

ASSEMBLY BILL NO. 573—COMMITTEE ON JUDICIARY

MARCH 26, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning restitution and reclassifies parole and probation officers. (BDR 14-654)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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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 justice; authorizing a county to administer and distribute money collected for court-ordered restitution from certain persons; eliminating the restitution trust fund in the state treasury; providing that payments for restitution must be deposited in a separate fund in the appropriate county treasury for disbursement to victims of crime; reclassifying parole and probation officers as category I peace officers; 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 176A.400 is hereby amended to read as follows:
2 176A.400 1. In issuing an order granting probation, the court may fix
3 the terms and conditions thereof, including, without limitation:
4 (a) A requirement for restitution ~~+~~, *which must be paid to the county*
5 *in which the court that issued the order granting probation is located;*
6 (b) An order that the probationer dispose of all the weapons he
7 possesses; or
8 (c) Any reasonable conditions to protect the health, safety or welfare of
9 the community or to ensure that the probationer will appear at all times and
10 places ordered by the court, including, without limitation:
11 (1) Requiring the probationer to remain in this state or a certain
12 county within this state;
13 (2) Prohibiting the probationer from contacting or attempting to
14 contact a specific person or from causing or attempting to cause another
15 person to contact that person on his behalf;
16 (3) Prohibiting the probationer from entering a certain geographic
17 area; or
18 (4) Prohibiting the probationer from engaging in specific conduct that
19 may be harmful to his own health, safety or welfare, or the health, safety or
20 welfare of another person.



1 2. In issuing an order granting probation to a person who is found
2 guilty of a category C, D or E felony, the court may require the person as a
3 condition of probation to participate in and complete to the satisfaction of
4 the court any alternative program, treatment or activity deemed appropriate
5 by the court.

6 3. The court shall not suspend the execution of a sentence of
7 imprisonment after the defendant has begun to serve it.

8 4. In placing any defendant on probation or in granting a defendant a
9 suspended sentence, the court shall direct that he be placed under the
10 supervision of the chief parole and probation officer.

11 **Sec. 2.** NRS 176A.430 is hereby amended to read as follows:

12 176A.430 1. The court shall order as a condition of probation or
13 suspension of sentence, in appropriate circumstances, that the defendant
14 make full or partial restitution to the person or persons named in the order,
15 at the times and in the amounts specified in the order unless the court finds
16 that restitution is impracticable. Such an order may require payment for
17 medical or psychological treatment of any person whom the defendant has
18 injured. In appropriate circumstances, the court shall include as a condition
19 of probation or suspension of sentence that the defendant execute an
20 assignment of wages earned by him while on probation or subject to the
21 conditions of suspension of sentence to the ~~{division}~~ *county in which the*
22 *court that issued the order granting probation or a suspension of*
23 *sentence is located* for restitution.

24 2. All money received by the ~~{division}~~ *county* for restitution for:

25 (a) One victim may; and

26 (b) More than one victim must,

27 be deposited with the ~~{state}~~ *county* treasurer for credit to ~~{the restitution~~
28 ~~trust fund.}~~ *a fund in the county treasury established by the board of*
29 *county commissioners for the collection and disbursement of payments*
30 *for restitution for victims of crime.* All payments from the fund must be
31 paid as other claims against the ~~{state}~~ *county* are paid.

32 3. If restitution is not required, the court shall set forth the
33 circumstances upon which it finds restitution impracticable in its order of
34 probation or suspension of sentence.

35 4. Failure to comply with the terms of an order for restitution is a
36 violation of a condition of probation or suspension of sentence unless the
37 defendant's failure has been caused by economic hardship resulting in his
38 inability to pay the amount due. The defendant is entitled to a hearing to
39 show the existence of such a hardship.

40 5. If, within 3 years after the defendant has been discharged from
41 probation, the ~~{division}~~ *county* has not located the person to whom the
42 restitution was ordered, the money paid by the defendant must be deposited
43 with the ~~{state}~~ *county* treasurer for credit to ~~{the}~~ *a* fund for the
44 compensation of victims of crime ~~{}~~ *created by the office of the district*
45 *attorney of the county in which the court that ordered the restitution is*
46 *located.*

47 **Sec. 3.** NRS 213.1096 is hereby amended to read as follows:

48 213.1096 Assistant parole and probation officers shall:



* A B 5 7 3 *

1 1. Investigate all cases referred to them for investigation by the board
2 or by the chief parole and probation officer, or by any court in which they
3 are authorized to serve.

4 2. Supervise all persons released on probation by any such court or
5 released to them for supervision by the board or by the chief parole and
6 probation officer.

