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ASSEMBLY COMMITTEE ON JUDICIARY



WORK SESSION DOCUMENT

APRIL 3, 2003

ASSEMBLY JUDICIARY

DATE: 4/3/03 ROOM: 3138 EXHIBIT

SUBMITTED BY: ALLEN COMBS

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WORK SESSION

ASSEMBLY COMMITTEE ON JUDICIARY

April 3, 2003

(Please note the list of speakers and summary of the discussion on each measure contained within this document do not represent an official record of the referenced meetings. For an official record, please see the minutes from the meetings of the Assembly Committee on Judiciary, which are available through the Legislative Counsel Bureau.)

The following measures will be considered for action during the work session:

- ASSEMBLY BILL 29 (BDR 14-130 was requested by the Committee on Judiciary).
The bill was heard in Committee on February 18, 2003, and no action was taken.

Assembly Bill 29 provides for an additional administrative assessment to be collected in certain cases involving misdemeanors to pay for certain programs established by district courts.

Proponents/those testifying in support of the bill: Judge Peter Breen, Second Judicial District Court; Daniel Ward, Washoe County Drug Court; Justice Deborah Agosti, Nevada Supreme Court; Maddy Shipman, Washoe County; Robert Hadfield, Nevada Association of Counties; Ben Graham, Nevada District Attorneys Association; Judge Hardesty, Second Judicial District.

Opponents/those testifying in opposition of the bill: Judge Daniel P. Ward; Nevada Judges Association

Discussion: Testimony indicated that the bill would provide a permanent source of funding for specialty courts, in addition to the amounts appropriated by the Legislature each year. Supporters of the bill noted the successes of specialty courts and indicated the measure would also cover the costs of the newly-established mental health courts. Concerns were raised regarding provisions in the bill requiring assessments collected to return to the State in jurisdictions without specialty courts and for the addition of another assessment to criminal convictions, which offenders may or may not be able to afford.

Proposed Amendments: Following is a summary of the amendments proposed for Assembly Bill 29 from the Administrative Office of the Courts (AOC) on behalf of the judicial branch. The proposal includes incorporating the provisions of Assembly Bill 242, and its proposed amendments, into Assembly Bill 29. Copies of the mock-up on the bills prepared by the AOC are attached on blue paper.

1. Reduce the new administrative assessment for specialty courts from \$15 to \$5.

2. **Revise the distribution of the money collected under subsections 6 and 7 of the bill (pages 2 and 3).** Delete the existing language under these two subsections except for the requirement that, by the fifth day of each month, the money collected the preceding month for the new administrative assessments by the municipal courts must be paid to the city treasurer. Similarly, the money collected by the justice courts must be paid to the county treasurer in the same time frame.

New Method of Distribution through the AOC and the Judicial Council - In lieu of the current language of the bill, add the following new subsection:

Of the total amount deposited in the State General Fund pursuant to subsections 6 and 7, the State Controller shall distribute the money received to the Office of Court Administrator for allocation to general or limited jurisdiction courts to assist with the funding or establishment of specialty courts.

As expressed by the AOC, the intent will be to distribute the funds under the direction of the Judicial Council. The AOC has provided a resolution, which is attached on green paper. The resolution from the Judicial Council of the State of Nevada expresses its intent that "current specialty court programs be funded to ensure continued operation and that new programs be initiated and funded so that, to the extent practical, all citizens of Nevada have equal access to specialty court programs."

3. **Revise definition of "specialty court program"**—Revise this definition under subsection 9 (page 4) as follows:

As used in this section, "specialty court program" means a program established by a ~~district-general or limited jurisdiction~~ court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffers from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

4. **Additional Authorized Use of the Money and Technical Suggestions**—Revise subsection 8 on page 4 of the bill as follows:

8. Money that is apportioned to the Office of Court Administrator ~~a district court~~ from administrative assessments for the provision of specialty court programs in the general and limited jurisdiction courts must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

- (1) Acquiring necessary capital goods;*
- (2) Providing training and education to personnel;*

- (3) Studying the management and operation of the program;*
- (4) Conducting audits of the program;*
- (5) Supplementing the funds used to pay for judges to oversee a specialty court program; ~~or~~*
- (6) Provide for staff to oversee and staff a specialty court program; or*
- (7) Acquiring or using appropriate technology.*

5. **Require the Court Administrator to Submit a Written Report to the Director of the Legislative Counsel Bureau Addressing the Distribution of Specialty Court Funds.** Included in the report should be the current status of those specialty courts assisted with specialty court funds. Require that the report be submitted on or before February 1 of each odd number year. (The AOC suggests adding this requirement to the list of duties of the Court Administrator under NRS 1.360.)

6. **Incorporate the provisions of Assembly Bill 242 into Assembly Bill 29, with certain changes.** A summary of the changes under Assembly Bill 242 follows and is reflected in the attached mock-up of Assembly Bill 242 (attached on blue paper), which was prepared by the AOC:
 - (a) **Increase Administrative Assessment for Misdemeanors—**Increase by \$10 the administrative assessments for a misdemeanor under NRS 176.059. *(Currently in Assembly Bill 242.)*

 - (b) **Require the Court to Include the Administrative Assessment in the Sentence if Community Service, in Lieu of a Fine, is Imposed—**Require the justice or judge who sentences a defendant to perform community service in lieu of a fine to include in the sentence the amount of the corresponding administrative assessment for which the defendant would have been responsible. The intent is to facilitate or ensure collection of the required administrative assessment, unless waived by the court under other sections of the law, even in cases in which the court substitutes community service for the underlying fine. *(Currently in Assembly Bill 242.)*
 - i. **Modification of current language of A.B. 242—**The amendment proposed above deletes the reference in the current language of A.B. 242 to imprisonment, as suggested by the AOC, noting that it would be too difficult and time-consuming for judges to calculate or assign a value to jail time.

 - ii. **Add this language to other relevant sections of NRS and to Assembly Bill 29—**In addition, add the same language to the new sections under Assembly Bill 29 authorizing an administrative assessment for specialty courts and to NRS 176.0611, which authorizes cities and counties to impose an administrative assessment for the provision of court facilities. (These changes are reflected in the attached mock-ups of the bills prepared by the AOC.)

(c) Clarify that administrative assessments included in bail forfeitures must be disbursed as required by statute. Amend subsection 3 of NRS 176.059 (See Section 1 of A.B. 242 at page 2). As the AOC explains, NRS 176.059 specifies that money collected for an administrative assessment must be stated separately on the court's document and included in the amount posted for bail. When bail is forfeited, some courts distribute the assessment as provided for under subsections 5 and 6 of NRS 176.059, but others do not. To ensure uniform application, include the following language:

If bail is forfeited, the administrative assessments included in the bail amount pursuant to this subsection shall be distributed as prescribed in subsections 5 and 6 below.

Also add this concept to the new sections relating to administrative assessments under Assembly Bill 29, as reflected in the attached mock-up prepared by the AOC.

7. Establish a procedure through which the Office of Court Administrator is authorized to enforce forfeitures of bail and use a percentage of the money generated from those actions to fund specialty courts. Attached on pink paper is a proposal from the AOC to authorize the AOC to enforce bail forfeitures. The details of the procedure are set forth in the referenced attachment.

The proposal also revises the distribution of forfeited deposits to provide that money collected from persons charged with gross misdemeanors or felonies must be deposited in the State General Fund and distributed in the following manner:

- 50 percent for the Compensation of Victims of Crime (Currently, all funds are deposited into the Fund for the Compensation of Victims of Crime); and
- 50 percent for the Office of Court Administrator for Specialty Courts.

ASSEMBLY BILL 100 (BDR 1-855 was requested by Assemblyman David Brown). The bill was heard in Committee on February 28, 2003, and no action was taken.

