

ASSEMBLY BILL NO. 56—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Judiciary

SUMMARY—Authorizes justice courts and municipal courts to establish programs for the treatment of certain offenders who are veterans or members of the military. (BDR 14-388)

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

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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; authorizing justice courts and municipal courts to establish programs for the treatment of certain offenders who are veterans or members of the military; 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. (NRS
5 176A.280) Existing law also authorizes a justice court or municipal court to transfer
6 jurisdiction of such a defendant to the district court for assignment to an appropriate
7 program of treatment. (NRS 176A.285) **Section 3** of this bill authorizes justice
8 courts and municipal courts to establish such programs and assign such offenders to
9 those programs.

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

1 **Section 1.** NRS 176.015 is hereby amended to read as follows:
2 176.015 1. Sentence must be imposed without unreasonable
3 delay. Pending sentence, the court may commit the defendant or
4 continue or alter the bail.



1 2. Before imposing sentence, the court shall:

2 (a) Afford counsel an opportunity to speak on behalf of the
3 defendant; and

4 (b) Address the defendant personally and ask the defendant if:

5 (1) The defendant wishes to make a statement in his or her
6 own behalf and to present any information in mitigation of
7 punishment; and

8 (2) The defendant is a veteran or a member of the military. If
9 the defendant ~~is a veteran or a member of the military and~~ meets
10 the qualifications of ~~paragraphs (b) and (c) of subsection 2 of NRS~~
11 ~~176A.285,~~ *section 2 of this act*, the court may, if appropriate,
12 assign the defendant to:

13 (I) A program of treatment established pursuant to NRS
14 176A.280; or

15 (II) If a program of treatment established pursuant to NRS
16 176A.280 is not available for the defendant, a program of treatment
17 established pursuant to NRS 176A.250 or 453.580.

18 3. After hearing any statements presented pursuant to
19 subsection 2 and before imposing sentence, the court shall afford the
20 victim an opportunity to:

21 (a) Appear personally, by counsel or by personal representative;
22 and

23 (b) Reasonably express any views concerning the crime, the
24 person responsible, the impact of the crime on the victim and the
25 need for restitution.

26 4. The prosecutor shall give reasonable notice of the hearing to
27 impose sentence to:

28 (a) The person against whom the crime was committed;

29 (b) A person who was injured as a direct result of the
30 commission of the crime;

31 (c) The surviving spouse, parents or children of a person who
32 was killed as a direct result of the commission of the crime; and

33 (d) Any other relative or victim who requests in writing to be
34 notified of the hearing.

35 ➤ Any defect in notice or failure of such persons to appear are not
36 grounds for an appeal or the granting of a writ of habeas corpus. All
37 personal information, including, but not limited to, a current or
38 former address, which pertains to a victim or relative and which is
39 received by the prosecutor pursuant to this subsection is
40 confidential.

41 5. For the purposes of this section:

42 (a) "Member of the military" has the meaning ascribed to it in
43 NRS 176A.043.

44 (b) "Relative" of a person includes:

45 (1) A spouse, parent, grandparent or stepparent;



- 1 (2) A natural born child, stepchild or adopted child;
- 2 (3) A grandchild, brother, sister, half brother or half sister; or
- 3 (4) A parent of a spouse.
- 4 (c) "Veteran" has the meaning ascribed to it in NRS 176A.090.
- 5 (d) "Victim" includes:
 - 6 (1) A person, including a governmental entity, against whom
 - 7 a crime has been committed;
 - 8 (2) A person who has been injured or killed as a direct result
 - 9 of the commission of a crime; and
 - 10 (3) A relative of a person described in subparagraph (1)
 - 11 or (2).

12 6. This section does not restrict the authority of the court to
13 consider any reliable and relevant evidence at the time of
14 sentencing.

