

ASSEMBLY BILL NO. 415—COMMITTEE ON JUDICIARY

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to criminal justice. (BDR 15-804)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal justice; revising provisions governing the crime of burglary; authorizing the Advisory Commission on the Administration of Justice to apply for and accept certain money; requiring the Commission to study and report on certain issues; authorizing each county to establish a community court pilot project to provide an alternative to sentencing a person who is charged with a misdemeanor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a person who enters certain structures with the intent
2 to commit grand or petit larceny, assault or battery, any felony or to obtain money
3 by false pretenses is guilty of the crime of burglary. (NRS 205.060) Existing law
4 also provides that a person commits the crime of petit larceny if the person
5 intentionally steals, takes and carries, leads or drives away certain goods or
6 property. (NRS 205.240) **Section 1** of this bill removes the crime of petit larceny
7 from the underlying offenses which constitute burglary if the petit larceny was
8 intended to be committed in a commercial establishment during business hours and
9 the person has not twice previously been convicted of a similar offense within the
10 previous 7 years.

11 Existing law establishes the Advisory Commission on the Administration of
12 Justice and directs the Commission, among other duties, to identify and study the
13 elements of this State's system of criminal justice. (NRS 176.0123, 176.0125)
14 **Section 3** of this bill authorizes the Chair of the Commission to apply for grants
15 and accept grants, bequests, devises, donations and gifts. **Section 8** of this bill
16 requires the Commission to include certain items relating to criminal justice on an
17 agenda for discussion and to issue a report.



* A B 4 1 5 R 1 *

18 Existing law provides that a misdemeanor is punishable by a fine of not more
19 than \$1,000 or imprisonment in the county jail for not more than 6 months, or by
20 both a fine and imprisonment. (NRS 193.150) **Section 10** of this bill authorizes
21 each county to establish a community court pilot project within any of its justice
22 courts located in the county to provide an alternative to sentencing a person who is
23 charged with a misdemeanor. **Section 11** of this bill requires the community court
24 to evaluate each defendant to determine whether services or treatment is likely to
25 assist the defendant to modify behavior or obtain skills that may prevent the
26 defendant from engaging in further criminal activity. The services or treatment that
27 the community court may order the defendant to receive may include, without
28 limitation, treatment for alcohol or substance abuse, health education, treatment for
29 mental health, family counseling, literacy assistance, job training, housing
30 assistance or any other services or treatment that the community court deems
31 appropriate. **Section 11** provides that if the defendant successfully completes all
32 conditions imposed by the community court, the sentence to which the defendant
33 agreed upon with the justice court must not be executed or recorded. If the
34 defendant does not successfully complete the conditions imposed, the case will be
35 transferred back to the justice court, and the sentence must be carried out.

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

1 **Section 1.** NRS 205.060 is hereby amended to read as follows:
2 205.060 1. ~~1A~~ *Except as otherwise provided in subsection*
3 *5, a* person who, by day or night, enters any house, room, apartment,
4 tenement, shop, warehouse, store, mill, barn, stable, outhouse or
5 other building, tent, vessel, vehicle, vehicle trailer, semitrailer or
6 house trailer, airplane, glider, boat or railroad car, with the intent to
7 commit grand or petit larceny, assault or battery on any person or
8 any felony, or to obtain money or property by false pretenses, is
9 guilty of burglary.
10 2. Except as otherwise provided in this section, a person
11 convicted of burglary is guilty of a category B felony and shall be
12 punished by imprisonment in the state prison for a minimum term of
13 not less than 1 year and a maximum term of not more than 10 years,
14 and may be further punished by a fine of not more than \$10,000. A
15 person who is convicted of burglary and who has previously been
16 convicted of burglary or another crime involving the forcible entry
17 or invasion of a dwelling must not be released on probation or
18 granted a suspension of sentence.
19 3. Whenever a burglary is committed on a vessel, vehicle,
20 vehicle trailer, semitrailer, house trailer, airplane, glider, boat or
21 railroad car, in motion or in rest, in this State, and it cannot with
22 reasonable certainty be ascertained in what county the crime was
23 committed, the offender may be arrested and tried in any county
24 through which the vessel, vehicle, vehicle trailer, semitrailer, house



1 trailer, airplane, glider, boat or railroad car traveled during the time
2 the burglary was committed.

3 4. A person convicted of burglary who has in his or her
4 possession or gains possession of any firearm or deadly weapon at
5 any time during the commission of the crime, at any time before
6 leaving the structure or upon leaving the structure, is guilty of a
7 category B felony and shall be punished by imprisonment in the
8 state prison for a minimum term of not less than 2 years and a
9 maximum term of not more than 15 years, and may be further
10 punished by a fine of not more than \$10,000.

11 *5. The crime of burglary does not include the act of entering
12 a commercial establishment during business hours with the intent
13 to commit petit larceny unless the person has previously been
14 convicted two or more times for committing petit larceny in a
15 commercial establishment during business hours within the
16 immediately preceding 7 years.*

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

18 **Sec. 3.** Chapter 176 of NRS is hereby amended by adding
19 thereto a new section to read as follows:

20 *1. The Chair of the Commission may apply for and accept
21 any available grants and may accept any bequests, devises,
22 donations or gifts from any public or private source to carry out
23 the provisions of this section and NRS 176.0121 to 176.0129,
24 inclusive.*

25 *2. Any money received pursuant to this section must be
26 deposited in the Special Account for the Support of the Advisory
27 Commission on the Administration of Justice, which is hereby
28 created in the State General Fund. Interest and income earned on
29 money in the Account must be credited to the Account. Money in
30 the Account may only be used for the support of the Commission
31 and its activities pursuant to this section and NRS 176.0121 to
32 176.0129, inclusive.*

33 **Sec. 4.** NRS 176.0121 is hereby amended to read as follows:

34 176.0121 As used in NRS 176.0121 to 176.0129, inclusive,
35 *and section 3 of this act*, "Commission" means the Advisory
36 Commission on the Administration of Justice.

