

ASSEMBLY BILL NO. 239—ASSEMBLYMEN OHRENSCHALL;  
HORNE, MUNFORD AND SEGERBLOM

MARCH 4, 2009

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to habitual criminals.  
(BDR 15-9)

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 crimes; revising provisions relating to habitual criminals; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law generally authorizes a prosecuting attorney to prosecute a person as a habitual criminal, punishable as a category B felony, if the person: (1) is convicted of petit larceny, a crime which involves fraud or the intent to defraud, or any felony; and (2) has previously been convicted two times of a felony or three times of petit larceny or certain other crimes involving fraud or the intent to defraud. This bill removes the provisions concerning convictions and prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. Thus, a person may be prosecuted as a habitual criminal, punishable as a category B felony, if he is convicted of a felony and has previously been convicted two times of a felony. (NRS 207.010)

Existing law provides that a person may be prosecuted as a habitual criminal, punishable as a category A felony, if the person: (1) is convicted of a felony; and (2) has previously been convicted three times of a felony or five times of petit larceny or certain other crimes which involve fraud or the intent to defraud. This bill removes the provisions concerning prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. Thus, a person may be prosecuted as a habitual criminal, punishable as a category A felony, if he is convicted of a felony and has previously been convicted three times of a felony. (NRS 207.010)



\* A B 2 3 9 R 1 \*

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

**Section 1.** NRS 207.010 is hereby amended to read as follows:  
207.010 1. Unless the person is prosecuted pursuant to NRS  
207.012 or 207.014, a person convicted in this State of:

(a) Any ~~[crime of which fraud or intent to defraud is an element,  
or of petit larceny, or of any]~~ felony, who has previously been two  
times convicted, whether in this State or elsewhere, of any crime  
which under the laws of the situs of the crime or of this State would  
amount to a felony ~~[, or who has previously been three times  
convicted, whether in this State or elsewhere, of petit larceny, or of  
any misdemeanor or gross misdemeanor of which fraud or intent to  
defraud is an element,]~~ is a habitual criminal and shall be punished  
for a category B felony by imprisonment in the state prison for a  
minimum term of not less than 5 years and a maximum term of not  
more than 20 years.

(b) Any felony, who has previously been three times convicted,  
whether in this State or elsewhere, of any crime which under the  
laws of the situs of the crime or of this State would amount to a  
felony ~~[, or who has previously been five times convicted, whether  
in this State or elsewhere, of petit larceny, or of any misdemeanor or  
gross misdemeanor of which fraud or the intent to defraud is an  
element,]~~ is a habitual criminal and shall be punished for a category  
A felony by imprisonment in the state prison:

- (1) For life without the possibility of parole;
- (2) For life with the possibility of parole, with eligibility for  
parole beginning when a minimum of 10 years has been served; or
- (3) For a definite term of 25 years, with eligibility for parole  
beginning when a minimum of 10 years has been served.

2. It is within the discretion of the prosecuting attorney  
whether to include a count under this section in any information or  
file a notice of habitual criminality if an indictment is found. The  
trial judge may, at his discretion, dismiss a count under this section  
which is included in any indictment or information.

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

**Sec. 3.** (Deleted by amendment.)

