

ASSEMBLY BILL NO. 84—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR  
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Requires district courts, in certain circumstances, to consider the facts and circumstances surrounding offenses committed by certain offenders who are veterans or members of the military to determine eligibility for an appropriate program of treatment. (BDR 14-124)

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; requiring a district court, in certain circumstances, to consider the facts and circumstances surrounding an offense committed by an offender who is a veteran or member of the military to determine eligibility for an appropriate program of treatment established by the district court; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes a district court to place certain offenders who are  
2 veterans or members of the military on probation upon terms and conditions that  
3 must include attendance and successful completion of an appropriate program for  
4 the treatment of such offenders that is established by the district court. However,  
5 the court may not assign an offender to such a program without the prosecuting  
6 attorney stipulating to the assignment if: (1) the offense committed by the offender  
7 involved the use or threatened use of force or violence; or (2) the offender was  
8 previously convicted of a felony that involved the use or threatened use of force or  
9 violence. (NRS 176A.290) **Section 1.5** of this bill provides that in determining  
10 whether an offense involved the use or threatened use of force or violence, the court  
11 must consider the facts and circumstances surrounding the offense, including,



\* A B 8 4 R 2 \*

12 without limitation, whether the offender intended to place another person in  
13 reasonable apprehension of bodily harm.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 1.5.** NRS 176A.290 is hereby amended to read as  
3 follows:

4 176A.290 1. Except as otherwise provided in subsection 2, if  
5 a defendant who is a veteran or a member of the military and who  
6 suffers from mental illness, alcohol or drug abuse or posttraumatic  
7 stress disorder as described in NRS 176A.285 tenders a plea of  
8 guilty, guilty but mentally ill or nolo contendere to, or is found  
9 guilty or guilty but mentally ill of, any offense for which the  
10 suspension of sentence or the granting of probation is not prohibited  
11 by statute, the court may, without entering a judgment of conviction  
12 and with the consent of the defendant, suspend further proceedings  
13 and place the defendant on probation upon terms and conditions that  
14 must include attendance and successful completion of a program  
15 established pursuant to NRS 176A.280.

16 2. If the offense committed by the defendant involved the use  
17 or threatened use of force or violence or if the defendant was  
18 previously convicted in this State or in any other jurisdiction of a  
19 felony that involved the use or threatened use of force or violence,  
20 the court may not assign the defendant to the program unless the  
21 prosecuting attorney stipulates to the assignment. *For the purposes*  
22 *of this subsection, in determining whether an offense involved the*  
23 *use or threatened use of force or violence, the court shall consider*  
24 *the facts and circumstances surrounding the offense, including,*  
25 *without limitation, whether the defendant intended to place*  
26 *another person in reasonable apprehension of bodily harm.*

27 3. Upon violation of a term or condition:

28 (a) The court may enter a judgment of conviction and proceed as  
29 provided in the section pursuant to which the defendant was  
30 charged.

31 (b) Notwithstanding the provisions of paragraph (e) of  
32 subsection 2 of NRS 193.130, the court may order the defendant to  
33 the custody of the Department of Corrections if the offense is  
34 punishable by imprisonment in the state prison.

35 4. Upon fulfillment of the terms and conditions, the court shall  
36 discharge the defendant and dismiss the proceedings. Discharge and  
37 dismissal pursuant to this section is without adjudication of guilt and  
38 is not a conviction for purposes of this section or for purposes of



1 employment, civil rights or any statute or regulation or license or  
2 questionnaire or for any other public or private purpose, but is a  
3 conviction for the purpose of additional penalties imposed for  
4 second or subsequent convictions or the setting of bail. Discharge  
5 and dismissal restores the defendant, in the contemplation of the  
6 law, to the status occupied before the arrest, indictment or  
7 information. The defendant may not be held thereafter under any  
8 law to be guilty of perjury or otherwise giving a false statement by  
9 reason of failure to recite or acknowledge that arrest, indictment,  
10 information or trial in response to an inquiry made of the defendant  
11 for any purpose.

12 **Sec. 2.** (Deleted by amendment.)

13 **Sec. 3.** This act becomes effective on January 1, 2014.

