

Amendment No. 66

Assembly Amendment to Assembly Bill No. 84 (BDR 14-124)

Proposed by: Assembly Committee on Judiciary

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

Adoption of this amendment will MAINTAIN the unfunded mandate requested by the affected local government to A.B. 84 (§ 1).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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: 4/3/2013

A.B. No. 84—Requires certain district courts to establish an appropriate program for the treatment of certain offenders who are veterans or members of the military. (BDR 14-124)



ASSEMBLY BILL NO. 84—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Requires certain district courts to establish an appropriate program for the treatment of certain offenders who are veterans or members of the military. (BDR 14-124)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 procedure; requiring certain district courts to establish an appropriate program for the treatment of certain offenders who are veterans or members of the military ~~if~~ **if funds are available for the establishment of such a program; requiring a district court to consider the facts and circumstances surrounding the offense committed by an offender eligible for such a program in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a district court may establish an appropriate program for the treatment of certain offenders who are veterans and members of the military. (NRS 176A.280) ~~Under~~ **Section 1 of this bill** requires **, to the extent that funds are available,** a district court in a county whose population is 700,000 or more (currently Clark County) to establish such a program. A district court in a county whose population is less than 700,000 (currently all counties other than Clark County) retains the option to establish such a program.

Existing law authorizes a district court to place certain offenders who are veterans or members of the military on probation upon terms and conditions that must include attendance and successful completion of such a program. However, the court may not assign an offender to such a program without the prosecuting attorney stipulating to the assignment if: (1) the offense committed by the offender involved the use or threatened use of force or violence; or (2) the offender was previously convicted of a felony that involved the use or threatened use of force or violence. (NRS 176A.290) Section 1.5 of this bill provides that in determining whether an offense involved the use or threatened use of force or violence, the court must consider the facts and circumstances surrounding the offense, including, without limitation, whether the offender intended to place another person in reasonable apprehension of bodily harm.

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

Section 1. NRS 176A.280 is hereby amended to read as follows:

176A.280 ~~1A~~

1. *In a county whose population is 700,000 or more, a court ~~may~~ shall, to the extent that funds are available,* establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 176A.290.

2. *In a county whose population is less than 700,000, a court may establish a program described in subsection 1.*

3. The assignment of a defendant to a program established pursuant to this section must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 1.5. NRS 176A.290 is hereby amended to read as follows:

176A.290 1. Except as otherwise provided in subsection 2, if a defendant who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as described in NRS 176A.285 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment. *For the purposes of this subsection, in determining whether an offense involved the use or threatened use of force or violence, the court shall consider the facts and circumstances surrounding the offense, including, without limitation, whether the defendant intended to place another person in reasonable apprehension of bodily harm.*

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of

1 perjury or otherwise giving a false statement by reason of failure to recite or
2 acknowledge that arrest, indictment, information or trial in response to an inquiry
3 made of the defendant for any purpose.

4 **Sec. 2.** The provisions of NRS 354.599 do not apply to any additional
5 expenses of a local government that are related to the provisions of this act.

6 **Sec. 3.** This act becomes effective on January 1, 2014.