

SENATE BILL NO. 57—SENATOR WIENER

FEBRUARY 4, 2003

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions governing program of restitution through work. (BDR 5-588)

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.

AN ACT relating to juvenile justice; revising certain provisions governing the program of restitution through work; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 62.129 is hereby amended to read as follows:
2 62.129 1. A child alleged to be delinquent or in need of
3 supervision may be placed under the informal supervision of a
4 probation officer if the child voluntarily admits his participation in
5 the acts for which he was referred to the probation officer. If any of
6 the acts would constitute a gross misdemeanor or felony if
7 committed by an adult, the child may not be placed under informal
8 supervision unless the district attorney approves of the placement in
9 writing. The probation officer must advise the child and his parent,
10 guardian or custodian that they may refuse informal supervision.
11 2. An agreement for informal supervision must be entered into
12 voluntarily and intelligently by the child with the advice of his
13 attorney, or by the child with the consent of a parent, guardian or
14 custodian if the child is not represented by counsel. The period of
15 informal supervision must not exceed 180 days. The terms of the
16 agreement must be clearly stated in writing and signed by all parties.
17 A copy of the agreement must be given to the child, the attorney for
18 the child, if any, the child's parent, guardian or custodian, and the
19 probation officer, who shall retain a copy in his file for the case. The



* S B 5 7 R 1 *

1 child and his parent, guardian or custodian may terminate the
2 agreement at any time and request the filing of a petition for formal
3 adjudication.

4 3. An agreement for informal supervision may require a child
5 to:

6 (a) Perform community service or provide restitution to any
7 victim of the acts for which the child was referred to the probation
8 officer;

9 (b) Participate in a program of restitution through work that is
10 established pursuant to NRS 62.2185 if the child:

11 (1) Is 14 years of age or older;

12 (2) Has never been found to be within the purview of this
13 chapter for an unlawful act that involved the use or threatened use of
14 force or violence against a victim and has never been found to have
15 committed such an unlawful act in any other jurisdiction ~~§~~, *unless*
16 *the probation officer determines that the child would benefit from*
17 *the program;*

18 (3) Is required to provide restitution to a victim; and

19 (4) Voluntarily agrees to participate in the program of
20 restitution through work;

21 (c) Complete a program of cognitive training and human
22 development pursuant to NRS 62.2195 if:

23 (1) The child has never been found to be within the purview
24 of this chapter; and

25 (2) The unlawful act for which the child is found to be within
26 the purview of this chapter did not involve the use or threatened use
27 of force or violence against a victim; or

28 (d) Engage in any combination of the activities set forth in
29 paragraphs (a), (b) and (c).

30 4. If an agreement for informal supervision requires a child to
31 participate in a program of restitution through work as set forth in
32 paragraph (b) of subsection 3 or complete a program of cognitive
33 training and human development as set forth in paragraph (c) of
34 subsection 3, the agreement may also require any or all of the
35 following, in the following order of priority if practicable:

36 (a) The child or the parent or guardian of the child, to the extent
37 of his financial ability, to pay the costs associated with the
38 participation of the child in the program, including, without
39 limitation, a reasonable sum of money to pay for the cost of policies
40 of insurance against liability for personal injury and damage to
41 property during those periods in which the child participates in the
42 program or performs work, and in the case of a program of
43 restitution through work, for industrial insurance, unless the
44 industrial insurance is provided by the employer for which the child
45 performs the work; or



1 (b) The child to work on projects or perform community service
2 pursuant to paragraph (i) of subsection 1 of NRS 62.211 for a period
3 that reflects the costs associated with the participation of the child in
4 the program.

5 5. If a child is placed under informal supervision, a petition
6 based upon the events out of which the original complaint arose may
7 be filed only within 180 days after entry into the agreement for
8 informal supervision. If a petition is filed within that period, the
9 child may withdraw the admission he made pursuant to subsection
10 1. The child's compliance with all proper and reasonable terms of
11 the agreement constitute grounds for the court to dismiss the
12 petition.

