

Amendment No. 851

Assembly Amendment to Senate Bill No. 445

(BDR 16-659)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 3, page 4, line 21, by deleting “may” and inserting:

“~~{may}~~ *must not be required to*”.

Amend sec. 3, page 4, by deleting lines 25 and 26 and inserting:

“~~→~~ as proof that he has been restored to ~~{the civil rights set forth in subsection 1.}~~ *his civil right to vote.*”.

Amend the bill as a whole by renumbering sec. 4 as sec. 12, and adding new sections designated sections 4 through 11, following sec. 3, to read as follows:

“**Sec. 4.** NRS 213.154 is hereby amended to read as follows:

213.154 1. ~~{The Division shall issue an honorable discharge to a parolee whose term of sentence has expired if the parolee has:~~

~~—(a) Fulfilled the conditions of his parole for the entire period of his parole; or~~

MSN/RBL

Date: 5/23/2005

S.B. No. 445—Revises various provisions related to State Board of Pardons Commissioners.

~~—(b) Demonstrated his fitness for honorable discharge but because of economic hardship, verified by a parole and probation officer, has been unable to make restitution as ordered by the court.~~

~~—2.]~~ The Division shall issue a dishonorable discharge to a parolee whose term of sentence has expired if:

(a) The whereabouts of the parolee are unknown;

(b) The parolee has failed to make full restitution as ordered by the court, without a verified showing of economic hardship; or

(c) The parolee has otherwise failed to qualify for an honorable discharge pursuant to ~~subsection 4.~~

~~—3.]~~ **NRS 213.155.**

2. Any amount of restitution that remains unpaid by a person after he has been *dishonorably* discharged from parole constitutes a civil liability as of the date of discharge.

3. *A dishonorable discharge from parole releases the parolee from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution, but does not entitle the parolee to any privilege conferred by NRS 213.155.*

Sec. 5. NRS 213.155 is hereby amended to read as follows:

213.155 1. *The Division shall issue an honorable discharge to a parolee whose term of sentence has expired if the parolee has:*

(a) Fulfilled the conditions of his parole for the entire period of his parole; or

(b) Demonstrated his fitness for honorable discharge but because of economic hardship, verified by a parole and probation officer, has been unable to make restitution as ordered by the court.

2. Any amount of restitution that remains unpaid by a person after he has been honorably discharged from parole constitutes a civil liability as of the date of discharge.

3. Except as otherwise provided in subsection ~~[2,]~~ 4, a person who receives an honorable discharge from parole : ~~[pursuant to NRS 213.154:]~~

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his honorable discharge from parole, is restored to the right to hold office.

(c) Six years after the date of his honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.

~~[2,]~~ 4. Except as otherwise provided in this subsection, the civil rights set forth in subsection ~~[4]~~ 3 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his honorable discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition ~~[the court in which the person was convicted]~~ **a court of competent jurisdiction** for an order granting the restoration of his civil rights as set forth in subsection ~~[1.]~~ 3.

~~[3.]~~ 5. Except for a person subject to the limitations set forth in subsection ~~[2.]~~ 4, upon his honorable discharge from parole, a person so discharged must be given an official document which provides:

- (a) That he has received an honorable discharge from parole;
- (b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his honorable discharge from parole;
- (c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection ~~[1.]~~ 3; and
- (d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection ~~[1.]~~ 3.

~~[4.]~~ 6. Subject to the limitations set forth in subsection ~~[2.]~~ 4, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of his honorable discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to the civil rights set

forth in subsection ~~[1-]~~ 3, the court shall issue an order restoring the person to the civil rights set forth in subsection ~~[1-]~~ 3. A person must not be required to pay a fee to receive such an order.

~~[5-]~~ 7. A person who has been honorably discharged from parole in this State or elsewhere ~~[may]~~ ***must not be required to*** present:

(a) Official documentation of his honorable discharge from parole ~~[, if it contains the provisions set forth in subsection 3-]~~; or

(b) A court order restoring his civil rights,

↪ as proof that he has been restored to the civil ~~[rights set forth in subsection 1-~~

~~—6-]~~ ***right to vote.***

8. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 6. NRS 213.157 is hereby amended to read as follows:

213.157 1. Except as otherwise provided in subsection 2, a person convicted of a felony in the State of Nevada who has served his sentence and has been released from prison:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his release from prison, is restored to the right to hold office.

(c) Six years after the date of his release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition ~~[the court in which the person was convicted]~~ **a court of competent jurisdiction** for an order granting the restoration of his civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his release from prison, a person so released must be given an official document which provides:

(a) That he has been released from prison;

(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his release from prison;

(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph

(b) of subsection 1; and

(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been released from prison in this State or elsewhere ~~may~~ **must not be required to** present:

(a) Official documentation of his release from prison ~~[, if it contains the provisions set forth in subsection 3;]~~; or

(b) A court order restoring his civil rights,

↪ as proof that he has been restored to the civil ~~[rights set forth in subsection 1.]~~ **right to vote.**

Sec. 7. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of his probation for the entire period thereof;

(b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated his fitness for honorable discharge but because of economic hardship, verified by a parole and probation officer, has been unable to make restitution as ordered by the court,

↪ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.

3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:

(a) Is free from the terms and conditions of his probation.

(b) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(c) Four years after the date of his honorable discharge from probation, is restored to the right to hold office.

(d) Six years after the date of his honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.

(e) If he meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to his conviction.

