
ASSEMBLY BILL NO. 196—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION
ON THE ADMINISTRATION OF JUSTICE)

FEBRUARY 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR 18-557)

FISCAL NOTE: Effect on Local Government: No.
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 the State Controller; requiring the State Controller to collect fines, administrative assessments, fees and restitution from persons convicted of certain criminal offenses; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that if a fine, administrative assessment, fee or restitution
2 imposed upon a defendant is delinquent: (1) the defendant is liable for a collection
3 fee; (2) the entity responsible for collecting the delinquent amount may report the
4 delinquency to credit reporting agencies, may contract with a collection agency and
5 may request that the court take appropriate action; and (3) the court may request
6 that a prosecuting attorney undertake collection efforts, may order the suspension
7 of the driver’s license of the defendant and may, in the case of a delinquent fine or
8 administrative assessment, order that the defendant be confined in the appropriate
9 prison, jail or detention facility. (NRS 176.064)

10 This bill provides that if a defendant is convicted of a felony or gross
11 misdemeanor and ordered to pay a fine, administrative assessment, fee or
12 restitution, the State Controller is responsible for: (1) collecting the fine,
13 administrative assessment, fee or restitution; and (2) distributing the fine,
14 administrative assessment, fee or restitution to the entity entitled to receive it.
15 **Sections 1 and 2** of this bill require: (1) each district court, the Chief of the
16 Division of Parole and Probation of the Department of Public Safety and the
17 Director of the Department of Corrections to provide, upon request and in
18 the manner prescribed by the State Controller, necessary information to the State
19 Controller regarding the amount of any fine, administrative assessment, fee or



20 restitution owed by a person convicted of a felony or gross misdemeanor; and (2)
21 each district court, the Department of Public Safety, the Department of Corrections
22 and any other state or local agency involved in the collection of fines,
23 administrative assessments, fees or restitution to collaborate with the State
24 Controller.

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

1 **Section 1.** Chapter 227 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. The State Controller shall:***

4 ***(a) Collect any fine, administrative assessment, fee or***
5 ***restitution imposed upon a defendant convicted of a felony or***
6 ***gross misdemeanor pursuant to chapter 176 of NRS; and***

7 ***(b) Distribute a fine, administrative assessment, fee or***
8 ***restitution collected pursuant to subsection 1 to the entity that is***
9 ***entitled to receive the fine, administrative assessment, fee or***
10 ***restitution.***

11 ***2. To carry out the provisions of subsection 1, the State***
12 ***Controller shall:***

13 ***(a) Collaborate with the appropriate district court, the***
14 ***Department of Public Safety, the Department of Corrections and***
15 ***any other state or local agency involved in the collection of fines,***
16 ***administrative assessments, fees or restitution; and***

17 ***(b) Use any lawful means necessary to collect the fines,***
18 ***administrative assessments, fees and restitution, including,***
19 ***without limitation, taking any or all of the actions set forth in***
20 ***NRS 176.064.***

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

22 176.064 1. If a fine, administrative assessment, fee or
23 restitution is imposed upon a defendant pursuant to this chapter,
24 whether or not the fine, administrative assessment, fee or restitution
25 is in addition to any other punishment, and the fine, administrative
26 assessment, fee or restitution or any part of it remains unpaid after
27 the time established by the court for its payment, the defendant is
28 liable for a collection fee, to be imposed by the court at the time it
29 finds that the fine, administrative assessment, fee or restitution is
30 delinquent, of:

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

33 (b) Not more than \$500, if the amount of the delinquency is
34 \$2,000 or greater, but is less than \$5,000.

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



1 2. ~~[A]~~ *The State Controller or a* state or local entity that is
2 ~~[responsible for collecting]~~ *involved in the collection of* a
3 delinquent fine, administrative assessment, fee or restitution may, in
4 addition to attempting to collect the fine, administrative assessment,
5 fee or restitution through any other lawful means, take any or all of
6 the following actions:

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

9 (b) Request that the court take appropriate action pursuant to
10 subsection 3.