Assembly Bill 100 increases the monetary limit of the jurisdiction of justices' courts from \$7,500 to \$10,000.

Proponents/those testifying in support of the bill: Assemblyman Brown; Charles Kilpatrick, Nevada Trial Lawyers Association.

Opponents/those testifying in opposition of the bill: None

Those testifying with a neutral position on the bill: Judge Barbara Finley, Reno Justice Court; Dan Ward, Nevada Judges Association; Judge James Bixler, Las Vegas Justice Court; Marguerite Creel, Las Vegas Justice Court.

Discussion: Testimony supported the need for raising the jurisdictional limitation on justice court to allow cases within the \$7,500 to \$10,000 range to proceed more rapidly efficiently. Concerns were raised for the impact on justice courts due to the potential for an increase caseload.

Proposed Amendments: The following amendments were proposed:

- **Require Mediation for \$7,500 to \$10,000 Cases in Washoe and Clark Counties for the Next Three Years**, proposed by the Nevada Judges Association. The proposed amendment is attached on yellow paper. In summary, the amendment would require the following for actions exceeding \$7,500:
 - If filed in a county whose population is 100,000 or more, the action *must* be stayed and the Justice of the Peace must order mediation.
 - If filed in a county whose population is less than 100,000, the Justice of the Peace may stay the proceedings and order mediation.
 - **Use of neighborhood justice centers** for the mediation is required if one has been established. (Existing law requires establishment of these centers in counties with a population of 100,00 or more. Centers are authorized, but not required, in counties with smaller populations. NRS 244.1507)
 - **Time frame**—The parties must meet with the mediator within 60 days after the stay of proceedings, and the mediator is required to “convene and conduct the mediation to attempt to resolve the case.”
 - **Trial**—If the parties are unsuccessful at the mediation, the mediator must notify the court, and the court must set the case for trial.
 - **Sunset**—The amendatory provisions outlined above expire by limitation on October 1, 2005.
- **Reduce the Financial and Operational Impact on the Justice Court**, proposed by Judge James Bixler. In his written testimony, Judge Bixler offered the following amendments to reduce the impact on the Justice Court if the jurisdictional limit is raised:
 - **Facilitate the use of “short jury trials” in Justice Court to counteract the increase in the number of jury trials requested for civil cases.**

(*Nevada Revised Statutes* 38.250 and 32.258 authorize the use of short trials as an alternative to nonbonding arbitration, which is required for civil actions filed in district court when the amount in issue does not exceed \$40,000. The Nevada Supreme Court has developed the required rules for short trials under *Supreme Court Rule Part VB*.)

- Provide the Justice Courts with an increased filing fee for cases seeking judgments between \$7,500 and \$10,000. (Currently, under NRS 4.060, the fee for commencing an action in justice court for an amount that exceeds \$6,500 is \$150.)
- Delay the effective date for the change so that courts can prepare for filings. Date suggested by Judge Bixler: January 1, 2005.
- Lower the population triggers in NRS 4.020 so that the Justice Courts throughout the State can request additional judges as necessary to handle the increase in caseload. (Under NRS 4.020, one justice court is required for each township. The number of justices of the peace must be increased according to the population of the township, as certified by the Governor in even-numbered years under the following schedule:
 - Counties whose population is 400,000 or more: One justice of the peace for each 100,000 population of the township;
 - Counties whose population is 100,000 to 400,000: One justice of the peace for each 50,000 population of the township;
 - Counties whose population is less than 100,000: One justice of the peace for each 34,000 population of the township; and
 - For townships including a city created by the consolidation of a city and county into one municipal government: One justice of the peace for each 34,000 population of the township.
- Consider new legislation to funnel more money to support the Justice Courts. An example is provided of creating additional fees under Chapter 4 of NRS for the growth of courts. No additional details were provided.
- Consider incorporating a binding arbitration process.

ASSEMBLY BILL 151 (BDR 20-580 was requested on behalf of Washoe County). The bill was heard in Committee on March 3, 2003, and no action was taken.

Assembly Bill 151 authorizes the public guardian to appoint deputies and revises the provisions relating to the term of office of the appointed public guardian.

Proponents/those testifying in support of the bill: Maddy Shipman, Washoe County; Dan Musgrove, Clark County; and Kathleen Buchanan, Clark County Public Guardian.

Opponents/those testifying in opposition of the bill: None

Discussion: Testimony indicated this measure was requested to provide uniformity in the operation of the office of the public guardian with other appointed department heads. A concern was raised for changing the appointed position from a 4-year term to one that serves at the pleasure of the board of county commissioners.

Proposed Amendments: The following amendment was proposed:

- **Revise term of office**, proposed by Assemblyman John Carpenter and Maddy Shipman. The suggested change is attached on lilac paper. As suggested, the amendment revises the bill on page 2 at lines 12 and 13:
 1. Retains the existing statutory language specifying the public guardian serves for a term of 4 years, which is now deleted in the bill; and
 2. Adds new language specifying that the public guardian serves at the pleasure of the board.
- **Change body that designates an acting public guardian in cases in which a vacancy occurs**, proposed by Maddy Shipman. The suggested change is also attached on lilac paper.

The proposal provides that the board of county commissioners, instead of the district court, is the body responsible for making the appointment of the acting public guardian.

ASSEMBLY BILL 397 (BDR 3-1082 was requested by Assemblyman William Horne). The bill was heard in Committee on March 25, 2003, and no action was taken.

Assembly Bill 397 makes various changes concerning proceedings in actions concerning eminent domain.

Proponents/those testifying in support of the bill: Assemblyman Horne; James Jackson, James J. Leavitt, and Brian C. Padgett, representing the Law Offices of Kermitt Waters, and Jim Leavitt, Esq.; Dona Amiee Tucker; Kevin Keefe; Laura Fitzsimmons, attorney; Lucille Lusk, Nevada Concerned Citizens.

Opponents/those testifying in opposition of the bill: Mike Alonzo and Mike Chapman, Washoe County Airport Authority; Maddy Shipman, Washoe County; Brian Hutchins, Nevada Attorney General's Office and the Nevada Department of Transportation; Heidi Mireles, Nevada Department of Transportation.

Discussion: Testimony indicated the measure was requested to ensure an individual subject to an eminent domain action receives constitutionally required "just compensation," which may not occur if attorney's fees are subtracted from any monetary damages awarded.

Proposed Amendments: The following amendments were proposed:

1. **Reinstate Repealed Section**, proposed by Assemblyman Horne and Mr. Jackson. Reinstate NRS 37.190 (Costs: Allowance and apportionment), which is repealed under the bill, as introduced.
2. **Prospective application**, proposed by Assemblyman Horne and Ms. Shipman. Revise the bill to provide that its provisions apply only prospectively. The intent is to apply the provisions of the bill only to cases filed after October 1, 2003.

AJWS-04-03-03

ASSEMBLY BILL NO. 29—COMMITTEE ON JUDICIARY

PREFILED JANUARY 29, 2003

Referred to Committee on Judiciary

SUMMARY—Provides for additional administrative assessment to be collected in certain cases involving misdemeanors to pay for certain programs established by district courts. (BDR 14-130)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.
Green numbers along left margin indicate location on the printed bill (e.g., 5-15 indicates page 5, line 15).

AN ACT relating to administrative assessments; providing for an additional administrative assessment to be collected in cases involving a misdemeanor to pay for certain programs established by district courts; and providing other matters properly relating thereto.

