

ASSEMBLY BILL NO. 512—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COUNSEL)

JUNE 2, 2013

Referred to Committee on Judiciary

SUMMARY—Makes technical corrections to measures passed by the 77th Legislative Session. (BDR S-1249)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to statutes; making technical corrections to certain measures passed by the 77th Legislative Session; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes technical corrections to certain legislative measures which were previously passed this session. Senate Bill No. 134 of this session authorizes a person to apply to the State Engineer for a temporary permit to appropriate groundwater to water livestock if the point of diversion is within a county under a declaration of drought, or within a county contiguous to a county under such a declaration. Senate Bill No. 134 further exempts an application for such a permit from certain requirements in existing law that generally govern applications for permits concerning water rights. All of those provisions are presently scheduled to become effective on October 1, 2013. **Section 1** of this bill amends Senate Bill No. 134 to make those provisions effective upon the passage and approval of that bill. The new language added to the bill is identified with blue underlining.

The remaining provisions of this bill resolve conflicts between certain other measures which were passed this session. Senate Bill No. 199 and Senate Bill No. 220 prohibit persons from practicing certain health care professions without a license. **Section 2** of this bill amends Senate Bill No. 220 to resolve a potential conflict between the penalty provisions of that bill and Senate Bill No. 199 by adding an exception in the penalty provisions of Senate Bill No. 220 for any greater penalty that may be imposed for the same offense pursuant to the penalty provisions of Senate Bill No. 199. The new language added to the bill is identified with blue underlining.

Senate Bill No. 224 and Senate Bill No. 243 of this session: (1) provide, respectively, for the collection from persons convicted of certain criminal offenses of a fee for specialty courts and an additional administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis; and



* A B 5 1 2 *

(2) specify the manner in which any payment made by a defendant in such a case is to be apportioned. **Sections 3-5** of this bill amend Senate Bill No. 224 to resolve a conflict between the provisions of that bill and those of Senate Bill No. 243 by conforming the provisions governing the apportionment of such a payment. The new language added to the bill is identified with blue underlining.

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

Section 1. Senate Bill No. 134 of this session is hereby amended by adding thereto a new section, to be designated as section 10, immediately following section 9, to read as follows:

Sec. 10. 1. This section and sections 1 to 5.5, inclusive, of this act become effective upon passage and approval.

2. Sections 6 to 9, inclusive, of this act become effective on October 1, 2013.

Sec. 2. Section 6 of Senate Bill No. 220 of this session is hereby amended to read as follows:

Sec. 6. NRS 630.400 is hereby amended to read as follows:

630.400 ~~{A}~~

1. It is unlawful for any person ~~{who}~~ to:

~~{1. Presents}~~

(a) Present to the Board as his or her own the diploma, license or credentials of another;

~~{2. Gives}~~

(b) Give either false or forged evidence of any kind to the Board;

~~{3. Practices}~~

(c) Practice medicine, perfusion or respiratory care under a false or assumed name or falsely ~~{personates}~~ *personate* another licensee;

~~{4.}~~ *(d) Except* as otherwise provided by a specific statute, ~~{practices}~~ *practice* medicine, perfusion or respiratory care without being licensed under this chapter;

~~{5. Holds}~~

(e) Hold himself or herself out as a perfusionist or ~~{uses}~~ *use* any other term indicating or implying that he or she is a perfusionist without being licensed by the Board;

~~{6. Holds}~~

(f) Hold himself or herself out as a physician assistant or ~~{uses}~~ *use* any other term indicating or implying that he or she is a physician assistant without being licensed by the Board; or



~~{7. Holds}~~
(g) *Hold* himself or herself out as a practitioner of respiratory care or ~~{uses}~~ *use* any other term indicating or implying that he or she is a practitioner of respiratory care without being licensed by the Board. ~~{~~

~~{~~
2. Unless a greater penalty is provided pursuant to section 5 or 6 of Senate Bill No. 199 of this session, a person who violates any provision of subsection 1:

(a) *If no substantial bodily harm results*, is guilty of a category D felony ; or

(b) *If substantial bodily harm results*, is guilty of a category C felony,

↪ and shall be punished as provided in NRS 193.130.

