

Amendment No. 366

Assembly Amendment to Assembly Bill No. 416	(BDR 14-429)
Proposed by: Assembly Committee on Government Affairs	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



ASSEMBLY BILL NO. 416—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE COMMITTEE TO STUDY THE
ADVISABILITY AND FEASIBILITY OF TREATING
CERTAIN TRAFFIC AND RELATED
VIOLATIONS AS CIVIL INFRACTIONS)

MARCH 25, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution. (BDR 14-429)

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

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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; revising provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to impose a collection fee against a defendant for any delinquent fine, administrative assessment, fee or restitution. Existing law authorizes a state or local entity responsible for collecting such a delinquent fine, administrative assessment, fee or restitution to take certain actions, including reporting the delinquency to credit reporting agencies. Existing law also authorizes the court to take certain actions, including: (1) entering a civil judgment for the amount due in favor of the state or local entity responsible for collecting the delinquent amount; (2) requesting that a prosecuting attorney undertake collection of the delinquency by attachment or garnishment of the property of the defendant, wages or other money receivable; (3) ordering the suspension of the driver's license of the defendant or prohibiting the defendant from applying for a driver's license for a specified period; and (4) for a delinquent fine or administrative assessment, ordering the confinement of the person in the appropriate prison, jail or detention facility. (NRS 176.064)

Section 2 of this bill revises provisions relating to the procedure for collecting such delinquent fines, administrative assessments, fees or restitution. **Section 2** removes the ability of a state or local entity responsible for collecting a delinquent amount to report the delinquency to credit reporting agencies and removes the ability of the court to request that a prosecuting attorney undertake collection of the delinquency. **for to** Section 2 also specifies that a court may only order the suspension of the driver's license of ~~the~~ a defendant or prohibit a defendant from applying for a driver's license. ~~for a specified period if the court determines that the defendant: (1) has the ability to pay the amount due and is willfully avoiding payment; or (2) was given the opportunity to perform community service to satisfy the amount due because the defendant is indigent and the defendant has failed to perform such community service.~~ Section 2 thereby authorizes a state or local entity responsible for collecting a delinquent amount to: (1) request that the court enter a civil judgment for the amount due in favor of the state or local entity **suspend the driver's**

license of the defendant or prohibit the defendant from applying for a driver's license in such specified circumstances and, if the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, order the confinement of the defendant in the appropriate prison, jail or detention facility; and (2) contract with a licensed collection agency to collect the delinquent amount and the collection fee. ~~{Sections 3 and 4 of this bill make conforming changes.}~~

Section ~~{1}~~ 1.7 of this bill provides that any delinquent fine, administrative assessment or fee owed by a defendant is deemed to be uncollectible if after ~~{5}~~ 8 years it remains impossible or impracticable to collect the delinquent amount.

Section 1.3 of this bill establishes the circumstances in which a person is presumed to be indigent and not to have the ability to pay a fine, administrative assessment or fee.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto ~~{a new section to read as follows:}~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. For the purposes of this chapter, a person is presumed to be indigent and not to have the ability to pay a fine, administrative assessment or fee imposed pursuant to this chapter if the person:

1. Receives public assistance, as that term is defined in NRS 422A.065;
2. Resides in public housing, as that term is defined in NRS 315.021; or
3. Has a household income that is less than 200 percent of the federally designated level signifying poverty.

Sec. 1.7. Any delinquent fine, administrative assessment or fee owed by a defendant pursuant to NRS 176.064 is deemed to be uncollectible if after ~~{5}~~ 8 years it remains impossible or impracticable to collect the delinquent amount.

Sec. 2. NRS 176.064 is hereby amended to read as follows:

176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

(a) Not more than \$100, if the amount of the delinquency is less than \$2,000.

(b) Not more than \$500, if the amount of the delinquency is \$2,000 or greater, but is less than \$5,000.

(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is \$5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take ~~{any or all of}~~ the following actions:

(a) ~~{Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.~~

~~{(b)}~~ Request that the court take appropriate action pursuant to subsection 3.

~~{(c)}~~ (b) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of

1 the collection fee imposed pursuant to subsection 1, in accordance with the
2 provisions of the contract.

3 3. The court may, on its own motion or at the request of a state or local entity
4 that is responsible for collecting the delinquent fine, administrative assessment, fee
5 or restitution, take ~~{any or all of}~~ the following actions : ~~{, in the following order of~~
6 ~~priority if practicable;}~~

7 (a) Enter a civil judgment for the amount due in favor of the state or local
8 entity that is responsible for collecting the delinquent fine, administrative
9 assessment, fee or restitution. A civil judgment entered pursuant to this paragraph
10 may be enforced and renewed in the manner provided by law for the enforcement
11 and renewal of a judgment for money rendered in a civil action. If the court has
12 entered a civil judgment pursuant to this paragraph and the person against whom
13 the judgment is entered is not indigent and has not satisfied the judgment within the
14 time established by the court, the person may be dealt with as for contempt of court.

