

Amendment No. 321

Assembly Amendment to Assembly Bill No. 135

(BDR 14-806)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AMI/RRY



Date: 4/22/2011

A.B. No. 135—Revises provisions governing probation. (BDR 14-806)



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~~ **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 ~~prohibits a court from ordering~~ **provides that a court may not revoke the probation and suspend the sentence of** such a probationer ~~to serve a term of imprisonment for violating a condition of probation~~ **and cause the sentence imposed to be executed** 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~~ **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 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 condition of probation, the court

shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. ~~[[The]] Except as otherwise provided in subsection 2, subsections 2 and 3, the~~ court may:

~~[[1-]]~~ (a) Continue or revoke the probation or suspension of sentence;
~~[[2-]]~~ (b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

~~[[3-]]~~ (c) Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;

~~[[4-]]~~ (d) Cause the sentence imposed to be executed; or

~~[[5-]]~~ (e) Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this ~~subsection.]~~ paragraph. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this ~~subsection.]~~ paragraph is confidential.

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

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

~~(b) The probationer may not revoke the probation and the suspension of the sentence of the probationer and cause the sentence imposed to be executed unless the court finds on the basis of the circumstances of the original crime and the conduct of the probationer while he or she was on probation that imprisonment:~~

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

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

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

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

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

a fee described in NRS 176.0915 or the expenses of his or her defense, the court may:

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

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

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