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

1-1 Section 1. Chapter 176 of NRS is hereby amended to read as
1-2 follows:

1-3 *1. The justices or judges of the justices' or municipal courts*
1-4 *shall impose, in addition to an administrative assessment imposed*
1-5 *pursuant to NRS 176.059 and 176.0611, an administrative*
1-6 *assessment for the provision of specialty court programs.*

1-7 *2. Except as otherwise provided in subsection 3, when a*
1-8 *defendant pleads guilty or is found guilty of a misdemeanor,*
1-9 *including the violation of any municipal ordinance, the justice or*
1-10 *judge shall include in the sentence the sum of \$15 5 as an*
1-11 *administrative assessment for the provision of specialty court*
1-12 *programs and render a judgment against the defendant for the*
1-13 *assessment. If the justice or judge sentences the defendant to perform*

community service in lieu of a fine, the justice or judge shall include in the sentence
the amount of the administrative assessment for the provision of specialty courts.

1-14 *3. The provisions of subsection 2 do not apply to:*

1-15 (a) An ordinance regulating metered parking; or
2-1 (b) An ordinance which is specifically designated as imposing
2-2 a civil penalty or liability pursuant to NRS 244.3575 or 268.019.
2-3 4. The money collected for an administrative assessment for
2-4 the provision of specialty court programs must not be deducted
2-5 from the fine imposed by the justice or judge but must be taxed
2-6 against the defendant in addition to the fine. The money collected
2-7 for such an administrative assessment must be stated separately on
2-8 the court's docket and must be included in the amount posted for
2-9 bail. If the defendant is found not guilty or the charges are
2-10 dismissed, the money deposited with the court must be returned to
2-11 the defendant. If the justice or judge cancels a fine because the
2-12 fine has been determined to be uncollectible, any balance of the
2-13 fine and the administrative assessment remaining unpaid shall be
2-14 deemed to be uncollectible and the defendant is not required to
2-15 pay it. If a fine is determined to be uncollectible, the defendant is
2-16 not entitled to a refund of the fine or administrative assessment he
2-17 has paid and the justice or judge shall not recalculate the
2-18 administrative assessment. If bail is forfeited, the administrative assessment
included in the bail amount pursuant to this subsection shall be disbursed as prescribe
in subsections 5 and 6 below.

2-19 5. If the justice or judge permits the fine and administrative
2-20 assessment for the provision of specialty court programs to be paid
2-21 in installments, the payments must be applied in the following
2-22 order:

2-23 (a) To pay the unpaid balance of an administrative assessment
2-24 imposed pursuant to NRS 176.059;

2-25 (b) To pay the unpaid balance of an administrative assessment
2-26 for the provision of court facilities pursuant to NRS 176.0611;

2-27 (c) To pay the unpaid balance of an administrative assessment
2-28 for the provision of specialty court programs; and

2-29 (d) To pay the fine.

2-30 6. The money collected for an administrative assessment for
2-31 the provision of specialty court programs in municipal court must
2-32 be paid by the clerk of the court to the city treasurer on or before
2-33 the fifth day of each month for the preceding month. ~~On or before~~
2-34 ~~the 15th day of that month, the city treasurer shall.~~ The city treasurer shall
distribute, on or before the 15th day of that month, the money received for each
assessment to the State Controller for credit to a special account in the State General
Fund.

2-35 ~~(a) If a specialty court program has been established by a~~
2-36 ~~district court within the county in which the municipal court that~~
2-37 ~~collected the assessment is located, credit the money received to a~~
2-38 ~~special account in the county general fund to pay for any such~~
2-39 ~~program. Any money remaining in the special account after 2~~

2

2-40 ~~fiscal years must be deposited in the county general fund if it has~~
2-41 ~~not been committed for expenditure. The county treasurer shall~~
2-42 ~~provide, upon request of a district court that has established a~~
2-43 ~~specialty court program, monthly reports of the revenue credited to~~
2-44 ~~and expenditures made from the special account.~~

3-1 ~~(b) If a specialty court program has not been established by a~~
3-2 ~~district court within the county in which the municipal court that~~
3-3 ~~collected the assessment is located, deposit the money received~~
3-4 ~~with the State Controller for credit to a special account in the State~~
3-5 ~~General Fund for allocation to courts that have established such a~~
3-6 ~~program. Upon a determination of the need for additional funds, a~~
3-7 ~~district court that has established a specialty court program may~~
3-8 ~~submit a proposal to the Interim Finance Committee, or the~~
3-9 ~~Senate Standing Committee on Finance and the Assembly~~
3-10 ~~Standing Committee on Ways and Means when the Legislature is~~
3-11 ~~in general session. Upon approval of the proposal by the~~
3-12 ~~appropriate committee or committees, the money may be so~~
3-13 ~~expended. Money that remains in the account at the end of the~~
3-14 ~~fiscal year does not revert to the State General Fund, and the~~
3-15 ~~balance in the account must be carried forward to the next fiscal~~
3-16 ~~year.~~

3-17 7. The money collected for administrative assessments in
3-18 justices' courts must be paid by the clerk of the court to the county
3-19 treasurer on or before the fifth day of each month for the
3-20 preceding month. On or before the 15th day of that month, the
3-21 ~~county treasurer shall. The county treasurer shall distribute, on or before the 15th~~
3-22 ~~day of that month, the money received for each assessment to the State Controller for~~
3-23 ~~credit to a special account in the State General Fund.~~

3-24 ~~(a) If a specialty court program has been established by a~~
3-25 ~~district court within the county in which the justice court that~~
3-26 ~~collected the assessment is located, credit the money received to a~~
3-27 ~~special account in the county general fund to pay for any such~~
3-28 ~~program. Any money remaining in the special account after 2~~
3-29 ~~fiscal years must be deposited in the county general fund if it has~~
3-30 ~~not been committed for expenditure. The county treasurer shall~~
3-31 ~~provide, upon request of a district court that has established a~~
3-32 ~~specialty court program, monthly reports of the revenue credited to~~
3-33 ~~and expenditures made from the special account.~~

3-34 ~~(b) If a specialty court program has not been established~~
3-35 ~~within the county in which the justice court that collected the~~
3-36 ~~assessment is located, deposit the money received with the State~~
3-37 ~~Controller for credit to a special account in the State General~~
3-38 ~~Fund for allocation to courts that have established such a~~
3-39 ~~program. Upon a determination of the need for additional funds, a~~
3-40 ~~district court that has established a specialty court program may~~

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3-39 ~~submit a proposal to the Interim Finance Committee, or the~~
3-40 ~~Senate Standing Committee on Finance and the Assembly~~
3-41 ~~Standing Committee on Ways and Means when the Legislature is~~
3-42 ~~in general session. Upon approval of the proposal by the~~
3-43 ~~appropriate committee or committees, the money may be so~~
3-44 ~~expended. Money that remains in the account at the end of the~~
3-45 ~~fiscal year does not revert to the State General Fund, and~~
4-1 ~~the balance in the account must be carried forward to the next~~
4-2 ~~fiscal year.~~

8. Of the total amount deposited in the State General Fund pursuant to subsections 6 and 7, the State Controller shall distribute the money received to the Office of Court Administrator for allocation to general or limited jurisdiction courts to assist with the funding or establishment of specialty courts.

4-3 ~~89. Money that is apportioned to the Office of Court Administrator ~~a district court~~~~
4-4 ~~from~~

4-4 ~~administrative assessments for the provision of specialty court~~
4-5 ~~programs in the general and limited jurisdiction courts must be used by the court to:~~

4-6 (a) ~~Pay for the treatment and testing of persons who~~

4-7 ~~participate in the program; and~~

4-8 (b) ~~Improve the operations of the specialty court program by~~
4-9 ~~any combination of:~~

4-10 (1) ~~Acquiring necessary capital goods;~~

4-11 (2) ~~Providing training and education to personnel;~~

4-12 (3) ~~Studying the management and operation of the~~

4-13 ~~program;~~

4-14 (4) ~~Conducting audits of the program;~~

4-15 (5) ~~Supplementing the funds used to pay for judges to~~

4-16 ~~oversee a specialty court program;~~

(6) provide for staff to oversee and staff a specialty court program; or

4-17 (67) ~~Acquiring or using appropriate technology.~~

4-18 910. As used in this section, "specialty court program" means a

4-19 program established by a district-general or limited jurisdiction court to facilitate
4-20 testing,

4-21 treatment and oversight of certain persons over whom the court

4-22 has jurisdiction and who the court has determined suffers from a

4-23 mental illness or abuses alcohol or drugs. Such a program

4-24 includes, without limitation, a program established pursuant to

4-25 NRS 176A.250 or 453.580.

