

Amendment No. CA13

Conference Committee Amendment to (BDR 15-804)
Assembly Bill No. 415 Second Reprint

Proposed by: Conference Committee

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

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: 6/2/2013

A.B. No. 415—Revises various provisions relating to criminal justice.
(BDR 15-804)



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.

~

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;~~ certain misdemeanors; 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 ~~to a misdemeanor~~ **certain misdemeanors**. **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 reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

4. A person convicted of burglary who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, 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 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

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

- (a) Two or more times for committing petit larceny within the immediately preceding 7 years; or*
- (b) Of a felony.*

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

207.030 1. It is unlawful to:

- (a) Offer or agree to engage in or engage in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;
- (b) Offer or agree to engage in, engage in or aid and abet any act of prostitution;
- (c) Be a pimp, panderer or procurer or live in or about houses of prostitution;
- (d) Seek admission to a house upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;
- (e) Keep a place where lost or stolen property is concealed;
- (f) Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act; *or*
- (g) Lodge in any building, structure or place, whether public or private ~~+~~ *without* :

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

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

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

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

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

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

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

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

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

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

Sec. 2. (Deleted by amendment.)

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

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

2. Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Commission on the Administration of Justice, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the

Account. Money in the Account may only be used for the support of the Commission and its activities pursuant to this section and NRS 176.0121 to 176.0129, inclusive.

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

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

Sec. 5. (Deleted by amendment.)

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 ~~or~~, other than a misdemeanor constituting an act of domestic violence pursuant to NRS 33.018 or a violation of NRS 484C.110 or 484C.120.

2. Notwithstanding any other provision of law, a defendant charged with a misdemeanor other than a misdemeanor constituting an act of domestic violence pursuant to NRS 33.018 or a violation of NRS 484C.110 or 484C.120, 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 completes all conditions imposed by the community court, the sentence of the defendant must not be executed or appear on the record of the defendant. If the defendant does not successfully complete all conditions imposed by the community court, the sentence must be carried out.

1 4. A defendant who is transferred to the community court remains under the
2 supervision of the community court and must comply with the conditions
3 established by the community court.

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

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

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

23 2. The community court shall provide or refer a defendant to a provider of
24 such services or treatment. The community court may enter into contracts with
25 persons or private entities that are qualified to evaluate defendants and provide
26 services or treatment to defendants.

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

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

32 5. The community court shall order a defendant to perform a specified
33 amount of community service in addition to any services or treatment to which the
34 defendant is ordered to receive. Such community service must be performed for and
35 under the supervising authority of a county, city, town or other political subdivision
36 or agency of the State of Nevada or a charitable organization that renders service to
37 the community or its residents.

38 6. Notwithstanding any other provision of law, if a defendant successfully
39 completes the conditions imposed by the community court, the community court
40 shall so certify to the justice court, and the sentence imposed pursuant to section 10
41 of this act must not be executed or recorded. If the defendant does not successfully
42 complete the conditions imposed by the community court, the case must be
43 transferred back to the justice court, and the sentence must be carried out.