15 (b) ~~{Request that a prosecuting attorney undertake collection of the~~
16 ~~delinquency, including, without limitation, the original amount of the civil~~
17 ~~judgment entered pursuant to paragraph (a) and the collection fee, by attachment or~~
18 ~~garnishment of the defendant's property, wages or other money receivable.~~

19 ~~— (c) Order} If the court determines that the defendant has the ability to pay the~~
20 ~~amount due and is willfully avoiding payment, or if the defendant was given the~~
21 ~~opportunity to perform community service to satisfy the amount due because the~~
22 ~~defendant is indigent and the defendant has failed to perform such community~~
23 ~~service, order the suspension of the driver's license of the defendant. If the~~
24 ~~defendant does not possess a driver's license, the court may prohibit the defendant~~
25 ~~from applying for a driver's license for a specified period. If the defendant is~~
26 ~~already the subject of a court order suspending or delaying the issuance of the~~
27 ~~defendant's driver's license, the court may order the additional suspension or delay,~~
28 ~~as appropriate, to apply consecutively with the previous order. At the time the court~~
29 ~~issues an order suspending the driver's license of a defendant pursuant to this~~
30 ~~paragraph, the court shall require the defendant to surrender to the court all driver's~~
31 ~~licenses then held by the defendant. The court shall, within 5 days after issuing the~~
32 ~~order, forward to the Department of Motor Vehicles the licenses, together with a~~
33 ~~copy of the order. At the time the court issues an order pursuant to this paragraph~~
34 ~~delaying the ability of a defendant to apply for a driver's license, the court shall,~~
35 ~~within 5 days after issuing the order, forward to the Department of Motor Vehicles~~
36 ~~a copy of the order. The Department of Motor Vehicles shall report a suspension~~
37 ~~pursuant to this paragraph to an insurance company or its agent inquiring about the~~
38 ~~defendant's driving record, but such a suspension must not be considered for the~~
39 ~~purpose of rating or underwriting.~~

40 ~~— (d) For a delinquent fine or administrative assessment,}~~

41 ~~— (c) If the court determines that the {person} defendant has the ability to pay~~
42 ~~the amount due and is willfully avoiding payment, order the confinement of the~~
43 ~~{person} defendant in the appropriate prison, jail or detention facility, as provided~~
44 ~~in NRS 176.065 and 176.075.~~

45 4. Money collected from a collection fee imposed pursuant to subsection 1
46 must be distributed in the following manner:

47 (a) Except as otherwise provided in paragraph (d), if the money is collected by
48 or on behalf of a municipal court, the money must be deposited in a special fund in
49 the appropriate city treasury. The city may use the money in the fund only to
50 develop and implement a program for the collection of fines, administrative
51 assessments, fees and restitution and to hire additional personnel necessary for the
52 success of such a program.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to:

(1) Develop and implement a program for the collection of fines, administrative assessments, fees and restitution and to hire additional personnel necessary for the success of such a program; or

(2) Improve the operations of a court by providing funding for:

(I) A civil law self-help center; or

(II) Court security personnel and equipment for a regional justice center that includes the justice courts of that county.

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State and to hire additional personnel necessary for the success of such a program.

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

Sec. 3. ~~[NRS 483.443 is hereby amended to read as follows:~~

~~483.443 1. The Department shall, upon receiving notification from a district attorney or other public agency collecting support for children pursuant to NRS 425.510 that a court has determined that a person:~~

~~(a) Has failed to comply with a subpoena or warrant relating to a proceeding to establish paternity or to establish or enforce an obligation for the support of a child; or~~

~~(b) Is in arrears in the payment for the support of one or more children,~~
~~send a written notice to that person that his or her driver's license is subject to suspension.~~

~~2. The notice must include:~~

~~(a) The reason for the suspension of the license;~~

~~(b) The information set forth in subsections 3, 5 and 6; and~~

~~(c) Any other information the Department deems necessary.~~

~~3. If a person who receives a notice pursuant to subsection 1 does not, within 30 days after receiving the notice, comply with the subpoena or warrant or satisfy the arrearage as required in NRS 425.510, the Department shall suspend the license without providing the person with an opportunity for a hearing.~~

~~4. The Department shall suspend immediately the license of a defendant if so ordered pursuant to NRS 62B.420. [or 176.064.]~~

~~5. The Department shall reinstate the driver's license of a person whose license was suspended pursuant to this section if it receives:~~

