or procurer or live in or about houses of
29 prostitution;

30 (d) Seek admission to a house upon frivolous pretexts for no
31 other apparent motive than to see who may be therein, or to gain an
32 insight of the premises;

33 (e) Keep a place where lost or stolen property is concealed;

34 (f) Loiter in or about any toilet open to the public for the
35 purpose of engaging in or soliciting any lewd or lascivious or any
36 unlawful act; *or*

37 (g) Lodge in any building, structure or place, whether public or
38 private ~~without~~ :

39 *(1) Where a notice of default and election to sell has been*
40 *recorded, unless the person is the owner, tenant or entitled to the*
41 *possession or control thereof;*

42 *(2) Which has been placed on a registry of vacant,*
43 *abandoned or foreclosed property by a local government, unless*
44 *the person is the owner, tenant or entitled to the possession or*
45 *control thereof; or*



1 **(3) Without** the permission of the owner or person entitled to
2 the possession or in control thereof.

3 2. A person who violates a provision of subsection 1 shall be
4 punished:

5 (a) For the first violation of paragraph (a), (b) or (c) of
6 subsection 1 and for each subsequent violation of the same
7 paragraph occurring more than 3 years after the first violation, for a
8 misdemeanor.

9 (b) For the second violation of paragraph (a), (b) or (c) of
10 subsection 1 within 3 years after the first violation of the same
11 paragraph, by imprisonment in the county jail for not less than 30
12 days nor more than 6 months and by a fine of not less than \$250 nor
13 more than \$1,000.

14 (c) For the third or subsequent violation of paragraph (a), (b) or
15 (c) of subsection 1 within 3 years after the first violation of the same
16 paragraph, by imprisonment in the county jail for 6 months and by a
17 fine of not less than \$250 nor more than \$1,000.

18 (d) For a violation of any provision of paragraphs (d) to (g),
19 inclusive, of subsection 1, for a misdemeanor.

20 3. The terms of imprisonment prescribed by subsection 2 must
21 be imposed to run consecutively.

22 4. A local government may enact an ordinance which regulates
23 the time, place or manner in which a person or group of persons
24 may beg or solicit alms in a public place or place open to the public.

25 **Sec. 2.** (Deleted by amendment.)

26 **Sec. 3.** Chapter 176 of NRS is hereby amended by adding
27 thereto a new section to read as follows:

28 **1. The Chair of the Commission may apply for and accept**
29 **any available grants and may accept any bequests, devises,**
30 **donations or gifts from any public or private source to carry out**
31 **the provisions of this section and NRS 176.0121 to 176.0129,**
32 **inclusive.**

33 **2. Any money received pursuant to this section must be**
34 **deposited in the Special Account for the Support of the Advisory**
35 **Commission on the Administration of Justice, which is hereby**
36 **created in the State General Fund. Interest and income earned on**
37 **money in the Account must be credited to the Account. Money in**
38 **the Account may only be used for the support of the Commission**
39 **and its activities pursuant to this section and NRS 176.0121 to**
40 **176.0129, inclusive.**

41 **Sec. 4.** NRS 176.0121 is hereby amended to read as follows:

42 176.0121 As used in NRS 176.0121 to 176.0129, inclusive,
43 **and section 3 of this act,** "Commission" means the Advisory
44 Commission on the Administration of Justice.

45 **Sec. 5.** (Deleted by amendment.)



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Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123, shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues:

(a) A review of sentencing for all criminal offenses for which a term of imprisonment of more than 1 year may be imposed.

(b) An evaluation of the current system of parole, including a review of whether the current system should be maintained, amended or abolished.

(c) An evaluation of potential legislation relating to offenders for whom traditional imprisonment is not considered appropriate. In evaluating such potential legislation, the Commission shall consider current practices governing sentencing and release from imprisonment and correctional resources, including, without limitation, the capacities of local and state correctional facilities and institutions.

2. Upon review of the issues pursuant to subsection 1, the Commission shall prepare a comprehensive report including the Commission's recommended changes, the Commission's findings and any recommendations for proposed legislation. The report must be submitted to the Chair of the Senate Standing Committee on Judiciary and the Chair of the Assembly Standing Committee on Judiciary not later than June 1, 2014.

Sec. 9. As used in sections 10 and 11 of this act, "community court" means the community court that is established as part of a pilot project pursuant to section 10 of this act.

Sec. 10. 1. Each county may establish a community court pilot project within any of the justice courts located in the county to provide an alternative to sentencing a person who is charged with a misdemeanor.

2. Notwithstanding any other provision of law, a defendant charged with a misdemeanor may be transferred to the community court by the justice court if the defendant:

(a) Pleads guilty to the offense;

(b) Has not previously been referred to the community court;

(c) Agrees to comply with the conditions imposed by the community court; and

(d) Agrees to a sentence, including, without limitation, a period of imprisonment in the county jail, which must be carried out if the defendant does not successfully complete the conditions imposed by the community court.

3. When a defendant is transferred to the community court, sentencing must be postponed and, if the defendant successfully



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1 completes all conditions imposed by the community court, the
2 sentence of the defendant must not be executed or appear on the
3 record of the defendant. If the defendant does not successfully
4 complete all conditions imposed by the community court, the
5 sentence must be carried out.

6 4. A defendant who is transferred to the community court
7 remains under the supervision of the community court and must
8 comply with the conditions established by the community court.

9 5. Each county may collaborate with state and local
10 governmental entities as well as private persons and entities to
11 coordinate and determine the services and treatment that may be
12 offered to defendants who are transferred to the community court.

13 6. A defendant does not have a right to be referred to the
14 community court pursuant to this section. It is not intended that the
15 establishment or operation of the community court creates any right
16 or interest in liberty or property or establishes a basis for any cause
17 of action against the State of Nevada, its political subdivisions,
18 agencies, boards, commissions, departments, officers or employees.
19 The decision by the justice court of whether to refer a defendant to
20 the community court is not subject to appeal.

21 **Sec. 11.** 1. The community court shall provide for the
22 evaluation of each defendant transferred to the community court to
23 determine whether services or treatment is likely to assist the
24 defendant to modify his or her behavior or obtain skills which may
25 prevent the defendant from engaging in further criminal activity.
26 Such services or treatment may include, without limitation,
27 treatment for alcohol or substance abuse, health education, treatment
28 for mental health, family counseling, literacy assistance, job
29 training, housing assistance or such other services or treatment as
30 the community court deems appropriate.

31 2. The community court shall provide or refer a defendant to a
32 provider of such services or treatment. The community court may
33 enter into contracts with persons or private entities that are qualified
34 to evaluate defendants and provide services or treatment to
35 defendants.

36 3. A defendant who is ordered by the community court to
37 receive services or treatment shall pay for the services or treatment
38 to the extent of his or her financial resources.

39 4. The justice court shall not refuse to refer a defendant to the
40 community court based on the inability of the defendant to pay any
41 or all of the related costs.

42 5. The community court shall order a defendant to perform a
43 specified amount of community service in addition to any services
44 or treatment to which the defendant is ordered to receive. Such
45 community service must be performed for and under the supervising



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1 authority of a county, city, town or other political subdivision or
2 agency of the State of Nevada or a charitable organization that
3 renders service to the community or its residents.
4 6. Notwithstanding any other provision of law, if a defendant
5 successfully completes the conditions imposed by the community
6 court, the community court shall so certify to the justice court, and
7 the sentence imposed pursuant to section 10 of this act must not be
8 executed or recorded. If the defendant does not successfully
9 complete the conditions imposed by the community court, the case
10 must be transferred back to the justice court, and the sentence must
11 be carried out.