15 **Sec. 2.** Chapter 176A of NRS is hereby amended by adding
16 thereto a new section to read as follows:

17 *As used in this section and NRS 176A.280 to 176A.295,*
18 *inclusive, "eligible defendant" means a veteran or a member of*
19 *the military who:*

20 *1. Appears to suffer from mental illness, alcohol or drug*
21 *abuse or posttraumatic stress disorder, any of which appear to be*
22 *related to military service, including, without limitation, any*
23 *readjustment to civilian life which is necessary after combat*
24 *service; and*

25 *2. Would benefit from assignment to a program established*
26 *pursuant to NRS 176A.280.*

27 **Sec. 3.** NRS 176A.280 is hereby amended to read as follows:

28 176A.280 A *district court, justice court or municipal* court
29 may establish an appropriate program for the treatment of veterans
30 and members of the military to which it may assign ~~†~~ *an eligible*
31 *defendant* pursuant to NRS 176A.290. The assignment must include
32 the terms and conditions for successful completion of the program
33 and provide for progress reports at intervals set by the court to
34 ensure that the defendant is making satisfactory progress towards
35 completion of the program.

36 **Sec. 4.** NRS 176A.285 is hereby amended to read as follows:

37 176A.285 ~~†.—A†~~ *If a justice court or †† municipal court has*
38 *not established a program pursuant to NRS 176A.280, the justice*
39 *court or municipal court, as applicable, may, upon approval of the*
40 *district court, transfer original jurisdiction to the district court of a*
41 *case involving an eligible defendant †.*

42 ~~—2.—As used in this section, "eligible defendant" means a veteran~~
43 ~~or a member of the military who:~~



1 ~~—(a) Has} who has~~ not tendered a plea of guilty, guilty but
2 mentally ill or nolo contendere to, or been found guilty or guilty but
3 mentally ill of, an offense that is a misdemeanor. ‡

4 ~~—(b) Appears to suffer from mental illness, alcohol or drug abuse~~
5 ~~or posttraumatic stress disorder, any of which appear to be related to~~
6 ~~military service, including, without limitation, any readjustment to~~
7 ~~civilian life which is necessary after combat service; and~~

8 ~~—(c) Would benefit from assignment to a program established~~
9 ~~pursuant to NRS 176A.280.]~~

10 **Sec. 5.** NRS 176A.290 is hereby amended to read as follows:

11 176A.290 1. Except as otherwise provided in subsection 2, if
12 ~~fa defendant who is a veteran or a member of the military and who~~
13 ~~suffers from mental illness, alcohol or drug abuse or posttraumatic~~
14 ~~stress disorder as described in NRS 176A.285] an eligible~~
15 **defendant** tenders a plea of guilty, guilty but mentally ill or nolo
16 contendere to, or is found guilty or guilty but mentally ill of, any
17 offense for which the suspension of sentence or the granting of
18 probation is not prohibited by statute, the **district court, justice**
19 **court or municipal court , as applicable,** may, without entering a
20 judgment of conviction and with the consent of the defendant,
21 suspend further proceedings and place the defendant on probation
22 upon terms and conditions that must include attendance and
23 successful completion of a program established pursuant to
24 NRS 176A.280.

25 2. If the offense committed by the defendant involved the use
26 or threatened use of force or violence or if the defendant was
27 previously convicted in this State or in any other jurisdiction of a
28 felony that involved the use or threatened use of force or violence,
29 the **district court, justice court or municipal court , as applicable,**
30 may not assign the defendant to the program unless the prosecuting
31 attorney stipulates to the assignment. For the purposes of this
32 subsection, in determining whether an offense involved the use or
33 threatened use of force or violence, the **district court, justice court**
34 **or municipal court , as applicable,** shall consider the facts and
35 circumstances surrounding the offense, including, without
36 limitation, whether the defendant intended to place another person
37 in reasonable apprehension of bodily harm.

38 3. Upon violation of a term or condition:

39 (a) The **district court, justice court or municipal court , as**
40 **applicable,** may enter a judgment of conviction and proceed as
41 provided in the section pursuant to which the defendant was
42 charged.

