

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; revising provisions concerning 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 provides that a court may not revoke the probation and suspend the sentence of such a probationer and cause the sentence imposed to be executed unless the court makes certain findings and states those findings on the record. This bill further: (1) provides that a court may not revoke the probation and suspend the sentence of such a probationer and cause the sentence imposed to be executed solely based on the probationer's failure to pay an administrative assessment or certain fees and expenses; and (2) authorizes the court to provide for the forfeiture of certain credits for good behavior of the probationer or extend the period of probation of the probationer if the probationer willfully fails to pay those assessments, fees or expenses.

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



1 acquiring jurisdiction shall cause the defendant to be brought before
2 it, consider the standards adopted pursuant to NRS 213.10988 and
3 the recommendation, if any, of the Chief Parole and Probation
4 Officer. Upon determining that the probationer has violated a
5 condition of probation, the court shall, if practicable, order the
6 probationer to make restitution for any necessary expenses incurred
7 by a governmental entity in returning the probationer to the court for
8 violation of the probation. ~~{The}~~ *Except as otherwise provided in*
9 *subsections 2 and 3, the* court may:

10 ~~{1-}~~ (a) Continue or revoke the probation or suspension of
11 sentence;

12 ~~{2-}~~ (b) Order the probationer to a term of residential
13 confinement pursuant to NRS 176A.660;

14 ~~{3-}~~ (c) Order the probationer to undergo a program of
15 regimental discipline pursuant to NRS 176A.780;

16 ~~{4-}~~ (d) Cause the sentence imposed to be executed; or

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

41 *2. The court may not revoke the probation and the*
42 *suspension of the sentence of the probationer and cause the*
43 *sentence imposed to be executed unless the court finds on*
44 *the basis of the circumstances of the original crime and the*
45 *conduct of the probationer while he or she was on probation that:*



1 (a) Imprisonment is necessary to protect the community from
2 further criminal activity by the probationer;

3 (b) The probationer is in need of treatment which can most
4 effectively be provided if he or she is imprisoned;

5 (c) The seriousness of the violation or the totality of the
6 violations by the probationer warrant revocation of probation and
7 suspension of the sentence of the probationer and execution of the
8 sentence imposed; or

9 (d) The violation demonstrates that the probationer cannot be
10 supervised by a parole and probation officer pursuant to the
11 practices and policies governing probation established by the
12 Division.

13 3. The court may not revoke the probation and the
14 suspension of the sentence of the probationer and cause the
15 sentence imposed to be executed solely based on the probationer's
16 failure to pay an administrative assessment, a fee described in
17 NRS 176.0915 or the expenses of his or her defense. If the court
18 determines that a probationer willfully failed to pay an
19 administrative assessment, a fee described in NRS 176.0915 or the
20 expenses of his or her defense, the court may:

21 (a) Pursuant to NRS 176A.635, provide for the forfeiture of all
22 or part of the credits for good behavior earned by the probationer
23 pursuant to NRS 176A.500; or

24 (b) Extend the period of probation of the probationer.

25 4. If the court revokes probation and the suspension of the
26 sentence of the probationer and causes the sentence imposed to be
27 executed, the court shall state on the record the court's findings
28 pursuant to subsection 2 that support the reasons for such
29 revocation and execution of the sentence.