13 6. Upon the request of the court, a probation officer shall file
14 with the court a report of the number of children placed under
15 informal supervision during the previous year, the conditions
16 imposed in each case and the number of cases that were successfully
17 completed without the filing of a petition.

18 **Sec. 2.** NRS 62.2185 is hereby amended to read as follows:

19 62.2185 1. In addition to the options set forth in NRS 62.211
20 and 62.213, the court may order a child who is found to be within
21 the purview of this chapter to participate in a program of restitution
22 through work that is established pursuant to this section if the child:

- 23 (a) Is 14 years of age or older;
- 24 (b) Has never been found to be within the purview of this
25 chapter for an unlawful act that involved the use or threatened use of
26 force or violence against a victim and has never been found to have
27 committed such an unlawful act in any other jurisdiction ~~§~~, *unless*
28 *the court determines that the child would benefit from the*
29 *program;*

- 30 (c) Is ordered to provide restitution to a victim; and
- 31 (d) Voluntarily agrees to participate in the program of restitution
32 through work.

33 2. If the court orders a child to participate in a program of
34 restitution through work, the court may order any or all of the
35 following, in the following order of priority if practicable:

- 36 (a) The child or the parent or guardian of the child, to the extent
37 of his financial ability, to pay the costs associated with the
38 participation of the child in the program, including, without
39 limitation, a reasonable sum of money to pay for the cost of policies
40 of insurance against liability for personal injury and damage to
41 property or for industrial insurance, or both, during those periods in
42 which the child participates in the program or performs work,
43 unless, in the case of industrial insurance, it is provided by the
44 employer for which the child performs the work; or



- 1 (b) The child to work on projects or perform community service
2 pursuant to paragraph (i) of subsection 1 of NRS 62.211 for a period
3 that reflects the costs associated with the participation of the child in
4 the program.
- 5 3. A director of juvenile services may establish a program of
6 restitution through work. A program of restitution through work
7 must:
- 8 (a) Include, without limitation, instruction in skills for
9 employment and work ethics; and
- 10 (b) Require a child who participates in the program to:
- 11 (1) With the assistance of the program and if practicable,
12 seek and obtain a position of employment with a public or private
13 employer; and
- 14 (2) Sign an authorization form that permits money to be
15 deducted from the wages of the child to pay restitution. The director
16 of juvenile services may prescribe the contents of the authorization
17 form and may determine the amount of money to be deducted from
18 the wages of the child to pay restitution, but the director shall not
19 require that more than ~~50~~ :
- 20 *(I) Fifty percent of the wages of the child be deducted to*
21 *pay restitution ~~if~~ if the child, with the approval of the director or*
22 *probation officer, secures the employment without the assistance*
23 *of the program; or*
- 24 *(II) Sixty percent of the wages of the child be deducted*
25 *to pay restitution if the child secures the employment with the*
26 *assistance of the program.*
- 27 4. A program of restitution through work may include, without
28 limitation, cooperative agreements with public or private employers
29 to make available positions of employment for a child who
30 participates in the program.
- 31 5. A director of juvenile services may terminate participation
32 by a child in a program of restitution through work for any lawful
33 reason or purpose.
- 34 6. A director of juvenile services may:
- 35 (a) Apply for, accept and expend grants, gifts, donations,
36 bequests or devise to finance a program of restitution through work
37 in the manner provided in NRS 62.2186; and
- 38 (b) Contract with persons and public or private entities that are
39 qualified to operate or to participate in a program of restitution
40 through work.
- 41 7. A director of juvenile services may designate a person to
42 carry out the provisions of this section.
- 43 8. The provisions of this section do not:
- 44 (a) Create a right on behalf of a child to participate in a program
45 of restitution through work or to hold a position of employment; or



- 1 (b) Establish a basis for any cause of action against the State or
- 2 its officers or employees for denial of the ability to participate in or
- 3 for removal from a program of restitution through work or for denial
- 4 of or removal from a position of employment.

③