4-26 Sec. 2. NRS 176.0611 is hereby amended to read as follows:

4-27 176.0611 1. A county or a city, upon recommendation of the

4-28 appropriate court, may, by ordinance, authorize the justices or

4-29 judges of the justices' or municipal courts within its jurisdiction to

4-30 impose for not longer than 25 years, in addition to {an

administrative assessment} the administrative assessments imposed

4

4-31 pursuant to NRS 176.059~~;~~ and section 1 of this act, an
4-32 administrative assessment for the provision of court facilities.

4-33 2. Except as otherwise provided in subsection 3, in any
4-34 jurisdiction in which an administrative assessment for the provision
4-35 of court facilities has been authorized, when a defendant pleads
4-36 guilty or guilty but mentally ill or is found guilty of a misdemeanor,
4-37 including the violation of any municipal ordinance, the justice or
4-38 judge shall include in the sentence the sum of \$10 as an
4-39 administrative assessment for the provision of court facilities and
4-40 render a judgment against the defendant for the assessment.

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment for the provision of court facilities.

4-41 3. The provisions of subsection 2 do not apply to:

4-42 (a) An ordinance regulating metered parking; or

4-43 (b) An ordinance that is specifically designated as imposing a
4-44 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

5-1 4. The money collected for an administrative assessment for
5-2 the provision of court facilities must not be deducted from the fine
5-3 imposed by the justice or judge but must be taxed against the
5-4 defendant in addition to the fine. The money collected for such an
5-5 administrative assessment must be stated separately on the court's
5-6 docket and must be included in the amount posted for bail. If the
5-7 defendant is found not guilty or the charges are dismissed, the
5-8 money deposited with the court must be returned to the defendant. If
5-9 the justice or judge cancels a fine because the fine has been
5-10 determined to be uncollectible, any balance of the fine and the
5-11 administrative assessment remaining unpaid shall be deemed to be
5-12 uncollectible and the defendant is not required to pay it. If a fine is
5-13 determined to be uncollectible, the defendant is not entitled to a
5-14 refund of the fine or administrative assessment he has paid and the
5-15 justice or judge shall not recalculate the administrative assessment.

5-16 5. If the justice or judge permits the fine and administrative
5-17 assessment for the provision of court facilities to be paid in
5-18 installments, the payments must be applied in the following order:

5-19 (a) To pay the unpaid balance of an administrative assessment
5-20 imposed pursuant to NRS 176.059;

5-21 (b) To pay the unpaid balance of an administrative assessment
5-22 for the provision of court facilities pursuant to this section; ~~and~~

5-23 (c) *To pay the unpaid balance of an administrative assessment*
5-24 *for the provision of specialty court programs pursuant to section 1*
5-25 *of this act; and*

5-26 (d) To pay the fine.

5-27 6. The money collected for administrative assessments for the

5

5-28 provision of court facilities in municipal courts must be paid by the
5-29 clerk of the court to the city treasurer on or before the fifth day of
5-30 each month for the preceding month. The city treasurer shall deposit
5-31 the money received in a special revenue fund. The city may use the
5-32 money in the special revenue fund only to:

5-33 (a) Acquire land on which to construct additional facilities for
5-34 the municipal courts or a regional justice center that includes the
5-35 municipal courts.

5-36 (b) Construct or acquire additional facilities for the municipal
5-37 courts or a regional justice center that includes the municipal courts.

5-38 (c) Renovate or remodel existing facilities for the municipal
5-39 courts.

5-40 (d) Acquire furniture, fixtures and equipment necessitated by the
5-41 construction or acquisition of additional facilities or the renovation
5-42 of an existing facility for the municipal courts or a regional justice
5-43 center that includes the municipal courts. This paragraph does not
5-44 authorize the expenditure of money from the fund for furniture,
5-45 fixtures or equipment for judicial chambers.

6-1 (e) Acquire advanced technology for use in the additional or
6-2 renovated facilities.

6-3 (f) Pay debt service on any bonds issued pursuant to subsection
6-4 3 of NRS 350.020 for the acquisition of land or facilities or the
6-5 construction or renovation of facilities for the municipal courts or a
6-6 regional justice center that includes the municipal courts.

6-7 Any money remaining in the special revenue fund after 5 fiscal
6-8 years must be deposited in the municipal general fund for the
6-9 continued maintenance of court facilities if it has not been
6-10 committed for expenditure pursuant to a plan for the construction or
6-11 acquisition of court facilities or improvements to court facilities.
6-12 The city treasurer shall provide, upon request by a municipal court,
6-13 monthly reports of the revenue credited to and expenditures made
6-14 from the special revenue fund.

6-15 7. The money collected for administrative assessments for the
6-16 provision of court facilities in justices' courts must be paid by the
6-17 clerk of the court to the county treasurer on or before the fifth day of
6-18 each month for the preceding month. The county treasurer shall
6-19 deposit the money received to a special revenue fund. The county
6-20 may use the money in the special revenue fund only to:

6-21 (a) Acquire land on which to construct additional facilities for
6-22 the justices' courts or a regional justice center that includes the
6-23 justices' courts.

6-24 (b) Construct or acquire additional facilities for the justices'
6-25 courts or a regional justice center that includes the justices' courts.

6-26 (c) Renovate or remodel existing facilities for the justices'
6-27 courts.

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6-28 (d) Acquire furniture, fixtures and equipment necessitated by the
6-29 construction or acquisition of additional facilities or the renovation
6-30 of an existing facility for the justices' courts or a regional justice
6-31 center that includes the justices' courts. This paragraph does not
6-32 authorize the expenditure of money from the fund for furniture,
6-33 fixtures or equipment for judicial chambers.

6-34 (e) Acquire advanced technology for use in the additional or
6-35 renovated facilities.

6-36 (f) Pay debt service on any bonds issued pursuant to subsection
6-37 3 of NRS 350.020 for the acquisition of land or facilities or the
6-38 construction or renovation of facilities for the justices' courts or a
6-39 regional justice center that includes the justices' courts.

6-40 Any money remaining in the special revenue fund after 5 fiscal
6-41 years must be deposited in the county general fund for the continued
6-42 maintenance of court facilities if it has not been committed for
6-43 expenditure pursuant to a plan for the construction or acquisition of
6-44 court facilities or improvements to court facilities. The county
6-45 treasurer shall provide, upon request by a justice's court, monthly
7-1 reports of the revenue credited to and expenditures made from the
7-2 special revenue fund.

7-3 8. If money collected pursuant to this section is to be used to
7-4 acquire land on which to construct a regional justice center, to
7-5 construct a regional justice center or to pay debt service on bonds
7-6 issued for these purposes, the county and the participating cities
7-7 shall, by interlocal agreement, determine such issues as the size of
7-8 the regional justice center, the manner in which the center will be
7-9 used and the apportionment of fiscal responsibility for the center.