43 (b) Notwithstanding the provisions of paragraph (e) of
44 subsection 2 of NRS 193.130, the **district** court may order the



1 defendant to the custody of the Department of Corrections if the
2 offense is punishable by imprisonment in the state prison.

3 4. Upon fulfillment of the terms and conditions, the *district*
4 *court, justice court or municipal court , as applicable*, shall
5 discharge the defendant and dismiss the proceedings. Discharge and
6 dismissal pursuant to this section is without adjudication of guilt and
7 is not a conviction for purposes of this section or for purposes of
8 employment, civil rights or any statute or regulation or license or
9 questionnaire or for any other public or private purpose, but is a
10 conviction for the purpose of additional penalties imposed for
11 second or subsequent convictions or the setting of bail. Discharge
12 and dismissal restores the defendant, in the contemplation of the
13 law, to the status occupied before the arrest, indictment or
14 information. The defendant may not be held thereafter under any
15 law to be guilty of perjury or otherwise giving a false statement by
16 reason of failure to recite or acknowledge that arrest, indictment,
17 information or trial in response to an inquiry made of the defendant
18 for any purpose.

19 **Sec. 6.** NRS 176A.295 is hereby amended to read as follows:

20 176A.295 1. After ~~that~~ *an eligible* defendant is discharged
21 from probation pursuant to NRS 176A.290, the *district court,*
22 *justice court or municipal court , as applicable*, shall order sealed
23 all documents, papers and exhibits in the defendant's record, minute
24 book entries and entries on dockets, and other documents relating to
25 the case in the custody of such other agencies and officers as are
26 named in the court's order if the defendant fulfills the terms and
27 conditions imposed by the court and the Division. The *district court,*
28 *justice court or municipal court , as applicable*, shall order those
29 records sealed without a hearing unless the Division petitions the
30 court, for good cause shown, not to seal the records and requests a
31 hearing thereon.

32 2. If the *district court, justice court or municipal court , as*
33 *applicable*, orders sealed the record of ~~that~~ *an eligible* defendant
34 discharged pursuant to NRS 176A.290, the court shall send a copy
35 of the order to each agency or officer named in the order. Each such
36 agency or officer shall notify the *district court, justice court or*
37 *municipal court , as applicable*, in writing of its compliance with
38 the order.

39 **Sec. 7.** NRS 4.370 is hereby amended to read as follows:

40 4.370 1. Except as otherwise provided in subsection 2, justice
41 courts have jurisdiction of the following civil actions and
42 proceedings and no others except as otherwise provided by specific
43 statute:

44 (a) In actions arising on contract for the recovery of money only,
45 if the sum claimed, exclusive of interest, does not exceed \$15,000.



1 (b) In actions for damages for injury to the person, or for taking,
2 detaining or injuring personal property, or for injury to real property
3 where no issue is raised by the verified answer of the defendant
4 involving the title to or boundaries of the real property, if the
5 damage claimed does not exceed \$15,000.

6 (c) Except as otherwise provided in paragraph (l), in actions for
7 a fine, penalty or forfeiture not exceeding \$15,000, given by statute
8 or the ordinance of a county, city or town, where no issue is raised
9 by the answer involving the legality of any tax, impost, assessment,
10 toll or municipal fine.

11 (d) In actions upon bonds or undertakings conditioned for the
12 payment of money, if the sum claimed does not exceed \$15,000,
13 though the penalty may exceed that sum. Bail bonds and other
14 undertakings posted in criminal matters may be forfeited regardless
15 of amount.

16 (e) In actions to recover the possession of personal property, if
17 the value of the property does not exceed \$15,000.

18 (f) To take and enter judgment on the confession of a defendant,
19 when the amount confessed, exclusive of interest, does not exceed
20 \$15,000.

21 (g) Of actions for the possession of lands and tenements where
22 the relation of landlord and tenant exists, when damages claimed do
23 not exceed \$15,000 or when no damages are claimed.

24 (h) Of actions when the possession of lands and tenements has
25 been unlawfully or fraudulently obtained or withheld, when
26 damages claimed do not exceed \$15,000 or when no damages are
27 claimed.