(f) Must be informed of the provisions of this section and NRS 179.245 in his probation papers.

(g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

(h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, “establishment” has the meaning ascribed to it in NRS 463.0148.

(i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition ~~[the court in which the person was convicted]~~ **a court of competent jurisdiction** for an order granting the restoration of his civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon his honorable discharge from probation, the person so discharged must be given an official document which provides:

- (a) That he has received an honorable discharge from probation;
- (b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date of his honorable discharge from probation;
- (c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (c) of subsection 3; and
- (d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of his honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere ~~[may]~~ ***must not be required to*** present:

- (a) Official documentation of his honorable discharge from probation ~~[, if it contains the provisions set forth in subsection 6;]~~; or
- (b) A court order restoring his civil rights,

↪ as proof that he has been restored to the civil ~~[rights set forth in subsection 3.]~~ *right to vote*.

Sec. 8. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after ~~[10]~~ 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after ~~[3]~~ 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice's court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of *Criminal* Identification and Information, sheriffs' offices and

all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) “Crime against a child” has the meaning ascribed to it in NRS 179D.210.

(b) “Sexual offense” means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or mentally ill person pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 9. NRS 179.285 is hereby amended to read as follows:

179.285 **1.** Except as otherwise provided in NRS 179.301 ~~1:~~

~~—1. If~~, **if** the court orders a record sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if his civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of his records, a person who is restored to his civil rights must be given an official document which demonstrates that he has been restored to the civil rights set forth in paragraph (b) of subsection 1.

3. A person who has had his records sealed in this State or any other state and whose official documentation of the restoration of his civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has had his records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his records sealed in this State or ~~[any other state may]~~ **elsewhere must not be required to** present official documentation that he has been restored to his civil rights or a court order restoring his civil rights as proof that he has been restored to the **civil** right to vote . ~~[, to hold office and to serve as a juror.]~~

Sec. 10. Section 71 of Chapter 447, Statutes of Nevada 2003, at page 2735, is hereby amended to read as follows:

Sec. 71. 1. Any person residing in this state who, before July 1, 2003, was:

- (a) Honorably discharged from probation pursuant to NRS 176A.850;

(b) Pardoned pursuant to NRS 213.090;

(c) Honorably discharged from parole pursuant to NRS 213.154 and 213.155; or

(d) Released from prison pursuant to NRS 213.157,

in this state or elsewhere, who is not on probation or parole or serving a sentence of imprisonment on July 1, 2003, and who has not had his civil rights restored is hereby restored to the civil rights set forth in subsection 2.

2. A person listed in subsection 1:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date on which he is released from his sentence of imprisonment, is restored to the right to hold office.

(c) Six years after the date on which he is released from his sentence of imprisonment, is restored to the right to serve as a juror in a criminal action.

3. A person who is restored to his civil rights pursuant to this section and whose official documentation which demonstrates that the person qualifies to have his civil rights restored pursuant to subsection 1 is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person qualifies to have his civil rights restored pursuant to subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 2. A person must not be required to pay a fee to receive such an order.

4. A person who is restored to his civil rights pursuant to this section ~~[may]~~ **must not be required to** present official documentation that he qualifies to have his civil rights restored pursuant to subsection 1 or a court order restoring his civil rights as proof that he has been restored to the civil ~~[rights set forth in subsection 2.]~~ **right to vote.**

Sec. 11. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this act, until July 1, 2008, may apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to the provisions of this section, to request that his dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

(a) The fact that he committed a new crime, other than a violation of a traffic law for which he was issued a citation, during the period of his probation or parole;

(b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

3. The Division shall adopt regulations establishing guidelines and procedures to be used to carry out the provisions of this section. The regulations must include, without limitation, provisions requiring that to be granted a change of discharge pursuant to this section, if an applicant failed to

make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

4. A person whose application for a change of discharge is granted by the Division and whose discharge from probation or parole is changed to an honorable discharge from probation or parole pursuant to this section:

(a) Shall be deemed to have been issued an honorable discharge from probation or parole effective as of the date of his original dishonorable discharge from probation or parole;

(b) Is subject to, and must be restored to his civil rights in accordance with, the provisions of NRS 176A.850 or 213.155, as amended by this act; and

(c) Must be given an official document which:

(1) Provides that he has received an honorable discharge from probation or parole;

(2) States, as applicable, the dates on which his civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him.

5. The Division shall, on or before January 1, 2009, submit a written report to the Director of the Legislative Counsel Bureau that includes, without limitation, the following information:

(a) The number of persons who applied for a change of discharge pursuant to this section;

(b) The number of applications that were granted or denied and the general reasons for denial of the applications;

(c) The estimated amount of restitution and fees for supervision paid as the result of the enactment of this section;

(d) Any recommendations and conclusions concerning the desirability of extending the application of the provisions of this section; and

(e) Any other information deemed appropriate by the Division.”.

Amend the title of the bill to read as follows:

“AN ACT relating to rights of convicted persons; revising the procedures pertaining to applications for clemency submitted to the State Board of Pardons Commissioners; revising the provisions relating to the granting of pardons and restoration of civil rights by the Board; revising the provisions relating to the restoration of civil rights to persons who have been dishonorably discharged from parole and probation; allowing certain persons who have been dishonorably discharged from probation or parole to apply to the Division of Parole and Probation of the Department of Public Safety to request that his dishonorable discharge be changed to an honorable discharge for a limited period; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises various provisions related to granting of pardons and restoration of civil rights. (BDR 16-659)”.