

Amendment No. 879

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

Proposed by: Assemblyman Frierson

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 R2 (§ 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.

WBD/BAW



Date: 5/24/2013

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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires a court to impose a fee of ~~1500~~ 100, 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. If the fee of ~~1500~~ 100 is not within a defendant's present ability to pay, the justice or judge may require 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. This bill allows the Office of Court Administrator to accept money from gifts, grants and other sources to apportion to courts that provide specialty court programs for those same purposes. This bill also requires a court that provides a specialty court program to submit reports concerning the program to the Office of Court Administrator.

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 guilty but mentally ill of, that charge, the justice or judge shall include in the sentence, in addition to any other penalty or administrative assessment provided by law, a fee of ~~1500~~ \$100 for the provision of specialty court programs and render a judgment against the defendant for the fee. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the fee required pursuant to this subsection.

2. If the fee pursuant to subsection 1:

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

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

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

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

5. Any payments made by a defendant 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 pursuant to NRS 176.0613;

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

(e) 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

1 *specialty courts fee with the State Controller for credit to a special account in the*
2 *State General Fund administered by the Office of Court Administrator.*

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

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

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

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

16 (1) *Acquiring necessary capital goods;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 11. *As used in this section:*

51 (a) *“Office of Court Administrator” means the Office of Court Administrator*
52 *created pursuant to NRS 1.320; and*

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

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

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

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

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

23 (a) An ordinance regulating metered parking; or

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

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

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

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

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

48 (c) To pay the unpaid balance of an administrative assessment for the provision
49 of specialty court programs pursuant to NRS 176.0613; ~~and~~

50 (d) ***To pay the unpaid balance of the specialty courts fee pursuant to section***
51 ***1 of this act; and***

52 (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 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.

1 The county treasurer shall provide, upon request by a justice court, monthly reports
2 of the revenue credited to and expenditures made from the special revenue fund.

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

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

10 176.0613 1. The justices or judges of the justice or municipal courts shall
11 impose, in addition to an administrative assessment imposed pursuant to NRS
12 176.059 and 176.0611, an administrative assessment for the provision of specialty
13 court programs.

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

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

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

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

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

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

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

48 (c) To pay the unpaid balance of an administrative assessment for the provision
49 of specialty court programs; ~~and~~

50 (d) *To pay the unpaid balance of the specialty courts fee pursuant to section*
51 *1 of this act; and*

52 (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;

(3) Providing training and education to personnel;

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

(5) Conducting audits of the program;

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

(7) Acquiring or using appropriate technology.

10. 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 abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580.

Sec. 4. This act becomes effective on July 1, 2013 †, and expires by limitation on June 30, 2015.