

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; revising provisions governing the crime of vagrancy; 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: (1) twice previously been convicted of petit larceny within the  
10 previous 7 years; or (2) previously been convicted of a felony.

11 Existing law prohibits a person from lodging in any building, structure or place  
12 without certain permission. (NRS 207.030) **Section 1.5** of this bill further prohibits  
13 a person from lodging in such a place if the property is the subject of a notice of  
14 default and election to sell or is placed on a registry of vacant, abandoned or  
15 foreclosed property, unless the person is the owner, tenant or otherwise entitled to  
16 possession of the property.

17 Existing law establishes the Advisory Commission on the Administration of  
18 Justice and directs the Commission, among other duties, to identify and study the



\* A B 4 1 5 R 2 \*

19 elements of this State's system of criminal justice. (NRS 176.0123, 176.0125)  
20 **Section 3** of this bill authorizes the Chair of the Commission to apply for grants  
21 and accept grants, bequests, devises, donations and gifts. **Section 8** of this bill  
22 requires the Commission to include certain items relating to criminal justice on an  
23 agenda for discussion and to issue a report.

24 Existing law provides that a misdemeanor is punishable by a fine of not more  
25 than \$1,000 or imprisonment in the county jail for not more than 6 months, or by  
26 both a fine and imprisonment. (NRS 193.150) **Section 10** of this bill authorizes  
27 each county to establish a community court pilot project within any of its justice  
28 courts located in the county to provide an alternative to sentencing a person who is  
29 charged with a misdemeanor. **Section 11** of this bill requires the community court  
30 to evaluate each defendant to determine whether services or treatment is likely to  
31 assist the defendant to modify behavior or obtain skills that may prevent the  
32 defendant from engaging in further criminal activity. The services or treatment that  
33 the community court may order the defendant to receive may include, without  
34 limitation, treatment for alcohol or substance abuse, health education, treatment for  
35 mental health, family counseling, literacy assistance, job training, housing  
36 assistance or any other services or treatment that the community court deems  
37 appropriate. **Section 11** provides that if the defendant successfully completes all  
38 conditions imposed by the community court, the sentence to which the defendant  
39 agreed upon with the justice court must not be executed or recorded. If the  
40 defendant does not successfully complete the conditions imposed, the case will be  
41 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



1 reasonable certainty be ascertained in what county the crime was  
2 committed, the offender may be arrested and tried in any county  
3 through which the vessel, vehicle, vehicle trailer, semitrailer, house  
4 trailer, airplane, glider, boat or railroad car traveled during the time  
5 the burglary was committed.

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

14 ***5. The crime of burglary does not include the act of entering  
15 a commercial establishment during business hours with the intent  
16 to commit petit larceny unless the person has previously been  
17 convicted:***

18 ***(a) Two or more times for committing petit larceny within the  
19 immediately preceding 7 years; or***

20 ***(b) Of a felony.***

21 **Sec. 1.5.** NRS 207.030 is hereby amended to read as follows:

22 207.030 1. It is unlawful to:

23 (a) Offer or agree to engage in or engage in lewd or dissolute  
24 conduct in any public place or in any place open to the public or  
25 exposed to public view;

26 (b) Offer or agree to engage in, engage in or aid and abet any act  
27 of prostitution;

28 (c) Be a pimp, panderer or procurer or live in or about houses of  
29 prostitution;

30 (d) Seek admission to a house upon frivolous pretexts for no  
31 other apparent motive than to see who may be therein, or to gain an  
32 insight of the premises;

33 (e) Keep a place where lost or stolen property is concealed;

34 (f) Loiter in or about any toilet open to the public for the  
35 purpose of engaging in or soliciting any lewd or lascivious or any  
36 unlawful act; ***or***

37 (g) Lodge in any building, structure or place, whether public or  
38 private ~~with~~ ***without*** :

39 ***(1) Where a notice of default and election to sell has been  
40 recorded, unless the person is the owner, tenant or entitled to the  
41 possession or control thereof;***

42 ***(2) Which has been placed on a registry of vacant,  
43 abandoned or foreclosed property by a local government, unless  
44 the person is the owner, tenant or entitled to the possession or  
45 control thereof; or***



1           **(3) Without** the permission of the owner or person entitled to  
2 the possession or in control thereof.

3           2. A person who violates a provision of subsection 1 shall be  
4 punished:

5           (a) For the first violation of paragraph (a), (b) or (c) of  
6 subsection 1 and for each subsequent violation of the same  
7 paragraph occurring more than 3 years after the first violation, for a  
8 misdemeanor.

9           (b) For the second violation of paragraph (a), (b) or (c) of  
10 subsection 1 within 3 years after the first violation of the same  
11 paragraph, by imprisonment in the county jail for not less than 30  
12 days nor more than 6 months and by a fine of not less than \$250 nor  
13 more than \$1,000.