11 (c) Contract with a collection agency licensed pursuant to NRS
12 649.075 to collect the delinquent amount and the collection fee. The
13 collection agency must be paid as compensation for its services an
14 amount not greater than the amount of the collection fee imposed
15 pursuant to subsection 1, in accordance with the provisions of the
16 contract.

17 3. The court may, on its own motion or at the request of *the*
18 *State Controller or* a state or local entity that is ~~[responsible for~~
19 ~~collecting]~~ *involved in the collection of* the delinquent fine,
20 administrative assessment, fee or restitution, take any or all of the
21 following actions, in the following order of priority if practicable:

22 (a) Request that a prosecuting attorney undertake collection of
23 the delinquency, including, without limitation, the original amount
24 and the collection fee, by attachment or garnishment of the
25 defendant's property, wages or other money receivable.

26 (b) Order the suspension of the driver's license of the defendant.
27 If the defendant does not possess a driver's license, the court may
28 prohibit the defendant from applying for a driver's license for a
29 specified period. If the defendant is already the subject of a court
30 order suspending or delaying the issuance of the defendant's
31 driver's license, the court may order the additional suspension or
32 delay, as appropriate, to apply consecutively with the previous
33 order. At the time the court issues an order suspending the driver's
34 license of a defendant pursuant to this paragraph, the court shall
35 require the defendant to surrender to the court all driver's licenses
36 then held by the defendant. The court shall, within 5 days after
37 issuing the order, forward to the Department of Motor Vehicles the
38 licenses, together with a copy of the order. At the time the court
39 issues an order pursuant to this paragraph delaying the ability of a
40 defendant to apply for a driver's license, the court shall, within 5
41 days after issuing the order, forward to the Department of Motor
42 Vehicles a copy of the order. The Department of Motor Vehicles
43 shall report a suspension pursuant to this paragraph to an insurance
44 company or its agent inquiring about the defendant's driving record,



1 but such a suspension must not be considered for the purpose of
2 rating or underwriting.

3 (c) For a delinquent fine or administrative assessment, order the
4 confinement of the person in the appropriate prison, jail or detention
5 facility, as provided in NRS 176.065 and 176.075.

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

8 (a) Except as otherwise provided in paragraph (d), if the money
9 is collected by or on behalf of a municipal court, the money must be
10 deposited in a special fund in the appropriate city treasury. The city
11 may use the money in the fund only to develop and implement a
12 program for the collection of fines, administrative assessments, fees
13 and restitution.

14 (b) Except as otherwise provided in paragraph (d), if the money
15 is collected by or on behalf of a justice court or district court, the
16 money must be deposited in a special fund in the appropriate county
17 treasury. The county may use the money in the special fund only to
18 develop and implement a program for the collection of fines,
19 administrative assessments, fees and restitution.

20 (c) Except as otherwise provided in paragraph (d), if the money
21 is collected by ~~[a state entity.]~~ *the State Controller*, the money must
22 be deposited in an account, which is hereby created in the State
23 Treasury. The ~~[Court Administrator]~~ *State Controller* may use the
24 money in the account only to develop and implement a program for
25 the collection of fines, administrative assessments, fees and
26 restitution in this State.

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

32 **5. *To carry out the provisions of this section:***

33 (a) *Each district court, the Chief of the Division and the*
34 *Director of the Department of Corrections shall, upon the request*
35 *of and in the manner prescribed by the State Controller, provide to*
36 *the State Controller such information in their possession*
37 *regarding the amount of any fine, administrative assessment, fee*
38 *or restitution owed by a person convicted of a felony or gross*
39 *misdemeanor as determined necessary by the State Controller.*

40 (b) *Each district court, the Department of Public Safety, the*
41 *Department of Corrections and any other state or local agency*
42 *involved in the collection of fines, administrative assessments, fees*
43 *or restitution shall collaborate with the State Controller.*



1 **Sec. 3.** NRS 176.0916 is hereby amended to read as follows:

2 176.0916 1. If the Division is supervising a probationer or
3 parolee pursuant to an interstate compact and the probationer or
4 parolee is or has been convicted in another jurisdiction of violating a
5 law that prohibits the same or similar conduct as an offense listed in
6 subsection 4 of NRS 176.0913, the Division shall arrange for a
7 biological specimen to be obtained from the probationer or parolee.

