

Amendment No. 218

Senate Amendment to Senate Bill No. 224(BDR 43-668)

Proposed by: Senate Committee on Judiciary

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 224 (§ 1).

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.

NCA/BAW



Date: 4/15/2013

S.B. No. 224—Revises provisions governing driving under the influence.
 (BDR 43-668)



SENATE BILL NO. 224—SENATORS CEGAVSKE;
HARDY AND MANENDO

MARCH 7, 2013

JOINT SPONSOR: ASSEMBLYWOMAN DONDERO LOOP

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing driving under the influence.
(BDR 43-668)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 driving under the influence; providing for the imposition and collection of a fee for the provision of specialty court programs following a conviction for a misdemeanor offense of driving a vehicle under the influence or a lesser included offense; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires a court to impose a fee of \$500, in addition to any other administrative assessment, penalty or fine imposed, if a person pleads guilty, guilty but mentally ill or nolo contendere to, or is found guilty of, a charge of driving under the influence of intoxicating liquor or a controlled substance that is punishable as a misdemeanor or a lesser included offense. If the fee of \$500 is not within a defendant's present ability to pay, the justice or judge may impose the equivalent community service to be performed. Under this bill, the money collected for this fee is deposited with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator and money apportioned to a court from this fee must be used by the court for certain purposes related to specialty court programs.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT 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, or is found guilty or

1 guilty but mentally ill of, that charge or a lesser included offense, including,
2 without limitation, a traffic violation, arising from the same traffic episode, the
3 justice or judge shall include in the sentence, in addition to any other penalty or
4 administrative assessment provided by law, a fee of \$500 for the provision of
5 specialty court programs and render a judgment against the defendant for the
6 fee. If a defendant is sentenced to perform community service in lieu of a fine,
7 the sentence must include the fee required pursuant to this subsection.

8 2. If the fee pursuant to subsection 1:

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

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

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

27 ~~13.4~~ 4. A justice or judge shall, if requested by a defendant, allow a specialty
28 courts fee to be paid in installments under terms established by the justice or
29 judge.

30 ~~14.4~~ 5. Any payments made by a defendant must be applied in the following
31 order:

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

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

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

38 (d) To pay the unpaid balance of the specialty courts fee pursuant to this
39 section; and

40 (e) To pay the fine.

41 ~~15.4~~ 6. The money collected for a specialty courts fee pursuant to this
42 section in municipal court must be paid by the clerk of the court to the city
43 treasurer on or before the fifth day of each month for the preceding month. On or
44 before the 15th day of that month, the city treasurer shall deposit the money
45 received for each specialty courts fee with the State Controller for credit to a
46 special account in the State General Fund administered by the Office of Court
47 Administrator.

48 ~~16.4~~ 7. The money collected for a specialty courts fee pursuant to this
49 section in justice courts must be paid by the clerk of the court to the county
50 treasurer on or before the fifth day of each month for the preceding month. On or
51 before the 15th day of that month, the county treasurer shall deposit the money
52 received for each specialty courts fee with the State Controller for credit to a

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

3 ~~77~~ 8. *Money that is apportioned to a court from specialty courts fees*
4 *pursuant to this section must be used by the court to:*

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

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

10 *(1) Acquiring necessary capital goods;*

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

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

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

15 *(5) Conducting audits of the program;*

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

17 *(7) Acquiring or using appropriate technology;*

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

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

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

25 ~~88~~ 9. *As used in this section:*

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

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

33 *(c) "Traffic violation" means conviction of a moving traffic violation in any*
34 *municipal court or justice court in this State.*

35 **Sec. 2.** NRS 176.0611 is hereby amended to read as follows:

36 176.0611 1. A county or a city, upon recommendation of the appropriate
37 court, may, by ordinance, authorize the justices or judges of the justice or municipal
38 courts within its jurisdiction to impose for not longer than 50 years, in addition to
39 the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an
40 administrative assessment for the provision of court facilities.

41 2. Except as otherwise provided in subsection 3, in any jurisdiction in which
42 an administrative assessment for the provision of court facilities has been
43 authorized, when a defendant pleads guilty or guilty but mentally ill or is found
44 guilty or guilty but mentally ill of a misdemeanor, including the violation of any
45 municipal ordinance, the justice or judge shall include in the sentence the sum of
46 \$10 as an administrative assessment for the provision of court facilities and render a
47 judgment against the defendant for the assessment. If the justice or judge sentences
48 the defendant to perform community service in lieu of a fine, the justice or judge
49 shall include in the sentence the administrative assessment required pursuant to this
50 subsection.

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

52 (a) An ordinance regulating metered parking; or

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

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

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

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

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

(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 the specialty courts fee pursuant to section 1 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

1 construction or acquisition of court facilities or improvements to court facilities.
2 The city treasurer shall provide, upon request by a municipal court, monthly reports
3 of the revenue credited to and expenditures made from the special revenue fund.

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

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

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

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

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

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

21 (f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS
22 350.020 for the acquisition of land or facilities or the construction or renovation of
23 facilities for the justice courts or a regional justice center that includes the justice
24 courts.

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

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

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

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

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

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

51 (a) An ordinance regulating metered parking; or

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

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

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

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

(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; ~~and~~

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

(e) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs 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 administrative assessment 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 an administrative assessment for the provision of specialty court programs 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 administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

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

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

(a) Pay for the treatment 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;

- 1 (3) Providing training and education to personnel;
- 2 (4) Studying the management and operation of the program;
- 3 (5) Conducting audits of the program;
- 4 (6) Supplementing the funds used to pay for judges to oversee a specialty
- 5 court program; or
- 6 (7) Acquiring or using appropriate technology.

7 10. As used in this section:

8 (a) "Office of Court Administrator" means the Office of Court Administrator

9 created pursuant to NRS 1.320; and

10 (b) "Specialty court program" means a program established by a court to

11 facilitate testing, treatment and oversight of certain persons over whom the court

12 has jurisdiction and who the court has determined suffer from a mental illness or

13 abuses alcohol or drugs. Such a program includes, without limitation, a program

14 established pursuant to NRS 176A.250, 176A.280 or 453.580.

15 **Sec. 4.** This act becomes effective on July 1, 2013.