28 (i) Of suits for the collection of taxes, where the amount of the
29 tax sued for does not exceed \$15,000.

30 (j) Of actions for the enforcement of mechanics' liens, where the
31 amount of the lien sought to be enforced, exclusive of interest, does
32 not exceed \$15,000.

33 (k) Of actions for the enforcement of liens of owners of facilities
34 for storage, where the amount of the lien sought to be enforced,
35 exclusive of interest, does not exceed \$15,000.

36 (l) In actions for a fine imposed for a violation of
37 NRS 484D.680.

38 (m) Except as otherwise provided in this paragraph, in any
39 action for the issuance of a temporary or extended order for
40 protection against domestic violence. A justice court does not have
41 jurisdiction in an action for the issuance of a temporary or extended
42 order for protection against domestic violence:

43 (1) In a county whose population is 100,000 or more and less
44 than 700,000;



1 (2) In any township whose population is 100,000 or more
2 located within a county whose population is 700,000 or more; or

3 (3) If a district court issues a written order to the justice court
4 requiring that further proceedings relating to the action for the
5 issuance of the order for protection be conducted before the district
6 court.

7 (n) In an action for the issuance of a temporary or extended
8 order for protection against harassment in the workplace pursuant to
9 NRS 33.200 to 33.360, inclusive.

10 (o) In small claims actions under the provisions of chapter 73 of
11 NRS.

12 (p) In actions to contest the validity of liens on mobile homes or
13 manufactured homes.

14 (q) In any action pursuant to NRS 200.591 for the issuance of a
15 protective order against a person alleged to be committing the crime
16 of stalking, aggravated stalking or harassment.


17 (r) In any action pursuant to NRS 200.378 for the issuance of a
18 protective order against a person alleged to have committed the
19 crime of sexual assault.

20 (s) In actions transferred from the district court pursuant to
21 NRS 3.221.

22 (t) In any action for the issuance of a temporary or extended
23 order pursuant to NRS 33.400.

24 (u) In any action seeking an order pursuant to NRS 441A.195.

25 2. The jurisdiction conferred by this section does not extend to
26 civil actions, other than for forcible entry or detainer, in which the
27 title of real property or mining claims or questions affecting the
28 boundaries of land are involved.

29 3. Justice courts have jurisdiction of all misdemeanors and no
30 other criminal offenses except as otherwise provided by specific
31 statute. Upon approval of the district court, a justice court may
32 transfer original jurisdiction of a misdemeanor to the district court
33 for the purpose of assigning an offender to a program established
34 pursuant to NRS 176A.250 or , *if the justice court has not*
35 *established a program pursuant to NRS 176A.280*  , *to a*
36 *program established pursuant to that section.*

37 4. Except as otherwise provided in subsections 5 and 6, in
38 criminal cases the jurisdiction of justices of the peace extends to the
39 limits of their respective counties.

40 5. In the case of any arrest made by a member of the Nevada
41 Highway Patrol, the jurisdiction of the justices of the peace extends
42 to the limits of their respective counties and to the limits of all
43 counties which have common boundaries with their respective
44 counties.



1 6. Each justice court has jurisdiction of any violation of a
2 regulation governing vehicular traffic on an airport within the
3 township in which the court is established.

4 **Sec. 8.** NRS 4.374 is hereby amended to read as follows:

5 4.374 1. Before accepting a plea from a defendant or
6 proceeding to trial, the justice of the peace shall address the
7 defendant personally and ask the defendant if he or she is a veteran
8 or a member of the military.