3. *In addition to any other penalty prescribed by law, if the Board determines that a person has committed any act described in subsection 1, the Board may:*

(a) *Issue and serve on the person an order to cease and desist until the person obtains from the Board the proper license or otherwise demonstrates that he or she is no longer in violation of subsection 1. An order to cease and desist must include a telephone number with which the person may contact the Board.*

(b) *Issue a citation to the person. A citation issued pursuant to this paragraph must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this paragraph. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.*

(c) *Assess against the person an administrative fine of not more than \$5,000.*

(d) *Impose any combination of the penalties set forth in paragraphs (a), (b) and (c).*

Sec. 3. Section 1 of Senate Bill No. 224 of this session is hereby amended to read as follows:

Section 1. Chapter 484C of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this section, if a defendant who is charged with a violation of NRS 484C.110 or 484C.120 that is punishable as a misdemeanor pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400 pleads guilty, guilty but mentally ill or nolo contendere to,*



1 *or is found guilty or guilty but mentally ill of, that charge,*
2 *the justice or judge shall include in the sentence, in addition*
3 *to any other penalty or administrative assessment provided*
4 *by law, a fee of \$100 for the provision of specialty court*
5 *programs and render a judgment against the defendant for*
6 *the fee. If a defendant is sentenced to perform community*
7 *service in lieu of a fine, the sentence must include the fee*
8 *required pursuant to this subsection.*

9 2. *If the fee pursuant to subsection 1:*

10 (a) *Is not within the defendant's present ability to pay,*
11 *the justice or judge may include in the sentence, in addition*
12 *to any other penalty or administrative assessment provided*
13 *by law, community service for a reasonable number of*
14 *hours, the value of which would be commensurate with the*
15 *fee.*

16 (b) *Is not entirely within the defendant's present ability*
17 *to pay, the justice or judge may include in the sentence, in*
18 *addition to any other penalty or administrative assessment*
19 *provided by law, a reduced fee and community service for a*
20 *reasonable number of hours, the value of which would be*
21 *commensurate with the amount of the reduction of the fee.*

22 3. *The money collected for the specialty courts fee must*
23 *not be deducted from any fine imposed by the justice or*
24 *judge but must be collected from the defendant in addition*
25 *to the fine. The money collected for such a fee must be*
26 *stated separately on the court's docket. If the justice or*
27 *judge cancels a fine because the fine has been determined*
28 *to be uncollectible, any balance of the fine and the specialty*
29 *courts fee remaining unpaid shall be deemed to be*
30 *uncollectible and the defendant is not required to pay them.*
31 *If a fine is determined to be uncollectible, the defendant is*
32 *not entitled to a refund of any amount of the fine or fee that*
33 *the defendant has paid.*

34 4. *A justice or judge shall, if requested by a defendant,*
35 *allow a specialty courts fee to be paid in installments under*
36 *terms established by the justice or judge.*

37 5. *Any payments made by a defendant must be applied*
38 *in the following order:*

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

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



* A B 5 1 2 *

(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 obtaining a biological specimen and conducting a genetic marker analysis pursuant to section 15 of Senate Bill No. 243 of this session;*

(e) *To pay the unpaid balance of the specialty courts fee pursuant to this section; and*

(f) *To pay the fine.*

6. *The money collected for a specialty courts fee pursuant to this section in municipal court 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. On or before the 15th day of that month, the city treasurer shall deposit the money received for each specialty courts fee with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.*

7. *The money collected for a specialty courts fee pursuant to this section 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. On or before the 15th day of that month, the county treasurer shall deposit the money received for each specialty courts fee with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.*

8. *Money that is apportioned to a court from specialty courts fees pursuant to this section must be used by the court to:*

(a) *Pay for any level of treatment, including, without limitation, psychiatric care, required for successful completion and testing of persons who participate in the program; and*

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

(1) *Acquiring necessary capital goods;*

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

(3) *Providing training and education to personnel;*

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

(5) *Conducting audits of the program;*



(6) Providing for district attorney and public defender representation;

(7) Acquiring or using appropriate technology;

(8) Providing capital for building facilities necessary to house persons who participate in the program;

(9) Providing funding for employment programs for persons who participate in the program; and

(10) Providing funding for statewide public information campaigns necessary to deter driving under the influence of intoxicating liquor or a controlled substance.

9. The Office of Court Administrator may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source for the provision of specialty court programs pursuant to this section.

10. A court that provides a specialty court program shall, as required by the Office of Court Administrator, submit a report to the Office of Court Administrator concerning the program. The report must include:

(a) Demographic and statistical information concerning the participants in the program, including, without limitation, the age, gender, race and ethnicity of the participants;

(b) Statistical information concerning the operation of the program, including, without limitation, the number of participants in the program, the nature of the criminal charges that were filed against participants, the number of participants who have completed the program and the rate of recidivism among participants; and

(c) Any other information required by the Office of Court Administrator.

