

Amendment No. 907

Senate Amendment to Assembly Bill No. 416 Second Reprint (BDR 14-429)

Proposed by: Senator Cannizzaro

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 imposition and collection of 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; authorizing a court to order the performance of community service in lieu of all or a part of any administrative assessment or fee in certain circumstances; 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. **Section 2** also specifies that a court may only order the suspension of the driver's license of 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.

Section 1.7 of this bill provides that any delinquent fine, administrative assessment or fee owed by a defendant for the commission of a minor traffic offense is deemed to be uncollectible if after 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 who commits a minor traffic offense, as defined by the section, is presumed to be indigent and not to have the ability to pay a fine, administrative assessment or fee.

Section 2.5 of this bill additionally authorizes a court, under certain circumstances, to order a convicted person to perform community service in lieu of all or part of any administrative assessment or fee that may be imposed for the commission of a misdemeanor.

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 the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. 1. For the purposes of this chapter, a person who commits a minor traffic offense 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:

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

2. As used in this section, "minor traffic offense" means a violation of any state or local law or ordinance governing the operation of a motor vehicle upon any highway within this State other than:

(a) A violation of chapters 484A to 484E, inclusive, or 706 of NRS that causes the death of a person;

(b) A violation of NRS 484C.110 or 484C.120; or

(c) A violation declared to be a felony.

Sec. 1.7. Any delinquent fine, administrative assessment or fee owed by a defendant pursuant to NRS 176.064 who commits a minor traffic offense as defined in section 1.3 of this act is deemed to be uncollectible if after 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 the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

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

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

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

~~—(c) Order}~~ *If the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, or if the defendant 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, order* the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

~~[(d) For a delinquent fine or administrative assessment,]~~

(c) 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 ~~[person]~~ *defendant* in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

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

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

(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. 2.5. NRS 176.087 is hereby amended to read as follows:

176.087 1. Except where the imposition of a specific criminal penalty is mandatory, a court may order a convicted person to perform supervised community service:

(a) In lieu of all or a part of any fine, *administrative assessment, fee* or imprisonment that may be imposed for the commission of a misdemeanor; or

(b) As a condition of probation granted for another offense.

2. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

3. The court may require the convicted person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community service, unless, in the case of industrial insurance, it is provided by the authority for which the person performs the community service.

4. The following conditions apply to any such community service imposed by the court:

1 (a) The court must fix the period of community service that is imposed as
2 punishment or a condition of probation and distribute the period over weekends or
3 over other appropriate times that will allow the convicted person to continue
4 employment and to care for the person's family. The period of community service
5 fixed by the court must not exceed, for a:

- 6 (1) Misdemeanor, 200 hours;
7 (2) Gross misdemeanor, 600 hours; or
8 (3) Felony, 1,000 hours.

9 (b) A supervising authority listed in subsection 2 must agree to accept the
10 convicted person for community service before the court may require the convicted
11 person to perform community service for that supervising authority. The
12 supervising authority must be located in or be the town or city of the convicted
13 person's residence or, if that placement is not possible, one located within the
14 jurisdiction of the court or, if that placement is not possible, the authority may be
15 located outside the jurisdiction of the court.

16 (c) Community service that a court requires pursuant to this section must be
17 supervised by an official of the supervising authority or by a person designated by
18 the authority.

19 (d) The court may require the supervising authority to report periodically to the
20 court or to a probation officer the convicted person's performance in carrying out
21 the punishment or condition of probation.

22 **Sec. 3.** (Deleted by amendment.)

23 **Sec. 4.** (Deleted by amendment.)