7-10 **Sec. 3. NRS 179.225 is hereby amended to read as follows:**

7-11 **179.225 1. If the punishment of the crime is the confinement**
7-12 **of the criminal in prison, the expenses must be paid from money**
7-13 **appropriated to the Office of the Attorney General for that purpose,**
7-14 **upon approval by the State Board of Examiners. After the**
7-15 **appropriation is exhausted, the expenses must be paid from the**
7-16 **Reserve for Statutory Contingency Account upon approval by the**
7-17 **State Board of Examiners. In all other cases, they must be paid out**
7-18 **of the county treasury in the county wherein the crime is alleged to**
7-19 **have been committed. The expenses are:**

7-20 (a) If the prisoner is returned to this state from another state, the
7-21 fees paid to the officers of the state on whose governor the
7-22 requisition is made;

7-23 (b) If the prisoner is returned to this state from a foreign country
7-24 or jurisdiction, the fees paid to the officers and agents of this state or
7-25 the United States; or

7-26 (c) If the prisoner is temporarily returned for prosecution to this
7-27 state from another state pursuant to this chapter or chapter 178 of

7

7-28 NRS and is then returned to the sending state upon completion of
7-29 the prosecution, the fees paid to the officers and agents of this
7-30 state,
7-31 and the necessary traveling expenses and subsistence allowances in
7-32 the amounts authorized by NRS 281.160 incurred in returning the
7-33 prisoner.

7-34 2. If a person is returned to this state pursuant to this chapter or
7-35 chapter 178 of NRS and is convicted of, or pleads guilty, guilty but
7-36 mentally ill or nolo contendere to the criminal charge for which he
7-37 was returned or a lesser criminal charge, the court shall conduct an
7-38 investigation of the financial status of the person to determine his
7-39 ability to make restitution. In conducting the investigation, the court
7-40 shall determine if the person is able to pay any existing obligations
7-41 for:

7-42 (a) Child support;

7-43 (b) Restitution to victims of crimes; and

8-1 (c) Any administrative assessment required to be paid pursuant
8-2 to NRS 62.2175, 176.059, ~~176.0611~~ and 176.062~~1~~ and section 1
8-3 of this act.

8-4 3. If the court determines that the person is financially able to
8-5 pay the obligations described in subsection 2, it shall, in addition to
8-6 any other sentence it may impose, order the person to make
8-7 restitution for the expenses incurred by the Attorney General or
8-8 other governmental entity in returning him to this state. The court
8-9 shall not order the person to make restitution if payment of
8-10 restitution will prevent him from paying any existing obligations
8-11 described in subsection 2. Any amount of restitution remaining
8-12 unpaid constitutes a civil liability arising upon the date of the
8-13 completion of his sentence.

8-14 4. The Attorney General may adopt regulations to carry out the
8-15 provisions of this section.

8-16 Sec. 4. NRS 211.245 is hereby amended to read as follows:

8-17 211.245 1. If a prisoner fails to make a payment within 10
8-18 days after it is due, the district attorney for a county or the city
8-19 attorney for an incorporated city may file a civil action in any court
8-20 of competent jurisdiction within this state seeking recovery of:

8-21 (a) The amount of reimbursement due;

8-22 (b) Costs incurred in conducting an investigation of the financial
8-23 status of the prisoner; and

8-24 (c) Attorney's fees and costs.

8-25 2. A civil action brought pursuant to this section must:

8-26 (a) Be instituted in the name of the county or city in which the
8-27 jail, detention facility or alternative program is located;

8-28 (b) Indicate the date and place of sentencing, including, without
8-29 limitation, the name of the court which imposed the sentence;

8

- 8-30 (c) Include the record of judgment of conviction, if available;
8-31 (d) Indicate the length of time served by the prisoner and, if he
8-32 has been released, the date of his release; and
8-33 (e) Indicate the amount of reimbursement that the prisoner owes
8-34 to the county or city.

8-35 3. The county or city treasurer of the county or incorporated
8-36 city in which a prisoner is or was confined shall determine the
8-37 amount of reimbursement that the prisoner owes to the city or
8-38 county. The county or city treasurer may render a sworn statement
8-39 indicating the amount of reimbursement that the prisoner owes and
8-40 submit the statement in support of a civil action brought pursuant to
8-41 this section. Such a statement is prima facie evidence of the amount
8-42 due.

8-43 4. A court in a civil action brought pursuant to this section may
8-44 award a money judgment in favor of the county or city in whose
8-45 name the action was brought.

8-46 5. If necessary to prevent the disposition of the prisoner's
8-47 property by the prisoner, or his spouse or agent, a county or city
8-48 may file a motion for a temporary restraining order. The court may,
8-49 without a hearing, issue ex parte orders restraining any person from
8-50 transferring, encumbering, hypothecating, concealing or in any way
8-51 disposing of any property of the prisoner, real or personal, whether
8-52 community or separate, except for necessary living expenses.

8-53 6. The payment, pursuant to a judicial order, of existing
8-54 obligations for:

8-55 (a) Child support or alimony;

8-56 (b) Restitution to victims of crimes; and

8-57 (c) Any administrative assessment required to be paid pursuant
8-58 to NRS 62.2175, 176.059, ~~176.0611~~ and ~~176.0621~~ *and section 1*
8-59 *of this act,*

8-60 has priority over the payment of a judgment entered pursuant to this
8-61 section.

8-62 **Sec. 5.** NRS 249.085 is hereby amended to read as follows:

8-63 249.085 On or before the 15th day of each month, the county
8-64 treasurer shall report to the State Controller the amount of the
8-65 administrative assessments paid by each justices' court for the
8-66 preceding month pursuant to NRS ~~176.0591~~ *and section 1 of this*
8-67 *act.*

8-68 **Sec. 6.** This act becomes effective on July 1, 2003.

ASSEMBLY BILL NO. 242—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

MARCH 5, 2003

Referred to Committee on Judiciary

SUMMARY—Increases amount of certain administrative assessments and requires imposition of administrative assessment when imprisonment or community service is ordered in lieu of fine. (BDR 14-613)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~{omitted material}~~ is material to be omitted.
Green numbers along left margin indicate location on the printed bill (e.g., 5-15 indicates page 5, line 15).

AN ACT relating to administrative assessments; increasing the amount of certain administrative assessments; requiring a justice or judge to impose an administrative assessment against a person convicted of certain offenses when imprisonment or community service is ordered in lieu of a fine; and providing other matters properly relating thereto.

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

1-1 **Section 1.** NRS 176.059 is hereby amended to read as follows:
1-2 **176.059** 1. Except as otherwise provided in subsection 2,
1-3 when a defendant pleads guilty or guilty but mentally ill or is found
1-4 guilty of a misdemeanor, including the violation of any municipal
1-5 ordinance, the justice or judge shall include in the sentence the sum
1-6 prescribed by the following schedule as an administrative
1-7 assessment and render a judgment against the defendant for the
1-8 assessment:

10

	Fine	Assessment
2-1		
2-2	\$5 to \$49.....	15 \$25
2-3	50 to 59.....	30 40
2-4	60 to 69.....	35 45
2-5	70 to 79.....	40 50
2-6	80 to 89.....	45 55
2-7	90 to 99.....	50 60
2-8	100 to 199.....	60 70
2-8	200 to 299.....	70 80
2-10	300 to 399.....	80 90
2-11	400 to 499.....	90 100
2-12	500 to 1,000.....	105 115

2-13 *If the justice or judge sentences the defendant to imprisonment or*
 2-14 *to perform community service in lieu of a fine, the justice or judge*
 2-15 *shall include in the sentence the amount of the administrative*
 2-16 *assessment that corresponds with the fine for which the defendant*
 2-17 *would have been responsible as prescribed by the schedule in this*
 2-18 *subsection.*

2-19 2. The provisions of subsection 1 do not apply to:

2-20 (a) An ordinance regulating metered parking; or

2-21 (b) An ordinance which is specifically designated as imposing a
 2-22 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

2-23 3. The money collected for an administrative assessment must
 2-24 not be deducted from the fine imposed by the justice or judge but
 2-25 must be taxed against the defendant in addition to the fine. The
 2-26 money collected for an administrative assessment must be stated
 2-27 separately on the court's docket and must be included in the amount
 2-28 posted for bail. If the defendant is found not guilty or the charges
 2-29 are dismissed, the money deposited with the court must be returned
 2-30 to the defendant. If the justice or judge cancels a fine because the
 2-31 fine has been determined to be uncollectible, any balance of the fine
 2-32 and the administrative assessment remaining unpaid shall be
 2-33 deemed to be uncollectible and the defendant is not required to pay
 2-34 it. If a fine is determined to be uncollectible, the defendant is not
 2-35 entitled to a refund of the fine or administrative assessment he has
 2-36 paid and the justice or judge shall not recalculate the administrative
 2-37 assessment. If bail is forfeited, the administrative assessment included in the bail
 amount pursuant to this subsection shall be disbursed as prescribe in subsections 5 and 6
 below.

