

ASSEMBLY BILL NO. 135—COMMITTEE ON JUDICIARY

FEBRUARY 11, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing probation.
(BDR 14-806)

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 probation; prohibiting a court from ordering a term of imprisonment for certain violations of probation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court, upon determining that a person has violated a condition of probation, to: (1) continue or revoke the probation or suspension of sentence; (2) order a term of residential confinement; (3) order a program of regimental discipline; (4) cause the sentence imposed to be executed; or (5) modify the original sentence. (NRS 176A.630) This bill prohibits a court from ordering such a probationer to serve a term of imprisonment for violating a condition of probation unless the probationer has been convicted of another crime while on probation or the court determines that the imprisonment is necessary to protect the community from further criminal activity by the probationer.

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

Section 1. NRS 176A.630 is hereby amended to read as follows:

176A.630 **1.** If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to NRS 213.10988 and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a



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1 condition of probation, the court shall, if practicable, order the
2 probationer to make restitution for any necessary expenses incurred
3 by a governmental entity in returning the probationer to the court for
4 violation of the probation. ~~{The}~~ *Except as otherwise provided in*
5 *subsection 2, the* court may:

6 ~~{1-}~~ (a) Continue or revoke the probation or suspension of
7 sentence;

8 ~~{2-}~~ (b) Order the probationer to a term of residential
9 confinement pursuant to NRS 176A.660;

10 ~~{3-}~~ (c) Order the probationer to undergo a program of
11 regimental discipline pursuant to NRS 176A.780;

12 ~~{4-}~~ (d) Cause the sentence imposed to be executed; or

13 ~~{5-}~~ (e) Modify the original sentence imposed by reducing the
14 term of imprisonment and cause the modified sentence to be
15 executed. The court shall not make the term of imprisonment less
16 than the minimum term of imprisonment prescribed by the
17 applicable penal statute. If the Chief Parole and Probation Officer
18 recommends that the sentence of a probationer be modified and the
19 modified sentence be executed, the Chief Parole and Probation
20 Officer shall provide notice of the recommendation to any victim of
21 the crime for which the probationer was convicted who has
22 requested in writing to be notified and who has provided a current
23 address to the Division. The notice must inform the victim that he or
24 she has the right to submit documents to the court and to be present
25 and heard at the hearing to determine whether the sentence of a
26 probationer who has violated a condition of probation should be
27 modified. The court shall not modify the sentence of a probationer
28 and cause the sentence to be executed until it has confirmed that the
29 Chief Parole and Probation Officer has complied with the provisions
30 of this ~~{subsection-}~~ *paragraph*. The Chief Parole and Probation
31 Officer must not be held responsible when such notification is not
32 received by the victim if the victim has not provided a current
33 address. All personal information, including, but not limited to, a
34 current or former address, which pertains to a victim and which is
35 received by the Division pursuant to this ~~{subsection-}~~ *paragraph* is
36 confidential.

37 *2. The court shall not order the probationer to serve a term of*
38 *imprisonment for violating a condition of probation unless:*

39 *(a) The probationer has been convicted of a violation of any*
40 *federal, state or local law, except a minor traffic offense, which*
41 *was committed while the probationer was on probation; or*

42 *(b) The court finds that imprisonment is necessary to protect*
43 *the community from further criminal activity by the probationer.*

