

ASSEMBLY BILL NO. 114—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION
ON THE ADMINISTRATION OF JUSTICE)

FEBRUARY 5, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing restitution.
(BDR 14-560)

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 restitution; providing that a judgment requiring the payment of restitution does not expire until it is satisfied; exempting such a judgment from the time limitation for commencing an action upon or seeking the renewal thereof; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a judgment which, among other things, requires a defendant in a criminal action to pay restitution constitutes a lien which is enforceable as a judgment in a civil action. (NRS 176.275) Existing law also provides that an action upon a judgment or decree or for the renewal of such judgment or decree must be commenced within 6 years. (NRS 11.190) This bill: (1) provides that a judgment requiring a defendant in a criminal action to pay restitution does not expire until it is satisfied; and (2) exempts such a judgment from the time limitation for commencing an action or seeking the renewal thereof.

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

Section 1. NRS 176.275 is hereby amended to read as follows:
176.275 **1.** A judgment which imposes a fine or
administrative assessment or requires a defendant to pay restitution



1 or repay the expenses of a defense constitutes a lien in like manner
2 as a judgment for money rendered in a civil action.

3 **2. A judgment which requires a defendant to pay restitution:**

4 **(a) May be recorded, docketed and enforced as any other**
5 **judgment for money rendered in a civil action.**

6 **(b) Does not expire until the judgment is satisfied.**

7 **3. An independent action to enforce a judgment which**
8 **requires a defendant to pay restitution may be commenced at any**
9 **time.**

10 **Sec. 2.** NRS 176A.850 is hereby amended to read as follows:

11 176A.850 1. A person who:

12 (a) Has fulfilled the conditions of probation for the entire period
13 thereof;

14 (b) Is recommended for earlier discharge by the Division; or

15 (c) Has demonstrated fitness for honorable discharge but
16 because of economic hardship, verified by the Division, has been
17 unable to make restitution as ordered by the court,

18 ➡ may be granted an honorable discharge from probation by order
19 of the court.

20 2. Any amount of restitution remaining unpaid constitutes a
21 civil liability arising upon the date of discharge ~~and~~ **and is**
22 **enforceable pursuant to NRS 176.275.**

23 3. Except as otherwise provided in subsection 4, a person who
24 has been honorably discharged from probation:

25 (a) Is free from the terms and conditions of probation.

26 (b) Is immediately restored to the following civil rights:

27 (1) The right to vote; and

28 (2) The right to serve as a juror in a civil action.

29 (c) Four years after the date of honorable discharge from
30 probation, is restored to the right to hold office.

31 (d) Six years after the date of honorable discharge from
32 probation, is restored to the right to serve as a juror in a criminal
33 action.

34 (e) If the person meets the requirements of NRS 179.245, may
35 apply to the court for the sealing of records relating to the
36 conviction.

37 (f) Must be informed of the provisions of this section and NRS
38 179.245 in the person's probation papers.

39 (g) Is exempt from the requirements of chapter 179C of NRS,
40 but is not exempt from the requirements of chapter 179D of NRS.

41 (h) Shall disclose the conviction to a gaming establishment and
42 to the State and its agencies, departments, boards, commissions and
43 political subdivisions, if required in an application for employment,
44 license or other permit. As used in this paragraph, "establishment"
45 has the meaning ascribed to it in NRS 463.0148.



(i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➤ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;

(c) The date on which the person's civil right to hold office will be restored pursuant to paragraph (c) of subsection 3; and

(d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's



civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights, as proof that the person has been restored to the civil rights set forth in subsection 3.

Sec. 3. NRS 176A.870 is hereby amended to read as follows:

176A.870 A defendant whose term of probation has expired and:

1. Whose whereabouts are unknown;

2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or

3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,

is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution ~~and~~ **which is enforceable pursuant to NRS 176.275**, but does not entitle the probationer to any privilege conferred by NRS 176A.850.

Sec. 4. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 40.4639, 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) ~~and~~ **Except as otherwise provided in NRS 176.275, an** action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.



(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.



(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 5. NRS 213.154 is hereby amended to read as follows:

213.154 1. The Division shall issue an honorable discharge to a parolee whose term of sentence has expired if the parolee has:

(a) Fulfilled the conditions of his or her parole for the entire period of his or her parole; or

(b) Demonstrated his or her fitness for honorable discharge but because of economic hardship, verified by a parole and probation officer, has been unable to make restitution as ordered by the court.

2. The Division shall issue a dishonorable discharge to a parolee whose term of sentence has expired if:

(a) The whereabouts of the parolee are unknown;

(b) The parolee has failed to make full restitution as ordered by the court, without a verified showing of economic hardship; or

(c) The parolee has otherwise failed to qualify for an honorable discharge pursuant to subsection 1.

3. Any amount of restitution that remains unpaid by a person after the person has been discharged from parole constitutes a civil liability as of the date of discharge ~~and~~ **and is enforceable pursuant to NRS 176.275.**

Sec. 6. The amendatory provisions of this act apply to any judgment which requires a defendant to pay restitution which is rendered before, on or after October 1, 2015.

