
SENATE BILL NO. 17—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 4, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to specialty courts.
(BDR 14-474)

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; revising the eligibility for defendants charged with certain crimes to complete a preprosecution diversion program; revising certain provisions relating to programs for treatment of alcohol or other substance use disorders; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes a preprosecution diversion program for certain persons
2 who have been accused of committing certain crimes which are punishable as a
3 misdemeanor. (NRS 174.031) **Section 1** of this bill expands the list of persons
4 eligible for such a diversion program, to include persons who have previously: (1)
5 been convicted, with the exception of certain criminal offenses; or (2) completed a
6 preprosecution diversion program in this State.

7 Existing law establishes a program for the treatment of alcohol or other
8 substance use disorders to which a court may assign certain persons. The program
9 is modeled after the provisions of law governing the programs for the treatment of
10 mental illness and intellectual disabilities and for the treatment of veterans and
11 members of the military. (NRS 176A.230) **Sections 2-4** of this bill clarify that a
12 district court, justice court or municipal court each has the authority to establish a
13 program for the treatment of alcohol or other substance use disorders. **Section 3**
14 also authorizes a court to provisionally refer a defendant to a program for the
15 treatment of alcohol or other substance use disorders, pending the outcome of a
16 clinical assessment or substance use assessment.



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

Section 1. NRS 174.031 is hereby amended to read as follows:

174.031 1. At the arraignment of a defendant in justice court or municipal court, but before the entry of a plea, the court may determine whether the defendant is eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032. The court shall receive input from the prosecuting attorney and the attorney for the defendant, if any, whether the defendant would benefit from and is eligible for assignment to the program.

2. A defendant may be determined to be eligible by the court for assignment to a preprosecution diversion program if the defendant:

(a) Is charged with a misdemeanor other than:

(1) A crime of violence;

(2) Vehicular manslaughter as described in NRS 484B.657;

(3) Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130; or

(4) A minor traffic offense; and

(b) Has not previously been ~~f~~:

~~(1) Convicted of violating any criminal law other than a minor traffic offense; or~~

~~(2) Ordered by a court to complete a preprosecution diversion program in this State.] convicted of:~~

(1) A crime of violence;

(2) A sexual offense as defined in NRS 202.876;

(3) A crime of battery which constitutes domestic violence pursuant to NRS 200.485;

(4) Vehicular manslaughter as described in NRS 484B.657;

or

(5) Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130.

3. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to subsection 2, the justice court or municipal court may order the defendant to complete the program pursuant to subsection 5 of NRS 174.032.

4. A defendant has no right to complete a preprosecution diversion program or to appeal the decision of the justice court or municipal court relating to the participation of the defendant in such a program.



1 **Sec. 2.** NRS 176A.230 is hereby amended to read as follows:
2 176A.230 A *district court, justice court or municipal court* ,
3 *as applicable*, may establish an appropriate program for the
4 treatment of alcohol or other substance use disorders, to which it
5 may assign a defendant pursuant to NRS 174.032, 176.015,
6 176.211, 176A.240, 176A.400, 453.336 or 453.3363. The
7 assignment must include the terms and conditions for successful
8 completion of the program and provide for progress reports at
9 intervals set by the court to ensure that the defendant is making
10 satisfactory progress towards completion of the program.

11 **Sec. 3.** NRS 176A.240 is hereby amended to read as follows:
12 176A.240 1. Except as otherwise provided in subparagraph
13 (1) of paragraph (a) of subsection 3 of NRS 176.211, if a defendant
14 who suffers from a substance use disorder or any co-occurring
15 disorder 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~~ *a district court, justice*
19 *court or municipal court* may:

20 (a) Without entering a judgment of conviction and with the
21 consent of the defendant, suspend or defer further proceedings and
22 place the defendant on probation upon terms and conditions that
23 must include attendance and successful completion of a program
24 established pursuant to NRS 176A.230 if the court determines that
25 the defendant is eligible for participation in such a program; or

26 (b) Enter a judgment of conviction and place the defendant on
27 probation upon terms and conditions that must include attendance
28 and successful completion of a program established pursuant to
29 NRS 176A.230 if the court determines that the defendant is eligible
30 for participation in such a program.

31 2. Except as otherwise provided in subsection 4, a defendant is
32 eligible for participation in a program established pursuant to NRS
33 176A.230 if ~~the~~ :

34 (a) *The* defendant is diagnosed as having a substance use
35 disorder or any co-occurring disorder:

36 ~~(a)~~ (I) After an in-person clinical assessment by:

37 ~~(+)~~ (I) A counselor who is licensed or certified to make
38 such a diagnosis; or

39 ~~(2)~~ (II) A duly licensed physician qualified by the Board
40 of Medical Examiners to make such a diagnosis; or

41 ~~(b)~~ (2) Pursuant to a substance use assessment ~~1~~; or

42 (b) *The court, upon its discretion, provisionally refers a*
43 *defendant for participation in such a program pending the*
44 *outcome of the assessment conducted pursuant to subparagraph*
45 *(1) or (2) of paragraph (a).*



1 3. A counselor or physician who diagnoses a defendant as
2 having a substance use disorder shall submit a report and
3 recommendation to the court concerning the length and type of
4 treatment required for the defendant.

