

Amendment No. 625

Senate Amendment to Assembly Bill No. 97 First Reprint (BDR 15-680)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No 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.

SRT/BFG



Date: 5/17/2013

A.B. No. 97—Revises provisions governing habitual criminals, habitual felons and habitually fraudulent felons. (BDR 15-680)



ASSEMBLY BILL NO. 97—ASSEMBLYMEN AIZLEY; MUNFORD,
NEAL AND OHRENSCHALL

FEBRUARY 13, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing habitual criminals, habitual felons and
habitually fraudulent felons. (BDR 15-680)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 the time for filing a
count alleging that a person is a habitual criminal, habitual felon or
habitually fraudulent felon; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

Existing law: (1) authorizes a prosecuting attorney to prosecute a person as a habitual criminal, a habitual felon or a habitually fraudulent felon if certain conditions exist; and (2) prescribes the punishment for a habitual criminal, a habitual felon or a habitually fraudulent felon. (NRS 207.010, 207.012, 207.014) Under existing law, a prosecuting attorney may: (1) include in the information charging the primary offense a count alleging that a person is a habitual criminal, a habitual felon or a habitually fraudulent felon; or (2) file such a count after the person's conviction for the primary offense but, in such a case, the sentence must not be imposed or a certain hearing held until 15 days after the filing. (NRS 207.016) This bill requires a count alleging that a person is a habitual criminal, a habitual felon or a habitually fraudulent felon to be filed not less than 2 days before the trial on the primary offense, ~~unless the prosecution and the defendant stipulate~~ **an agreement of the parties provides** otherwise or for good cause shown the court extends such time. This bill also authorizes the prosecution to supplement or amend such a count at any time before sentence is imposed, but, if such a supplement or amendment is filed, the sentence must not be imposed or a certain hearing must not occur until 15 days after the filing.

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

Section 1. NRS 207.016 is hereby amended to read as follows:
207.016 1. A conviction pursuant to NRS 207.010, 207.012 or 207.014 operates only to increase, not to reduce, the sentence otherwise provided by law for the principal crime.
2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is included in an information charging the primary offense, each previous conviction must be alleged

1 in the accusatory pleading, but no such conviction may be alluded to on trial of the
2 primary offense, nor may any allegation of the conviction be read in the presence of
3 a jury trying the offense or a grand jury considering an indictment for the offense.
4 A count pursuant to NRS 207.010, 207.012 or 207.014 may be ~~separately~~ filed
5 ~~after conviction of~~ *separately from the indictment or information charging the*
6 primary offense, but if it is so filed, *the count pursuant to NRS 207.010, 207.012*
7 *or 207.014 must be filed not less than 2 days before the start of the trial on the*
8 *primary offense, unless ~~the prosecution and the defendant stipulate~~ an*
9 *agreement of the parties provides otherwise or the court for good cause shown*
10 *makes an order extending the time. For good cause shown, the prosecution may*
11 *supplement or amend a count pursuant to NRS 207.010, 207.012 or 207.014 at*
12 *any time before the sentence is imposed, but if such a supplement or amendment*
13 *is filed, the sentence must not be imposed, or the hearing required by subsection 3*
14 *held, until 15 days after the separate filing.*

15 3. If a defendant charged pursuant to NRS 207.010, 207.012 or 207.014
16 pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill
17 of, the primary offense but denies any previous conviction charged, the court shall
18 determine the issue of the previous conviction after hearing all relevant evidence
19 presented on the issue by the prosecution and the defendant. At such a hearing, the
20 defendant may not challenge the validity of a previous conviction. The court shall
21 impose sentence:

22 (a) Pursuant to NRS 207.010 upon finding that the defendant has suffered
23 previous convictions sufficient to support an adjudication of habitual criminality;

24 (b) Pursuant to NRS 207.012 upon finding that the defendant has suffered
25 previous convictions sufficient to support an adjudication of habitual felon; or

26 (c) Pursuant to NRS 207.014 upon finding that the defendant has suffered
27 previous convictions sufficient to support an adjudication of habitually fraudulent
28 felon.

29 4. Nothing in the provisions of this section, NRS 207.010, 207.012 or
30 207.014 limits the prosecution in introducing evidence of prior convictions for
31 purposes of impeachment.

32 5. For the purposes of NRS 207.010, 207.012 and 207.014, a certified copy of
33 a felony conviction is prima facie evidence of conviction of a prior felony.

34 6. Nothing in the provisions of this section, NRS 207.010, 207.012 or
35 207.014 prohibits a court from imposing an adjudication of habitual criminality,
36 adjudication of habitual felon or adjudication of habitually fraudulent felon based
37 upon ~~a stipulation~~ an agreement of the parties.