8 2. After a biological specimen is obtained from a probationer
9 or parolee pursuant to this section, the Division shall:

10 (a) Provide the biological specimen to the forensic laboratory
11 that has been designated by the county in which the probationer or
12 parolee is residing to conduct or oversee genetic marker testing for
13 the county pursuant to NRS 176.0917; and

14 (b) Submit the name, social security number, date of birth and
15 any other information identifying the probationer or parolee to the
16 Central Repository **[H] for Nevada Records of Criminal History.**

17 3. Except as otherwise authorized by federal law or by specific
18 statute, a biological specimen obtained pursuant to this section, the
19 results of a genetic marker analysis and any information identifying
20 or matching a biological specimen with a person must not be shared
21 with or disclosed to any person other than the authorized personnel
22 who have possession and control of the biological specimen, results
23 of a genetic marker analysis or information identifying or matching
24 a biological specimen with a person, except pursuant to:

25 (a) A court order; or

26 (b) A request from a law enforcement agency during the course
27 of an investigation.

28 4. A person who violates any provision of subsection 3 is
29 guilty of a misdemeanor.

30 5. A probationer or parolee, to the extent of his or her financial
31 ability, shall pay the sum of \$150 to the **[Division] State Controller**
32 as a fee for obtaining the biological specimen and for conducting the
33 analysis to determine the genetic markers of the biological
34 specimen. Except as otherwise provided in subsection 6, the fee
35 required pursuant to this subsection must be collected from a
36 probationer or parolee at the time the biological specimen is
37 obtained from the probationer or parolee.

38 6. A probationer or parolee may arrange to make monthly
39 payments of the fee required pursuant to subsection 5. If such
40 arrangements are made, the **[Division] State Controller** shall
41 provide a probationer or parolee with a monthly statement that
42 specifies the date on which the next payment is due.

43 7. Any unpaid balance for a fee required pursuant to subsection
44 5 is a charge against the **[Division] State Controller.**



1 8. The ~~Division~~ *State Controller* shall deposit money that is
2 collected pursuant to this section in the Fund for Genetic Marker
3 Testing, which is hereby created in the State General Fund. The
4 money deposited in the Fund for Genetic Marker Testing must be
5 used to pay for the actual amount charged to the Division for
6 obtaining biological specimens from probationers and parolees, and
7 for conducting an analysis to determine the genetic markers of the
8 specimens.

9 **Sec. 4.** NRS 176A.430 is hereby amended to read as follows:

10 176A.430 1. The court shall order as a condition of probation
11 or suspension of sentence, in appropriate circumstances, that the
12 defendant make full or partial restitution to the person or persons
13 named in the order, at the times and in the amounts specified in the
14 order unless the court finds that restitution is impracticable. Such an
15 order may require payment for medical or psychological treatment
16 of any person whom the defendant has injured. In appropriate
17 circumstances, the court shall include as a condition of probation or
18 suspension of sentence that the defendant execute an assignment of
19 wages earned while on probation or subject to the conditions of
20 suspension of sentence to the ~~Division~~ *State Controller* for
21 restitution.

22 2. All money received by the ~~Division~~ *State Controller* for
23 restitution for:

24 (a) One victim may; and

25 (b) More than one victim must,

26 ↪ be deposited with the State Treasurer for credit to the Restitution
27 Trust Fund. All payments from the Fund must be paid as other
28 claims against the State are paid.