2-38 4. If the justice or judge permits the fine and administrative
 2-39 assessment to be paid in installments, the payments must be first
 2-40 applied to the unpaid balance of the administrative assessment. The
 2-41 city treasurer shall distribute partially collected administrative
 2-42 assessments in accordance with the requirements of subsection 5.
 2-43 The county treasurer shall distribute partially collected

11

3-1 administrative assessments in accordance with the requirements of
3-2 subsection 6.

3-3 5. The money collected for administrative assessments in
3-4 municipal court must be paid by the clerk of the court to the city
3-5 treasurer on or before the fifth day of each month for the preceding
3-6 month. The city treasurer shall distribute, on or before the 15th day
3-7 of that month, the money received in the following amounts for each
3-8 assessment received:

3-9 (a) Two dollars to the county treasurer for credit to a special
3-10 account in the county general fund for the use of the county's
3-11 juvenile court or for services to juvenile offenders. Any money
3-12 remaining in the special account after 2 fiscal years must be
3-13 deposited in the county general fund if it has not been committed for
3-14 expenditure. The county treasurer shall provide, upon request by a
3-15 juvenile court, monthly reports of the revenue credited to and
3-16 expenditures made from the special account.

3-17 (b) Seven dollars for credit to a special revenue fund for the use
3-18 of the municipal courts. Any money remaining in the special
3-19 revenue fund after 2 fiscal years must be deposited in the municipal
3-20 general fund if it has not been committed for expenditure. The city
3-21 treasurer shall provide, upon request by a municipal court, monthly
3-22 reports of the revenue credited to and expenditures made from the
3-23 special revenue fund.

3-24 (c) The remainder of each assessment to the State Controller for
3-25 credit to a special account in the State General Fund.

3-26 6. The money collected for administrative assessments in
3-27 justices' courts must be paid by the clerk of the court to the county
3-28 treasurer on or before the fifth day of each month for the preceding
3-29 month. The county treasurer shall distribute, on or before the 15th
3-30 day of that month, the money received in the following amounts for
3-31 each assessment received:

3-32 (a) Two dollars for credit to a special account in the county
3-33 general fund for the use of the county's juvenile court or for services
3-34 to juvenile offenders. Any money remaining in the special account
3-35 after 2 fiscal years must be deposited in the county general fund if it
3-36 has not been committed for expenditure. The county treasurer shall
3-37 provide, upon request by a juvenile court, monthly reports of the
3-38 revenue credited to and expenditures made from the special account.

3-39 (b) Seven dollars for credit to a special revenue fund for the use
3-40 of the justices' courts. Any money remaining in the special revenue
3-41 fund after 2 fiscal years must be deposited in the county general
3-42 fund if it has not been committed for expenditure. The county
3-43 treasurer shall provide, upon request by a justice's court, monthly
3-44 reports of the revenue credited to and expenditures made from the
3-45 special revenue fund.

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4-1 (c) The remainder of each assessment to the State Controller for
4-2 credit to a special account in the State General Fund.

4-3 7. The money apportioned to a juvenile court, a justice's court
4-4 or a municipal court pursuant to this section must be used, in
4-5 addition to providing services to juvenile offenders in the juvenile
4-6 court, to improve the operations of the court, or to acquire
4-7 appropriate advanced technology or the use of such technology, or
4-8 both. Money used to improve the operations of the court may
4-9 include expenditures for:

- 4-10 (a) Training and education of personnel;
- 4-11 (b) Acquisition of capital goods;
- 4-12 (c) Management and operational studies; or
- 4-13 (d) Audits.

4-14 8. Of the total amount deposited in the State General Fund
4-15 pursuant to subsections 5 and 6, the State Controller shall distribute
4-16 the money received to the following public agencies in the
4-17 following manner:

4-18 (a) Not less than 51 percent to the Office of ~~the~~ Court
4-19 Administrator for allocation as follows:

4-20 (1) Eighteen and one-half percent of the amount distributed
4-21 to the Office of ~~the~~ Court Administrator for the administration of
4-22 the courts.

4-23 (2) Nine percent of the amount distributed to the Office of
4-24 ~~the~~ Court Administrator for the development of a uniform system
4-25 for judicial records.

4-26 (3) Nine percent of the amount distributed to the Office of
4-27 ~~the~~ Court Administrator for continuing judicial education.

4-28 (4) Sixty percent of the amount distributed to the Office of
4-29 ~~the~~ Court Administrator for the Supreme Court.

4-30 (5) Three and one-half percent of the amount distributed to
4-31 the Office of ~~the~~ Court Administrator for the payment for the
4-32 services of retired justices and retired district judges.

4-33 (b) Not more than 49 percent must be used to the extent of
4-34 legislative authorization for the support of:

4-35 (1) The Central Repository for Nevada Records of Criminal
4-36 History;

4-37 (2) The Peace Officers' Standards and Training Commission;

4-38 (3) The operation by the Nevada Highway Patrol of a
4-39 computerized switching system for information related to law
4-40 enforcement;

4-41 (4) The Fund for the Compensation of Victims of Crime; and

4-42 (5) The Advisory Council for Prosecuting Attorneys.

4-43 9. As used in this section, ~~"juvenile"~~ :

4-44 (a) "Juvenile court" means:

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5-1 ~~{(a)}~~ (1) In any judicial district that includes a county whose
5-2 population is 100,000 or more, the family division of the district
5-3 court; or

5-4 ~~{(b)}~~ (2) In any other judicial district, the juvenile division of
5-5 the district court.

5-6 (b) *"Office of Court Administrator" means the Office of Court*
5-7 *Administrator created pursuant to NRS 1.320.*

5-8 **Sec. 2.** This act becomes effective on July 1, 2003.

5-9 H

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NRS 1.360 Duties. Under the direction of the supreme court, the court administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this state and make recommendations, through the chief justice, for the improvement of those procedures;
2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;
3. Make recommendations to and carry out the directions of the chief justice relating to the assignment of district judges where district courts are in need of assistance;
4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the state court system and transmit that information to the supreme court so that proper action may be taken in respect thereto;
5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the state court system and make recommendations in respect thereto;
6. Develop procedures for accounting, internal auditing, procurement and disbursement for the state court system;
7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the state court system and the offices connected therewith;
8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;
9. Formulate and submit to the supreme court recommendations of policies or proposed legislation for the improvement of the state court system;
10. On or before January 1 of each year, submit to the director of the legislative counsel bureau a written report compiling the information submitted to the court administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;
11. On or before February 1 of each odd number year, submit to the director of the legislative counsel bureau a written report addressing the distribution of specialty court funds. Included in the report should be the current status of those specialty courts assisted with specialty court funds; and
11. Attend to such other matters as may be assigned by the supreme court or prescribed by law.