7 3. Furnish to each person released under their supervision a written
8 statement of the conditions of parole or probation and instruct him
9 regarding those conditions.

10 4. Keep informed concerning the conduct and condition of all persons
11 under their supervision and use all suitable methods to aid and encourage
12 them and to bring about improvement in their conduct and conditions.

13 5. Keep detailed records of their work.

14 6. Collect and disburse all money *received pursuant to NRS 176A.740*
15 in accordance with the orders of the chief parole and probation officer or
16 the court.

17 7. Keep accurate and complete accounts of all money received and
18 disbursed in accordance with such orders and give receipts therefor.

19 8. Make such reports in writing as the court or the chief parole and
20 probation officer may require.

21 9. Coordinate their work with that of other social agencies.

22 10. File identifying information regarding their cases with any social
23 service index or exchange operating in the area to which they are assigned.

24 **Sec. 4.** NRS 213.126 is hereby amended to read as follows:

25 213.126 1. Unless complete restitution was made while the parolee
26 was incarcerated, the board shall impose as a condition of parole, in
27 appropriate circumstances, a requirement that the parolee make restitution
28 to the person or persons named in the statement of parole conditions,
29 including restitution to a governmental entity for expenses related to
30 extradition, at the times specified in the statement unless the board finds
31 that restitution is impracticable. The amount of restitution must be the
32 amount set by the court pursuant to NRS 176.033. In appropriate
33 circumstances, the board shall include as a condition of parole that the
34 parolee execute an assignment of wages earned by him while on parole to
35 the ~~division~~ *county in which the parolee was convicted* for restitution.

36 2. All money received by the ~~division~~ *county* for restitution for:

37 (a) One victim may; and

38 (b) More than one victim must,

39 be deposited in the ~~state~~ *county* treasury for credit to ~~the restitution trust~~
40 ~~fund which is hereby created.~~ *a fund established by the board of county*
41 *commissioners for the collection and disbursement of payments for*
42 *restitution for victims of crime.*

43 3. The ~~division~~ *county* shall make pro rata payments from the money
44 received from the parolee to each person to whom the restitution was
45 ordered pursuant to NRS 176.033. Such a payment must be made:

46 (a) If the money received from the parolee in a single payment is \$200
47 or more or if the total accumulated amount received from the parolee is
48 \$200 or more, whenever money is received from the parolee.



1 (b) If the money received from the parolee in a single payment is less
2 than \$200 or if the total accumulated amount received from the parolee is
3 less than \$200, at the end of each year until the parolee has paid the entire
4 restitution owed.

5 Any money received from the parolee that is remaining at the end of each
6 year must be paid at that time in pro rata payments to each person to whom
7 the restitution was ordered. A final pro rata payment must be made to such
8 persons when the parolee pays the entire restitution owed.

9 4. A person to whom restitution was ordered pursuant to NRS 176.033
10 may at any time file an application with the ~~{division}~~ *county in which the*
11 *parolee was convicted* requesting the ~~{division}~~ *county* to make a pro rata
12 payment from the money received from the parolee. If the ~~{division}~~
13 *county* finds that the applicant is suffering a serious financial hardship and
14 is in need of financial assistance, the ~~{division}~~ *county* shall pay to the
15 applicant his pro rata share of the money received from the parolee.

16 5. All payments from ~~{the}~~ *each* fund *described in subsection 2* must
17 be paid as other claims against the ~~{state}~~ *appropriate county* are paid.

18 6. If restitution is not required, the board shall set forth the
19 circumstances upon which it finds restitution impracticable in its statement
20 of parole conditions.

21 7. Failure to comply with a restitution requirement imposed by the
22 board is a violation of a condition of parole unless the parolee's failure was
23 caused by economic hardship resulting in his inability to pay the amount
24 due. The defendant is entitled to a hearing to show the existence of that
25 hardship.