9 2. If the defendant ~~is a veteran or a member of the military~~
10 ~~and~~ meets the qualifications of ~~[NRS 176A.285,]~~ *section 2 of this*
11 *act and has not tendered a plea of guilty, guilty but mentally ill or*
12 *nolo contendere to, or been found guilty or guilty but mentally ill*
13 *of, an offense that is a misdemeanor,* the justice court may, *if the*
14 *court has not established a program pursuant to NRS 176A.280*
15 *and* if appropriate, take any action authorized by law for the purpose
16 of having the defendant assigned to:

17 (a) A program of treatment established pursuant to NRS
18 176A.280; or

19 (b) If a program of treatment established pursuant to NRS
20 176A.280 is not available for the defendant, a program of treatment
21 established pursuant to NRS 176A.250 or 453.580.

22 3. As used in this section:

23 (a) "Member of the military" has the meaning ascribed to it in
24 NRS 176A.043.

25 (b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

26 **Sec. 9.** NRS 5.050 is hereby amended to read as follows:

27 5.050 1. Municipal courts have jurisdiction of civil actions or
28 proceedings:

29 (a) For the violation of any ordinance of their respective cities.

30 (b) To prevent or abate a nuisance within the limits of their
31 respective cities.

32 2. The municipal courts have jurisdiction of all misdemeanors
33 committed in violation of the ordinances of their respective cities.
34 Upon approval of the district court, a municipal court may transfer
35 original jurisdiction of a misdemeanor to the district court for the
36 purpose of assigning an offender to a program established pursuant
37 to NRS 176A.250 or, *if the municipal court has not established a*
38 *program pursuant to NRS 176A.280* ~~H~~, *to a program established*
39 *pursuant to that section.*

40 3. The municipal courts have jurisdiction of:

41 (a) Any action for the collection of taxes or assessments levied
42 for city purposes, when the principal sum thereof does not exceed
43 \$2,500.



1 (b) Actions to foreclose liens in the name of the city for the
2 nonpayment of those taxes or assessments when the principal sum
3 claimed does not exceed \$2,500.

4 (c) Actions for the breach of any bond given by any officer or
5 person to or for the use or benefit of the city, and of any action for
6 damages to which the city is a party, and upon all forfeited
7 recognizances given to or for the use or benefit of the city, and upon
8 all bonds given on appeals from the municipal court in any of the
9 cases named in this section, when the principal sum claimed does
10 not exceed \$2,500.

11 (d) Actions for the recovery of personal property belonging to
12 the city, when the value thereof does not exceed \$2,500.

13 (e) Actions by the city for the collection of any damages, debts
14 or other obligations when the amount claimed, exclusive of costs or
15 attorney's fees, or both if allowed, does not exceed \$2,500.

16 (f) Actions seeking an order pursuant to NRS 441A.195.

17 4. Nothing contained in subsection 3 gives the municipal court
18 jurisdiction to determine any such cause when it appears from the
19 pleadings that the validity of any tax, assessment or levy, or title to
20 real property, is necessarily an issue in the cause, in which case the
21 court shall certify the cause to the district court in like manner and
22 with the same effect as provided by law for certification of causes
23 by justice courts.

24 **Sec. 10.** NRS 5.057 is hereby amended to read as follows:

25 5.057 1. Before accepting a plea from a defendant or
26 proceeding to trial, the municipal judge shall address the defendant
27 personally and ask the defendant if he or she is a veteran or a
28 member of the military.

29 2. If the defendant ~~is a veteran or a member of the military~~
30 ~~and~~ meets the qualifications of ~~[NRS 176A.285,]~~ *section 2 of this*
31 *act*, the municipal court may, *if the court has not established a*
32 *program pursuant to NRS 176A.280 and* if appropriate, take any
33 action authorized by law for the purpose of having the defendant
34 assigned to:

35 (a) A program of treatment established pursuant to NRS
36 176A.280; or

37 (b) If a program of treatment established pursuant to NRS
38 176A.280 is not available for the defendant, a program of treatment
39 established pursuant to NRS 176A.250 or 453.580.

40 3. As used in this section:

41 (a) "Member of the military" has the meaning ascribed to it in
42 NRS 176A.043.

43 (b) "Veteran" has the meaning ascribed to it in NRS 176A.090.



1 **Sec. 11.** This act becomes effective upon passage and
2 approval.

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