29 3. If restitution is not required, the court shall set forth the
30 circumstances upon which it finds restitution impracticable in its
31 order of probation or suspension of sentence.

32 4. Failure to comply with the terms of an order for restitution is
33 a violation of a condition of probation or suspension of sentence
34 unless the defendant's failure has been caused by economic hardship
35 resulting in the defendant's inability to pay the amount due. The
36 defendant is entitled to a hearing to show the existence of such a
37 hardship.

38 5. If, within 3 years after the defendant has been discharged
39 from probation, the ~~Division~~ *State Controller* has not located the
40 person to whom the restitution was ordered, the money paid by the
41 defendant must be deposited with the State Treasurer for credit to
42 the Fund for the Compensation of Victims of Crime.

43 **Sec. 5.** NRS 213.126 is hereby amended to read as follows:

44 213.126 1. Unless complete restitution was made while the
45 parolee was incarcerated, the Board shall impose as a condition of



1 parole, in appropriate circumstances, a requirement that the parolee
2 make restitution to the person or persons named in the statement of
3 parole conditions, including restitution to a governmental entity for
4 expenses related to extradition, at the times specified in the
5 statement unless the Board finds that restitution is impracticable.
6 The amount of restitution must be the amount set by the court
7 pursuant to NRS 176.033. In appropriate circumstances, the Board
8 shall include as a condition of parole that the parolee execute an
9 assignment of wages earned by the parolee while on parole to the
10 ~~{Division}~~ *State Controller* for restitution.

11 2. All money received by the ~~{Division}~~ *State Controller* for
12 restitution for:

13 (a) One victim may; and

14 (b) More than one victim must,

15 ➔ be deposited in the State Treasury for credit to the Restitution
16 Trust Fund which is hereby created.

17 3. The ~~{Division}~~ *State Controller* shall make pro rata
18 payments from the money received from the parolee to each person
19 to whom the restitution was ordered pursuant to NRS 176.033. Such
20 a payment must be made:

21 (a) If the money received from the parolee in a single payment is
22 \$200 or more or if the total accumulated amount received from the
23 parolee is \$200 or more, whenever money is received from the
24 parolee.

25 (b) If the money received from the parolee in a single payment
26 is less than \$200 or if the total accumulated amount received from
27 the parolee is less than \$200, at the end of each year until the
28 parolee has paid the entire restitution owed.

29 ➔ Any money received from the parolee that is remaining at the end
30 of each year must be paid at that time in pro rata payments to each
31 person to whom the restitution was ordered. A final pro rata
32 payment must be made to such persons when the parolee pays the
33 entire restitution owed.

34 4. A person to whom restitution was ordered pursuant to NRS
35 176.033 may at any time file an application with the ~~{Division}~~
36 *State Controller* requesting the ~~{Division}~~ *State Controller* to make
37 a pro rata payment from the money received from the parolee. If the
38 ~~{Division}~~ *State Controller* finds that the applicant is suffering a
39 serious financial hardship and is in need of financial assistance, the
40 ~~{Division}~~ *State Controller* shall pay to the applicant his or her pro
41 rata share of the money received from the parolee.

42 5. All payments from the Fund must be paid as other claims
43 against the State are paid.



1 6. If restitution is not required, the Board shall set forth the
2 circumstances upon which it finds restitution impracticable in its
3 statement of parole conditions.

4 7. Failure to comply with a restitution requirement imposed by
5 the Board is a violation of a condition of parole unless the parolee's
6 failure was caused by economic hardship resulting in his or her
7 inability to pay the amount due. The defendant is entitled to a
8 hearing to show the existence of that hardship.

9 8. If, within 3 years after the parolee is discharged from parole,
10 the ~~[Division]~~ *State Controller* has not located the person to whom
11 the restitution was ordered, the money paid to the ~~[Division]~~ *State*
12 *Controller* by the parolee must be deposited in the Fund for the
13 Compensation of Victims of Crime.

14 **Sec. 6.** This act becomes effective on July 1, 2011.