26 8. If, within 3 years after the parolee is discharged from parole, the
27 ~~{division}~~ *county* has not located the person to whom the restitution was
28 ordered, the money paid to the ~~{division}~~ *county* by the parolee must be
29 deposited in ~~{the}~~ *a* fund for the compensation of victims of crime ~~{-}~~
30 *created by the office of the district attorney of the county in which the*
31 *court that ordered the restitution is located.*

32 **Sec. 5.** NRS 289.470 is hereby amended to read as follows:

33 289.470 "Category II peace officer" means:

34 1. The bailiff of the supreme court;

35 2. The bailiffs of the district courts, justices' courts and municipal
36 courts whose duties require them to carry weapons and make arrests;

37 3. Constables and their deputies whose official duties require them to
38 carry weapons and make arrests;

39 4. Inspectors employed by the transportation services authority who
40 exercise those powers of enforcement conferred by chapters 706 and 712
41 of NRS;

42 5. ~~{Parole and probation officers;~~

43 ~~{-6.-}~~ 6. Special investigators who are employed full time by the office of
44 any district attorney or the attorney general;

45 ~~{7.-}~~ 6. Investigators of arson for fire departments who are specially
46 designated by the appointing authority;

47 ~~{8.-}~~ 7. The assistant and deputies of the state fire marshal;

48 ~~{9.-}~~ 8. The brand inspectors of the state department of agriculture who
49 exercise the powers of enforcement conferred by chapter 565 of NRS;



1 ~~10-1~~ 9. Investigators for the state forester firewarden who are
2 specially designated by him and whose primary duties are related to the
3 investigation of arson;
4 ~~11-1~~ 10. School police officers employed by the board of trustees of
5 any county school district;
6 ~~12-1~~ 11. Agents of the state gaming control board who exercise the
7 powers of enforcement specified in NRS 289.360, 463.140 or 463.1405,
8 except those agents whose duties relate primarily to auditing, accounting,
9 the collection of taxes or license fees, or the investigation of applicants for
10 licenses;
11 ~~13-1~~ 12. Investigators and administrators of the division of
12 compliance enforcement of the motor vehicles branch of the department of
13 motor vehicles and public safety who perform the duties specified in
14 subsection 3 of NRS 481.048;
15 ~~14-1~~ 13. Officers and investigators of the section for the control of
16 emissions from vehicles of the motor vehicles branch of the department of
17 motor vehicles and public safety who perform the duties specified in
18 subsection 3 of NRS 481.0481;
19 ~~15-1~~ 14. Legislative police officers of the State of Nevada;
20 ~~16-1~~ 15. The personnel of the capitol police division of the
21 department of motor vehicles and public safety appointed pursuant to
22 subsection 2 of NRS 331.140;
23 ~~17-1~~ 16. Parole counselors of the division of child and family services
24 of the department of human resources;
25 ~~18-1~~ 17. Juvenile probation officers and deputy juvenile probation
26 officers employed by the various judicial districts in the State of Nevada or
27 by a department of family, youth and juvenile services established pursuant
28 to NRS 62.1264 whose official duties require them to enforce court orders
29 on juvenile offenders and make arrests;
30 ~~19-1~~ 18. Field investigators of the taxicab authority;
31 ~~20-1~~ 19. Security officers employed full time by a city or county
32 whose official duties require them to carry weapons and make arrests;
33 ~~21-1~~ 20. The chief of a department of alternative sentencing created
34 pursuant to NRS 211A.080 and the assistant alternative sentencing officers
35 employed by that department; and
36 ~~22-1~~ 21. Criminal investigators who are employed by the secretary of
37 state.
38 **Sec. 6.** Notwithstanding the amendatory provisions of this act:
39 1. The restitution trust fund in the state treasury must continue until the
40 balance of the fund is:
41 (a) Disbursed to the persons for whom the payments for restitution in
42 the fund were ordered; or
43 (b) Deposited with the state treasurer for credit in the fund for the
44 compensation of victims of crime, if the division of parole and probation of
45 the department of motor vehicles and public safety is not able to locate the
46 persons for whom the payments for restitution were ordered within the
47 period set forth in subsection 5 of NRS 176A.400 and subsection 8 of NRS
48 213.126; and



1 2. The division of parole and probation shall disburse and deposit the
2 money in the restitution trust fund as described in subsection 1 until the
3 balance of the fund has been disbursed or credited pursuant to subsection 1.

4 **Sec. 7.** 1. Each parole and probation officer who is employed by the
5 division of parole and probation of the department of motor vehicles and
6 public safety as of June 30, 2001, shall be deemed to be certified as a
7 category I peace officer, as that term is defined in NRS 289.460, on and
8 after July 1, 2001.

9 2. Each parole and probation officer hired by the division of parole and
10 probation of the department of motor vehicles and public safety on or after
11 July 1, 2001, must be certified as a category I peace officer, as that term is
12 defined in NRS 289.460.

13 **Sec. 8.** The amendatory provisions of this act, other than section 6 of
14 this act, do not apply to an order requiring restitution as a condition of a
15 suspension of sentence, probation or parole that was issued before July 1,
16 2001.

17 **Sec. 9.** This act becomes effective on July 1, 2001.