~~(a) A notice from the district attorney or other public agency pursuant to NRS 425.510 that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to that section [, from a district judge that a delinquency for which the suspension was ordered pursuant to NRS 176.064 has been discharged] or from a judge of the juvenile court that an unsatisfied civil judgment for which the suspension was ordered pursuant to NRS 62B.420 has been satisfied; and~~

~~(b) Payment of the fee for reinstatement of a suspended license prescribed in NRS 483.410;~~

~~6. The Department shall not require a person whose driver's license was suspended pursuant to this section to submit to the tests and other requirements~~

1 ~~which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a~~
2 ~~condition of the reinstatement of the license.] (Deleted by amendment.)~~

3 **Sec. 4.** ~~[NRS 483.460 is hereby amended to read as follows:~~

4 ~~483.460 1. Except as otherwise provided by specific statute, the Department~~
5 ~~shall revoke the license, permit or privilege of any driver upon receiving a record of~~
6 ~~his or her conviction of any of the following offenses, when that conviction has~~
7 ~~become final, and the driver is not eligible for a license, permit or privilege to drive~~
8 ~~for the period indicated:~~

9 ~~(a) For a period of 3 years if the offense is:~~

10 ~~(1) A violation of subsection 6 of NRS 484B.653;~~

11 ~~(2) A third or subsequent violation within 7 years of NRS 484C.110 or~~
12 ~~484C.120;~~

13 ~~(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony~~
14 ~~conviction pursuant to NRS 484C.400 or 484C.410;~~

15 ~~(4) A violation of NRS 484C.430 or a homicide resulting from driving or~~
16 ~~being in actual physical control of a vehicle while under the influence of~~
17 ~~intoxicating liquor or a controlled substance or resulting from any other conduct~~
18 ~~prohibited by NRS 484C.110, 484C.130 or 484C.420;~~

19 ~~The period during which such a driver is not eligible for a license, permit or~~
20 ~~privilege to drive must be set aside during any period of imprisonment and the~~
21 ~~period of revocation must resume when the Department is notified pursuant to NRS~~
22 ~~209.517 or 213.12185 that the person has completed the period of imprisonment or~~
23 ~~that the person has been placed on residential confinement or parole.~~

24 ~~(b) For a period of 1 year if the offense is:~~

25 ~~(1) Any other manslaughter, including vehicular manslaughter as described~~
26 ~~in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the~~
27 ~~commission of which a motor vehicle is used, including the unlawful taking of a~~
28 ~~motor vehicle;~~

29 ~~(2) Failure to stop and render aid as required pursuant to the laws of this~~
30 ~~State in the event of a motor vehicle crash resulting in the death or bodily injury of~~
31 ~~another;~~

32 ~~(3) Perjury or the making of a false affidavit or statement under oath to the~~
33 ~~Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any~~
34 ~~other law relating to the ownership or driving of motor vehicles;~~

35 ~~(4) Conviction, or forfeiture of bail not vacated, upon three charges of~~
36 ~~reckless driving committed within a period of 12 months;~~

37 ~~(5) A second violation within 7 years of NRS 484C.110 or 484C.120 and~~
38 ~~the driver is not eligible for a restricted license during any of that period;~~

39 ~~(6) A violation of NRS 484B.550;~~

40 ~~(c) For a period of not less than 185 days, if the offense is a first violation~~
41 ~~within 7 years of NRS 484C.110 or 484C.120;~~

42 ~~2. The Department shall revoke the license, permit or privilege of a driver~~
43 ~~convicted of violating NRS 484C.110 or 484C.120 who fails to complete the~~
44 ~~educational course on the use of alcohol and controlled substances within the time~~
45 ~~ordered by the court and shall add a period of 90 days during which the driver is not~~
46 ~~eligible for a license, permit or privilege to drive;~~

47 ~~3. When the Department is notified by a court that a person who has been~~
48 ~~convicted of a first violation within 7 years of NRS 484C.110 has been permitted to~~
49 ~~enter a program of treatment pursuant to NRS 484C.320, the Department shall~~
50 ~~reduce by one half the period during which the person is not eligible for a license,~~
51 ~~permit or privilege to drive, but shall restore that reduction in time if notified that~~
52 ~~the person was not accepted for or failed to complete the treatment.~~

~~4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484C.210 or 484C.460 but who operates a motor vehicle without such a device.~~

~~(a) For 3 years, if it is his or her first such offense during the period of required use of the device.~~

~~(b) For 5 years, if it is his or her second such offense during the period of required use of the device.~~

~~5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.~~

~~6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS [176.064,] 206.330 or 392.148, chapters 484A to 484E, inclusive, of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.~~

~~7. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.]~~ **(Deleted by amendment.)**