5 4. If the offense committed by the defendant is a category A
6 felony or a sexual offense as defined in NRS 179D.097 that is
7 punishable as a category B felony, the defendant is not eligible for
8 assignment to the program.

9 5. Upon violation of a term or condition:

10 (a) The court may enter a judgment of conviction, if applicable,
11 and proceed as provided in the section pursuant to which the
12 defendant was charged.

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

17 6. Except as otherwise provided in subsection 8, upon
18 fulfillment of the terms and conditions, the court:

19 (a) Shall discharge the defendant and dismiss the proceedings or
20 set aside the judgment of conviction, as applicable, unless the
21 defendant:

22 (1) Has been previously convicted in this State or in any
23 other jurisdiction of a felony; or

24 (2) Has previously failed to complete a specialty court
25 program; or

26 (b) May discharge the defendant and dismiss the proceedings or
27 set aside the judgment of conviction, as applicable, if the defendant:

28 (1) Has been previously convicted in this State or in any
29 other jurisdiction of a felony; or

30 (2) Has previously failed to complete a specialty court
31 program.

32 7. Discharge and dismissal pursuant to this section is without
33 adjudication of guilt and is not a conviction for purposes of this
34 section or for purposes of employment, civil rights or any statute or
35 regulation or license or questionnaire or for any other public or
36 private purpose, but is a conviction for the purpose of additional
37 penalties imposed for second or subsequent convictions or the
38 setting of bail. Discharge and dismissal restores the defendant, in the
39 contemplation of the law, to the status occupied before the arrest,
40 indictment or information. The defendant may not be held thereafter
41 under any law to be guilty of perjury or otherwise giving a false
42 statement by reason of failure to recite or acknowledge that arrest,
43 indictment, information or trial in response to an inquiry made of
44 the defendant for any purpose.



1 8. If the defendant was charged with a violation of NRS
2 200.485, 484C.110 or 484C.120, upon fulfillment of the terms and
3 conditions, the district court, justice court or municipal court, as
4 applicable, may conditionally dismiss the charges or set aside the
5 judgment of conviction, as applicable. If a court conditionally
6 dismisses the charges or sets aside the judgment of conviction, the
7 court shall notify the defendant that any conditionally dismissed
8 charge or judgment of conviction that is set aside is a conviction for
9 the purpose of additional penalties imposed for second or
10 subsequent convictions or the setting of bail in a future case, but is
11 not a conviction for purposes of employment, civil rights or any
12 statute or regulation or license or questionnaire or for any other
13 public or private purpose. Conditional dismissal or having a
14 judgment of conviction set aside restores the defendant, in the
15 contemplation of the law, to the status occupied before the arrest,
16 complaint, indictment or information. The defendant may not be
17 held thereafter under any law to be guilty of perjury or otherwise
18 giving a false statement by reason of failure to recite or otherwise
19 acknowledge that arrest, complaint, indictment, information or trial
20 in response to an inquiry made of the defendant for any purpose.

21 **Sec. 4.** NRS 176A.245 is hereby amended to read as follows:

22 176A.245 1. Except as otherwise provided in subsection 2,
23 after a defendant is discharged from probation or a case is dismissed
24 pursuant to NRS 176A.240, ~~the~~ *a justice court, municipal court*
25 *or district* court shall order sealed all documents, papers and
26 exhibits in the defendant's record, minute book entries and entries
27 on dockets, and other documents relating to the case in the custody
28 of such other agencies and officers as are named in the court's order
29 if the defendant fulfills the terms and conditions imposed by the
30 court and the Division. The court shall order those records sealed
31 without a hearing unless the Division petitions the court, for good
32 cause shown, not to seal the records and requests a hearing thereon.

33 2. If the defendant is charged with a violation of NRS 200.485,
34 484C.110 or 484C.210 and the charges are conditionally dismissed
35 or the judgment of conviction is set aside as provided in NRS
36 176A.240, not sooner than 7 years after the charges are
37 conditionally dismissed or the judgment of conviction is set aside
38 and upon the filing of a petition by the defendant, the justice court,
39 municipal court or district court, as applicable, shall order that all
40 documents, papers and exhibits in the defendant's record, minute
41 book entries and entries on dockets, and other documents relating to
42 the case in the custody of such other agencies and officers as are
43 named in the court's order be sealed. The justice court, municipal
44 court or district court, as applicable, shall order those records sealed



1 without a hearing unless the Division petitions the court, for good
2 cause shown, not to seal the records and requests a hearing thereon.

3 3. If the *justice court, municipal court or district* court orders
4 sealed the record of a defendant who is discharged from probation,
5 whose case is dismissed, whose charges were conditionally
6 dismissed or whose judgment of conviction was set aside pursuant
7 to NRS 176A.240, the court shall send a copy of the order to each
8 agency or officer named in the order. Each such agency or officer
9 shall notify the court in writing of its compliance with the order.

10 **Sec. 5.** This act becomes effective upon passage and approval.