↪ On or before January 1 of each odd-numbered year, the Office of Court Administrator shall submit a copy of the report to the Director of the Legislative Counsel Bureau.

11. As used in this section:

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

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



1 **Sec. 4.** Section 2 of Senate Bill No. 224 of this session is
2 hereby amended to read as follows:

3 Sec. 2. NRS 176.0611 is hereby amended to read as
4 follows:

5 176.0611 1. A county or a city, upon recommendation
6 of the appropriate court, may, by ordinance, authorize the
7 justices or judges of the justice or municipal courts within its
8 jurisdiction to impose for not longer than 50 years, in addition
9 to the administrative assessments imposed pursuant to NRS
10 176.059 and 176.0613, an administrative assessment for the
11 provision of court facilities.

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

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

26 (a) An ordinance regulating metered parking; or

27 (b) An ordinance that is specifically designated as
28 imposing a civil penalty or liability pursuant to NRS
29 244.3575 or 268.019.

30 4. The money collected for an administrative assessment
31 for the provision of court facilities must not be deducted from
32 the fine imposed by the justice or judge but must be taxed
33 against the defendant in addition to the fine. The money
34 collected for such an administrative assessment must be
35 stated separately on the court's docket and must be included
36 in the amount posted for bail. If bail is forfeited, the
37 administrative assessment included in the amount posted for
38 bail pursuant to this subsection must be disbursed in the
39 manner set forth in subsection 6 or 7. If the defendant is
40 found not guilty or the charges are dismissed, the money
41 deposited with the court must be returned to the defendant. If
42 the justice or judge cancels a fine because the fine has been
43 determined to be uncollectible, any balance of the fine and
44 the administrative assessment remaining unpaid shall be
45 deemed to be uncollectible and the defendant is not required



1 to pay it. If a fine is determined to be uncollectible, the
2 defendant is not entitled to a refund of the fine or
3 administrative assessment the defendant has paid and the
4 justice or judge shall not recalculate the administrative
5 assessment.

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

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

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

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

18 (d) To pay the unpaid balance of an administrative
19 assessment for obtaining a biological specimen and
20 conducting a genetic marker analysis pursuant to section 15
21 of Senate Bill No. 243 of this session: ~~and~~

22 (e) *To pay the unpaid balance of the specialty courts fee*
23 *pursuant to section 1 of this act; and*

24 (f) To pay the fine.

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

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

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

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

40 (d) Acquire furniture, fixtures and equipment necessitated
41 by the construction or acquisition of additional facilities or
42 the renovation of an existing facility for the municipal courts
43 or a regional justice center that includes the municipal courts.

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

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

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

(c) Renovate or remodel existing facilities for the justice 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 justice courts or a regional justice center that includes the justice 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



justice courts or a regional justice center that includes the justice courts.

↪ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county 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 county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

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

Sec. 5. Section 3 of Senate Bill No. 224 of this session is hereby amended to read as follows:

Sec. 3. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

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

- (a) An ordinance regulating metered parking; or
- (b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.



* A B 5 1 2 *

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

21 5. If the justice or judge permits the fine and
22 administrative assessment for the provision of specialty court
23 programs to be paid in installments, the payments must be
24 applied in the following order:

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

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

30 (c) To pay the unpaid balance of an administrative
31 assessment for the provision of specialty court programs;

32 (d) To pay the unpaid balance of an administrative
33 assessment for obtaining a biological specimen and
34 conducting a genetic marker analysis pursuant to section 15
35 of Senate Bill No. 243 of this session; ~~and~~

36 (e) *To pay the unpaid balance of the specialty courts fee*
37 *pursuant to section 1 of this act; and*

38 (f) To pay the fine.

39 6. The money collected for an administrative assessment
40 for the provision of specialty court programs in municipal
41 court must be paid by the clerk of the court to the city
42 treasurer on or before the fifth day of each month for the
43 preceding month. On or before the 15th day of that month,
44 the city treasurer shall deposit the money received for each
45 administrative assessment with the State Controller for credit



1 to a special account in the State General Fund administered
2 by the Office of Court Administrator.

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

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

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

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

21 (b) Improve the operations of the specialty court program
22 by any combination of:

23 (1) Acquiring necessary capital goods;

24 (2) Providing for personnel to staff and oversee the
25 specialty court program;

26 (3) Providing training and education to personnel;

27 (4) Studying the management and operation of the
28 program;

29 (5) Conducting audits of the program;

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

32 (7) Acquiring or using appropriate technology.

33 10. As used in this section:

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

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

43 **Sec. 6.** This act becomes effective upon passage and approval.