37 **Sec. 5.** (Deleted by amendment.)

38 **Sec. 6.** (Deleted by amendment.)

39 **Sec. 7.** (Deleted by amendment.)

40 **Sec. 8.** 1. The Advisory Commission on the Administration
41 of Justice created pursuant to NRS 176.0123, shall, at a meeting
42 held by the Commission, include as an item on the agenda a
43 discussion of the following issues:

44 (a) A review of sentencing for all criminal offenses for which a
45 term of imprisonment of more than 1 year may be imposed.



1 (b) An evaluation of the current system of parole, including a
2 review of whether the current system should be maintained,
3 amended or abolished.

4 (c) An evaluation of potential legislation relating to offenders
5 for whom traditional imprisonment is not considered appropriate. In
6 evaluating such potential legislation, the Commission shall consider
7 current practices governing sentencing and release from
8 imprisonment and correctional resources, including, without
9 limitation, the capacities of local and state correctional facilities and
10 institutions.

11 2. Upon review of the issues pursuant to subsection 1, the
12 Commission shall prepare a comprehensive report including the
13 Commission's recommended changes, the Commission's findings
14 and any recommendations for proposed legislation. The report must
15 be submitted to the Chair of the Senate Standing Committee on
16 Judiciary and the Chair of the Assembly Standing Committee on
17 Judiciary no later than June 1, 2014.

18 **Sec. 9.** As used in sections 10 and 11 of this act, "community
19 court" means the community court that is established as part of a
20 pilot project pursuant to section 10 of this act.

21 **Sec. 10.** 1. Each county may establish a community court
22 pilot project within any of the justice courts located in the county to
23 provide an alternative to sentencing a person who is charged with a
24 misdemeanor.

25 2. Notwithstanding any other provision of law, a defendant
26 charged with a misdemeanor may be transferred to the community
27 court by the justice court if the defendant:

- 28 (a) Pleads guilty to the offense;
- 29 (b) Has not previously been referred to the community court;
- 30 (c) Agrees to comply with the conditions imposed by the
31 community court; and
- 32 (d) Agrees to a sentence, including, without limitation, a period
33 of imprisonment in the county jail, which must be carried out if the
34 defendant does not successfully complete the conditions imposed by
35 the community court.

36 3. When a defendant is transferred to the community court,
37 sentencing must be postponed and, if the defendant successfully
38 completes all conditions imposed by the community court, the
39 sentence of the defendant must not be executed or appear on the
40 record of the defendant. If the defendant does not successfully
41 complete all conditions imposed by the community court, the
42 sentence must be carried out.

43 4. A defendant who is transferred to the community court
44 remains under the supervision of the community court and must
45 comply with the conditions established by the community court.



1 5. Each county may collaborate with state and local
2 governmental entities as well as private persons and entities to
3 coordinate and determine the services and treatment that may be
4 offered to defendants who are transferred to the community court.

5 6. A defendant does not have a right to be referred to the
6 community court pursuant to this section. It is not intended that the
7 establishment or operation of the community court creates any right
8 or interest in liberty or property or establishes a basis for any cause
9 of action against the State of Nevada, its political subdivisions,
10 agencies, boards, commissions, departments, officers or employees.
11 The decision by the justice court of whether to refer a defendant to
12 the community court is not subject to appeal.

13 **Sec. 11.** 1. The community court shall provide for the
14 evaluation of each defendant transferred to the community court to
15 determine whether services or treatment is likely to assist the
16 defendant to modify his or her behavior or obtain skills which may
17 prevent the defendant from engaging in further criminal activity.
18 Such services or treatment may include, without limitation,
19 treatment for alcohol or substance abuse, health education, treatment
20 for mental health, family counseling, literacy assistance, job
21 training, housing assistance or such other services or treatment as
22 the community court deems appropriate.

23 2. The community court shall provide or refer a defendant to a
24 provider of such services or treatment. The community court may
25 enter into contracts with persons or private entities that are qualified
26 to evaluate defendants and provide services or treatment to
27 defendants.

28 3. A defendant who is ordered by the community court to
29 receive services or treatment shall pay for the services or treatment
30 to the extent of his or her financial resources.

31 4. The justice court shall not refuse to refer a defendant to the
32 community court based on the inability of the defendant to pay any
33 or all of the related costs.

34 5. The community court shall order a defendant to perform a
35 specified amount of community service in addition to any services
36 or treatment to which the defendant is ordered to receive. Such
37 community service must be performed for and under the supervising
38 authority of a county, city, town or other political subdivision or
39 agency of the State of Nevada or a charitable organization that
40 renders service to the community or its residents.

41 6. Notwithstanding any other provision of law, if a defendant
42 successfully completes the conditions imposed by the community
43 court, the community court shall so certify to the justice court, and
44 the sentence imposed pursuant to section 10 of this act must not be
45 executed or recorded. If the defendant does not successfully



- 1 complete the conditions imposed by the community court, the case
- 2 must be transferred back to the justice court, and the sentence must
- 3 be carried out.

⑩



