

SENATE BILL NO. 137—COMMITTEE ON JUDICIARY

FEBRUARY 25, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to Division of Parole and Probation of Department of Public Safety. (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 upon entry of an order of probation a person is deemed accepted for probation and must submit a signed document concerning the conditions of his probation to 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)

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 of the Department of Public Safety, not just parole and probation officers.



Existing law requires a person to submit a signed document concerning the conditions of his probation to the Division of Parole and Probation before the person may be accepted for probation. (NRS 176A.210)

This bill provides that upon entry of an order by the court, a person is deemed accepted for probation and must submit a signed document concerning the conditions of his probation to the Division of Parole and Probation.

Existing law 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. (NRS 213.1075)

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

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

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

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

**Sec. 2.** NRS 176A.210 is hereby amended to read as follows:

176A.210 ~~{Before a person may be}~~ **Upon entry of an order of probation by the court, a person:**

**1. Shall be deemed** accepted for probation ~~{, he must}~~ **for all purposes; and**

**2. Shall** submit to the Division for filing with the clerk of the court of competent jurisdiction a signed document stating that:

~~{1-}~~ **(a)** He will comply with the conditions which have been imposed by the court and are stated in the document; and

~~{2-}~~ **(b)** If he fails to comply with the conditions imposed by the court and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

**Sec. 3.** 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~~



1 ~~officer,] the Division,~~ has been unable to make restitution as ordered  
2 by the court,  
3 ➔ may be granted an honorable discharge from probation by order  
4 of the court.

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

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

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

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

11 (1) The right to vote; and

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

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

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

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

20 (f) Must be informed of the provisions of this section and NRS  
21 179.245 in his probation papers.

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

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

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

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

35 (a) Of a category A felony.

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

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

40 (d) Of an offense involving the use of force or violence that  
41 resulted in substantial bodily harm to the victim and that would  
42 constitute a category B felony if committed as of the date of his  
43 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 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 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.



- 1     **Sec. 4.** NRS 213.1075 is hereby amended to read as follows:  
2     213.1075 Except as otherwise provided by specific statute, all  
3 information obtained in the discharge of official duty by ~~la-parole~~  
4 ~~and probation officer or~~ **an** employee of the **Division or the** Board  
5 is privileged and may not be disclosed directly or indirectly to  
6 anyone other than the Board, the judge, district attorney or others  
7 entitled to receive such information, unless otherwise ordered by the  
8 Board or judge or necessary to perform the duties of the Division.  
9     **Sec. 5.** This act becomes effective upon passage and approval.







