

SENATE BILL NO. 137—COMMITTEE ON JUDICIARY

FEBRUARY 25, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing parole and probation officers. (BDR 14-757)

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 the Division of Parole and Probation of the Department of Public Safety; expanding the list of persons who may conduct investigations of certain persons being considered for probation and who may verify certain information relating to the economic hardship of a person placed on probation to include all employees of the Division; providing that all information obtained in the discharge of official duty by an employee of the Division is privileged; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a parole and probation officer to conduct an investigation of a defendant being considered for probation before the defendant is placed on probation. (NRS 176A.200) Under certain circumstances, a person placed on probation may be granted an honorable discharge from probation by order of the court. One such circumstance is when the person placed on probation has demonstrated his fitness for honorable discharge but because of economic hardship, which must be verified by a parole and probation officer, has been unable to make restitution as ordered by the court. (NRS 176A.850) Existing law also provides that all information obtained in the discharge of official duty by a parole and probation officer is privileged and may not be disclosed to anyone other than certain persons entitled to receive such information unless otherwise ordered by the State Board of Parole Commissioners or a judge or unless it is necessary to perform the duties of the Division of Parole and Probation of the Department of Public Safety. (NRS 213.1075)

This bill expands the list of persons who may conduct such investigations and who may verify information relating to the economic hardship of a person placed on probation to include all employees of the Division of Parole and Probation, not



18 just parole and probation officers. This bill also provides that all information
19 obtained in the discharge of official duty by an employee of the Division of Parole
20 and Probation is privileged, not just the information obtained by parole and
21 probation officers.

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

1 **Section 1.** NRS 176A.200 is hereby amended to read as
2 follows:

3 176A.200 The ~~{parole and probation officer}~~ **Division** shall
4 inquire into the circumstances of the offense, criminal record, social
5 history and present condition of the defendant. Such an investigation
6 may include a physical and mental examination of the defendant.
7 The expense of any such examination must be paid by the county in
8 which the indictment was found or the information filed.

9 **Sec. 2.** NRS 176A.850 is hereby amended to read as follows:

10 176A.850 1. A person who:

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

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

14 (c) Has demonstrated his fitness for honorable discharge but
15 because of economic hardship, verified by ~~{a parole and probation~~
16 ~~officer,}~~ **the Division**, has been unable to make restitution as ordered
17 by the court,

18 ➔ may be granted an honorable discharge from probation by order
19 of the court.

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

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

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

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

26 (1) The right to vote; and

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

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

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

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

35 (f) Must be informed of the provisions of this section and NRS
36 179.245 in his probation papers.



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

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

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

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

14 (a) Of a category A felony.

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

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

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

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

28 ➔ A person described in this subsection may petition the court in
29 which the person was convicted for an order granting the restoration
30 of his civil rights as set forth in subsection 3.

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

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

39 (a) That he has received an honorable discharge from probation;

40 (b) That he has been restored to his civil rights to vote and to
41 serve as a juror in a civil action as of the date of his honorable
42 discharge from probation;

43 (c) The date on which his civil right to hold office will be
44 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 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.

Sec. 3. NRS 213.1075 is hereby amended to read as follows:

213.1075 Except as otherwise provided by specific statute, all information obtained in the discharge of official duty by ~~{a parole and probation officer or}~~ **an** employee of the **Division or the** Board is privileged and may not be disclosed directly or indirectly to anyone other than the Board, the judge, district attorney or others entitled to receive such information, unless otherwise ordered by the Board or judge or necessary to perform the duties of the Division.

Sec. 4. This act becomes effective upon passage and approval.