14           (c) For the third or subsequent violation of paragraph (a), (b) or  
15 (c) of subsection 1 within 3 years after the first violation of the same  
16 paragraph, by imprisonment in the county jail for 6 months and by a  
17 fine of not less than \$250 nor more than \$1,000.

18           (d) For a violation of any provision of paragraphs (d) to (g),  
19 inclusive, of subsection 1, for a misdemeanor.

20           3. The terms of imprisonment prescribed by subsection 2 must  
21 be imposed to run consecutively.

22           4. A local government may enact an ordinance which regulates  
23 the time, place or manner in which a person or group of persons  
24 may beg or solicit alms in a public place or place open to the public.

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

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

28           **1. *The Chair of the Commission may apply for and accept***  
29 ***any available grants and may accept any bequests, devises,***  
30 ***donations or gifts from any public or private source to carry out***  
31 ***the provisions of this section and NRS 176.0121 to 176.0129,***  
32 ***inclusive.***

33           **2. *Any money received pursuant to this section must be***  
34 ***deposited in the Special Account for the Support of the Advisory***  
35 ***Commission on the Administration of Justice, which is hereby***  
36 ***created in the State General Fund. Interest and income earned on***  
37 ***money in the Account must be credited to the Account. Money in***  
38 ***the Account may only be used for the support of the Commission***  
39 ***and its activities pursuant to this section and NRS 176.0121 to***  
40 ***176.0129, inclusive.***

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

42           176.0121 As used in NRS 176.0121 to 176.0129, inclusive,  
43 ***and section 3 of this act,*** "Commission" means the Advisory  
44 Commission on the Administration of Justice.

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



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

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

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

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

9         (b) An evaluation of the current system of parole, including a  
10 review of whether the current system should be maintained,  
11 amended or abolished.

12         (c) An evaluation of potential legislation relating to offenders  
13 for whom traditional imprisonment is not considered appropriate. In  
14 evaluating such potential legislation, the Commission shall consider  
15 current practices governing sentencing and release from  
16 imprisonment and correctional resources, including, without  
17 limitation, the capacities of local and state correctional facilities and  
18 institutions.

19     2. Upon review of the issues pursuant to subsection 1, the  
20 Commission shall prepare a comprehensive report including the  
21 Commission's recommended changes, the Commission's findings  
22 and any recommendations for proposed legislation. The report must  
23 be submitted to the Chair of the Senate Standing Committee on  
24 Judiciary and the Chair of the Assembly Standing Committee on  
25 Judiciary not later than June 1, 2014.

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

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

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

36         (a) Pleads guilty to the offense;

37         (b) Has not previously been referred to the community court;

38         (c) Agrees to comply with the conditions imposed by the  
39 community court; and

40         (d) Agrees to a sentence, including, without limitation, a period  
41 of imprisonment in the county jail, which must be carried out if the  
42 defendant does not successfully complete the conditions imposed by  
43 the community court.

44     3. When a defendant is transferred to the community court,  
45 sentencing must be postponed and, if the defendant successfully



1 completes all conditions imposed by the community court, the  
2 sentence of the defendant must not be executed or appear on the  
3 record of the defendant. If the defendant does not successfully  
4 complete all conditions imposed by the community court, the  
5 sentence must be carried out.

6 4. A defendant who is transferred to the community court  
7 remains under the supervision of the community court and must  
8 comply with the conditions established by the community court.

9 5. Each county may collaborate with state and local  
10 governmental entities as well as private persons and entities to  
11 coordinate and determine the services and treatment that may be  
12 offered to defendants who are transferred to the community court.

13 6. A defendant does not have a right to be referred to the  
14 community court pursuant to this section. It is not intended that the  
15 establishment or operation of the community court creates any right  
16 or interest in liberty or property or establishes a basis for any cause  
17 of action against the State of Nevada, its political subdivisions,  
18 agencies, boards, commissions, departments, officers or employees.  
19 The decision by the justice court of whether to refer a defendant to  
20 the community court is not subject to appeal.

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

31 2. The community court shall provide or refer a defendant to a  
32 provider of such services or treatment. The community court may  
33 enter into contracts with persons or private entities that are qualified  
34 to evaluate defendants and provide services or treatment to  
35 defendants.

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

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

42 5. The community court shall order a defendant to perform a  
43 specified amount of community service in addition to any services  
44 or treatment to which the defendant is ordered to receive. Such  
45 community service must be performed for and under the supervising



1 authority of a county, city, town or other political subdivision or  
2 agency of the State of Nevada or a charitable organization that  
3 renders service to the community or its residents.  
4 6. Notwithstanding any other provision of law, if a defendant  
5 successfully completes the conditions imposed by the community  
6 court, the community court shall so certify to the justice court, and  
7 the sentence imposed pursuant to section 10 of this act must not be  
8 executed or recorded. If the defendant does not successfully  
9 complete the conditions imposed by the community court, the case  
10 must be transferred back to the justice court, and the sentence must  
11 be carried out.