GREEN

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

Supreme Court Building
101 South Carson Street, Suite 250
Carson City, Nevada 89701-4702



RONALD R. TITUS
Director and
State Court Administrator

JUDICIAL COUNCIL OF THE STATE OF NEVADA

"To unite and promote Nevada's judiciary as an equal, independent and effective branch of government"

RESOLUTION

Whereas, the Judicial Council has introduced a bill in the Nevada Legislature to provide additional funding for specialty courts and programs by authorizing a specialty court administrative assessment that upon collection would be forwarded to the Administrative Office of the Courts for distribution; and

Whereas, specialty courts, such as drug and mental health courts, have been found to be beneficial in returning participants and defendants to productive citizenship; and

Whereas, specialty courts save tax dollars by providing a rehabilitative alternative to jail or prison; and

Whereas, the Judicial Council will recommend to the Supreme Court the appropriate distribution of specialty courts funds throughout the state of Nevada; and

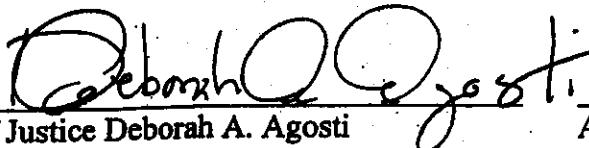
Whereas, there are currently specialty court programs in the First, Second, Third, Eighth, and Ninth Judicial Districts; and

Whereas, the need for funds varies among the existing courts; and


Whereas, the Judicial Council desires to make specialty courts available to as many Nevada citizens as possible;

Now, Therefore, be it resolved that the Judicial Council intends that current specialty court programs be funded to ensure continued operation and that new programs be initiated and funded so that, to the extent practical, all citizens of Nevada have equal access to specialty court programs.

Passed, Adopted and Approved this 7th day of March, 2003



Chief Justice Deborah A. Agosti
Chair, Judicial Council of the State of Nevada



Attested to by:
Ronald R. Titus, State Court Administrator
Secretary, Judicial Council of the State of Nevada

Telephone (775) 684-1700 • Facsimile (775) 684-1723

NRS 178.502 Form of bail; extension of bond or undertaking to proceedings in other courts; exoneration; place of deposit.

1. A person required or permitted to give bail shall execute a bond for his appearance. The magistrate or court or judge or justice, having regard to the considerations set forth in NRS 178.498, may require one or more sureties or may authorize the acceptance of cash or bonds or notes of the United States in an amount equal to or less than the face amount of the bond.

2. Any bond or undertaking for bail must provide that the bond or undertaking:

(a) ~~extends, for a period of at least 1 year unless bail is exonerated earlier pursuant to the provisions of subsection 4,~~ to any action or proceeding in a justice's court, municipal court or district court:

____ (1a) Arising from the charge on which bail was first given in any of these courts; and

____ (2b) Arising from a later charge, filed before the expiration of the periods provided in subsection 4, which is substantially similar to the charge upon which bail was first given and is based upon the same act or omission as that charge.

(b) Remains in effect until exonerated by the court.

This subsection does not require that any bond or undertaking extend to proceedings on appeal.

3. If an action or proceeding against a defendant who has been admitted to bail is transferred to another trial court, the bond or undertaking must be transferred to the clerk of the court to which the action or proceeding has been transferred.

4. If the action or proceeding against a defendant who has been admitted to bail is dismissed, the bail must not be exonerated until a period of 30 days has elapsed from the entry of the order of dismissal unless the defendant requests that bail be exonerated before the expiration of the 30-day period. If no formal action or proceeding is instituted against a defendant who has been admitted to bail, the bail must not be exonerated until a period of 30 days has elapsed from the day the bond or undertaking is posted unless the defendant requests that bail be exonerated before the expiration of the 30-day period.

5. If, within the periods provided in subsection 4, the defendant is charged with a public offense arising out of the same act or omission supporting the charge upon which bail was first given, the prosecuting attorney shall forthwith notify the clerk of the court where the bond was posted, the bail must be applied to the public offense later charged, and the bond or undertaking must be transferred to the clerk of the appropriate court. Within 10 days after its receipt, the clerk of the court to whom the bail is transferred shall mail notice of the transfer to the surety on the bond and the bail agent who executed the bond.

6. Bail given originally on appeal must be deposited with the magistrate or the clerk of the court from which the appeal is taken.

NRS 178.504 Justification of sureties.

NRS 178.504 Justification of sureties.

1. Every surety, except a corporate surety which is approved as provided by law, shall justify by affidavit and may be required to describe in the affidavit:

- (a) The property by which he proposes to justify and the encumbrances thereon;
- (b) The number and amount of other bonds and undertakings for bail entered into by him and remaining undischarged; and
- (c) All his other liabilities.

2. No bond shall be approved unless the surety thereon appears to be qualified.

NRS 178.506 Declaration of forfeiture.

NRS 178.506 Declaration of forfeiture. If there is a breach of condition of a bond, the court shall declare a forfeiture of the bail, subject to the provisions of NRS 178.508 and 178.509.

NRS 178.508 Notice to surety or depositor when defendant fails to appear; duties of court; issuance of arrest warrant; determination of date of forfeiture; grounds for extending date of forfeiture.

1. If the defendant fails to appear when his presence in court is lawfully required for the commission of a misdemeanor and the failure to appear is not excused or is lawfully required for the commission of a gross misdemeanor or felony, the court shall:

- (a) Enter upon its minutes that the defendant failed to appear;
- (b) Not later than 45 days after the date on which the defendant failed to appear, order the issuance of a warrant for the arrest of the defendant; and
- (c) If the undertaking exceeds \$50 or money deposited instead of bail bond exceeds \$500, direct that each surety and the local agent of each surety, or the depositor if he is not the defendant, be given notice that the defendant has failed to appear, by certified mail within 20 days after the date on which the defendant failed to appear. The court shall execute an affidavit of such mailing to be kept as an official public record of the court and shall direct that a copy of the notice be transmitted to the prosecuting attorney at the same time that notice is given to each surety or the depositor.

2. Except as otherwise provided in subsection 3 and NRS 178.509, the clerk of court shall prepare and the court shall sign an order of forfeiture of any undertaking or money deposited instead of bail bond. The forfeiture becomes effective-is forfeited 180 days after the date on which the notice required to be provided pursuant to paragraph (c) of subsection 1 of this section is mailed-pursuant to subsection 1. The order must indicate the specific date on which the forfeiture period terminates and, if the forfeiture involves an undertaking or money deposited instead of bail bond in a gross misdemeanor or felony case, a copy of the order must be forwarded to the office of court administrator.

3. The court may extend the date of the forfeiture for any reasonable period set by the court if the surety or depositor submits to the court:

- (a) An application for an extension and the court determines that the surety or the depositor is making reasonable and ongoing efforts to bring the defendant before the court.
- (b) An application for an extension on the ground that the defendant is temporarily prevented from appearing before the court because the defendant:
 - (1) Is ill;
 - (2) Is insane; or
 - (3) Is being detained by civil or military authorities,

and the court, upon hearing the matter, determines that one or more of the grounds described in this paragraph exist and that the surety or depositor did not in any way cause or aid the absence of the defendant.

NRS 178.509 Exoneration of surety before date of forfeiture: Conditions; grounds.

NRS 178.509 Exoneration of surety before date of forfeiture: Conditions; grounds.

1. If the defendant fails to appear when his presence in court is lawfully required, the court shall not exonerate the surety before the date of forfeiture prescribed in NRS 178.508 unless:

- (a) The defendant appears before the court and the court, upon hearing the matter, determines that the defendant has presented a satisfactory excuse or that the surety did not in any way cause or aid the absence of the defendant; or
- (b) The surety submits an application for exoneration on the ground that the defendant is unable to appear because the defendant:

- (1) Is dead;
- (2) Is ill;
- (3) Is insane;
- (4) Is being detained by civil or military authorities; or
- (5) Has been deported,

and the court, upon hearing the matter, determines that one or more of the grounds described in this paragraph exist and that the surety did not in any way cause or aid the absence of the defendant.

2. If the requirements of subsection 1 are met, the court may exonerate the surety upon such terms as may be just.

NRS 178.512 Setting aside forfeiture: Conditions; grounds.

NRS 178.512 Setting aside forfeiture: Conditions; grounds. The court shall not set aside a forfeiture unless:

1. The surety submits an application to set it aside on the ground that the defendant:
 - (a) Has appeared before the court since the date of the forfeiture and has presented a satisfactory excuse for his absence;
 - (b) Was dead before the date of the forfeiture but the surety did not know and could not reasonably have known of his death before that date;
 - (c) Was unable to appear before the court before the date of the forfeiture because of his illness or his insanity, but the surety did not know and could not reasonably have known of his illness or insanity before that date;
 - (d) Was unable to appear before the court before the date of the forfeiture because he was being detained by civil or military authorities, but the surety did not know and could not reasonably have known of his detention before that date; or
 - (e) Was unable to appear before the court before the date of the forfeiture because he was deported, but the surety did not know and could not reasonably have known of his deportation before that date,

and the court, upon hearing the matter, determines that one or more of the grounds described in this subsection exist and that the surety did not in any way cause or aid the absence of the defendant; and

2. The court determines that justice does not require the enforcement of the forfeiture.

3. If a court sets aside a forfeiture for any reason set forth in subsection 1 of this section and the forfeiture includes an undertaking or money deposited instead of bail bond in a gross misdemeanor or felony case, it must make written findings of fact in support of the set aside. A copy of the order setting aside the forfeiture must be mailed by the clerk of the court to the office of court administrator immediately upon entry thereof.

NRS 178.514 Enforcement of forfeiture.

NRS 178.514 Enforcement of forfeiture.

1. When a forfeiture has not been set aside, the court shall on motion enter a judgment of default and execution may issue thereon.

2. If the office of court administrator has not received an order setting aside a forfeiture by the end of the period of time specified in subsection 2 of NRS 178.508, the court administrator shall contact the clerk of the court in which the forfeiture was ordered to request that proceedings be instituted by the court to enter a judgment of default with respect to the amount of the undertaking or money deposited instead of bail bond with the court. Within 30 days after receipt of the request from the office of court administrator, the court shall enter judgment by default and commence execution proceedings thereon.

23. By entering into a bond the obligors submit to the jurisdiction of the court and irrevocably appoint the clerk of the court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the obligors to their last known addresses.

NRS 178.516 Remission of forfeited money.

NRS 178.516 Remission of forfeited money. After entry of such judgment, the court shall not remit it in whole or in part unless the conditions applying to the setting aside of forfeiture in NRS 178.512 are met.

NRS 178.518 Payment of forfeited deposits to county treasurer or state controller.

NRS 178.518 Payment of forfeited deposits to county treasurer or state controller. Money collected pursuant to NRS 178.506 to 178.516, inclusive, which was collected:

1. From a person who was charged with a misdemeanor must be paid over to the county treasurer.
2. From a person who was charged with a gross misdemeanor or a felony must be paid over to the state controller for deposit in the state general fund for the ~~compensation of victims of crime~~ distribution in the following manner:
 - (a) 50 percent for the compensation of victims of crime
 - (b) 50 percent for the office of court administrator for specialty courts.

Proposed Amendments to AB 100

Amend the bill by adding a new section amending Chapter 4 of NRS to read as follows:

Section 1 Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On the commencement of any action or proceeding in the justice court in which the sum claimed exceeds \$7,500, and after the appearance of any defendant pursuant to paragraph (c) of subsection 1 of NRS 4.060:
 - (a) The justice of the peace in a county whose population is 100,000 or more shall; and
 - (b) The justice of the peace in a county whose population is less than 100,000 may;stay all further proceedings and order that the action or proceeding be submitted to mediation.
2. If a neighborhood justice center has been established pursuant to NRS 244.1607 within the county in which the action or proceeding has been commenced, the action or proceeding must be mediated through that center.
3. Within 60 days of the date of a stay entered by the court pursuant to subsection 1 the parties shall meet with the mediator and the mediator shall convene and conduct the mediation to attempt to resolve the case.
4. If the parties to the mediation do not reach agreement and are unable to resolve the case, the mediator shall notify the court of that fact and the court shall set the case for trial.

Renumber existing sections in AB 100 as sections 2, 3, and 4.

Amend the bill by adding a new section to read as follows:

Section 5. Section 1 expires by limitation on October 1, 2005.

Explanation/Justification for Proposed Amendments

The effect(s) of an increase in the jurisdictional limit in justice courts from \$7,500 to \$10,000 can only be estimated at present. It is anticipated that, as a result, cases filed in the justice courts will increase at a time when Nevada's counties are facing serious financial constraints. For example, the Reno Justice Court is facing a potential 7% reduction in its budget for fiscal year 2003/2004. At the same time, with an increase in the jurisdictional limit and an increase in cases filed, a hiring freeze is in effect which, potentially, would affect the ability of court staff to file and process cases in a timely manner. Additionally, because justice courts, unlike district courts, do not have jury commissioners, it is unknown what effect the increase in jurisdictional limit would have on the ability of the justice courts to provide for potentially greater numbers of jury trials both in terms of facilities for juror use and for jury selection. To assist the justice courts in assessing the effect of the increase in the jurisdictional limit, it is proposed that, during the next biennium, all actions or proceedings in the justice court in which the sum claimed exceeds \$7,500 be initially processed through mediation. In doing so, two things would be accomplished. First, the justice courts (at least in counties with a population of 100,000 or more) would be able to compile accurate statistics on the number of cases involving a claim of \$7,500 or more which were filed with the courts as a result of the passage of AB 100. Those statistics could then be analyzed to determine the effect, significant or otherwise, on the justice courts as a result of the jurisdictional increase. Second, by mediating those cases, there would be a potential reduction in the number of cases actually pursued in the justice court thereafter with a resulting savings in time to the court's existing staff. At the end of the biennium, and pursuant to the recommended amendment to the bill contained in section 5, the mediation requirement would "sunset" unless justification for its continued existence was demonstrated by the courts. Mediation of cases in Clark County and Washoe County would be accomplished through the Neighborhood Justice Centers created pursuant to NRS 244.1607 which are funded already by persons filing actions in the justice court. Since litigants are already paying for the mediation service, it seems appropriate that litigants (and the courts) should avail themselves of the

service they are paying for. In calendar year 2002, for example, litigants paid a total of \$92,000 to support Washoe County's Neighborhood Justice Center and it does not appear that the addition of the cases referenced in the proposed amendment would over-burden the Neighborhood Justice Center financially. If such were to occur, NRS 244.1607 provides for the imposition of a fee by the board of county commissioners that could be charged for persons using the mediation services.

PROPOSED AMENDMENTS TO AB 151

Submitted by Madelyn Shipman – Washoe County

Section 1. As set forth.

Amend Sec. 2 to read as follows:

253.150 1. The board of county commissioners of any county may establish the office of public guardian.

2. The board of county commissioners may:

(a) Appoint [the] a public guardian for a term of 4 years from the day of appointment *who serves at the pleasure of the board*; or

(b) Designate an elected or appointed county officer as ex officio public guardian.

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

Amend Sec. 3 to read as follows:

253.170 1. If [any] a vacancy occurs in the office of public guardian, before the expiration of a normal term, the vacancy shall be filled promptly by the board of county commissioners.

2. The [district court] *board of county commissioners* may designate any qualified person to serve as acting public guardian until a vacancy in such office is filled.

Sec. 4 – As set forth.

Justification

At the original hearing on this bill, it became apparent that there was some concern regarding the amendments in Sec. 2 which removed the term of office. The proposed amendments herein would retain the term, but preserve the right of a board of county commissioners to remove an appointee during said term if there was a reason to do so. The proposed amendments to Sec. 3 are to eliminate the requirement that it be a court to appoint an interim or acting public guardian.