

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 or a parent or guardian of a child 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



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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 ~~which~~ **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) ~~An~~ **Except as otherwise provided in NRS 62B.420 and 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.



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(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. 4.5. NRS 62B.420 is hereby amended to read as follows:

62B.420 1. Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is ordered by the juvenile court to pay a fine, administrative assessment, fee or restitution or to make any other payment and the fine, administrative assessment, fee, restitution or other payment or any part of it remains unpaid after the time established by the juvenile court for its payment, the juvenile court may enter a civil judgment against the child or the parent or guardian of the child for the amount due in favor of the victim, the state or local entity to whom the amount is owed or both. The juvenile court may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years, the person is a child who is determined to be outside the jurisdiction of the juvenile court pursuant to NRS 62B.330 or 62B.335 or the person is a child who is certified for proper criminal proceedings as an adult pursuant to NRS 62B.390.

2. Notwithstanding the termination of the jurisdiction of the juvenile court pursuant to NRS 62B.410 or the termination of any period of supervision or probation ordered by the juvenile court, the juvenile court retains jurisdiction over any civil judgment entered pursuant to subsection 1 and retains jurisdiction over the person against whom a civil judgment is entered pursuant to subsection 1.



1 The juvenile court may supervise the civil judgment and take any of
2 the actions authorized by the laws of this State.

3 3. A civil judgment entered pursuant to subsection 1 may be
4 enforced and renewed in the manner provided by law for the
5 enforcement and renewal of a judgment for money rendered in a
6 civil action. *A judgment which requires a parent or guardian of a
7 child to pay restitution does not expire until the judgment is
8 satisfied. An independent action to enforce a judgment that
9 requires a parent or guardian of a child to pay restitution may be
10 commenced at any time.*

11 4. If the juvenile court enters a civil judgment pursuant to
12 subsection 1, the person or persons against whom the judgment is
13 issued is liable for a collection fee, to be imposed by the juvenile
14 court at the time the civil judgment is issued, of:

15 (a) Not more than \$100, if the amount of the judgment is less
16 than \$2,000.

17 (b) Not more than \$500, if the amount of the judgment is \$2,000
18 or greater, but is less than \$5,000.

19 (c) Ten percent of the amount of the judgment, if the amount of
20 the judgment is \$5,000 or greater.

21 5. In addition to attempting to collect the judgment through any
22 other lawful means, a victim, a representative of the victim or a state
23 or local entity that is responsible for collecting a civil judgment
24 entered pursuant to subsection 1 may take any or all of the following
25 actions:

26 (a) Except as otherwise provided in this paragraph, report the
27 judgment to reporting agencies that assemble or evaluate
28 information concerning credit. If the judgment was entered against a
29 person who was less than 21 years of age at the time the judgment
30 was entered, the judgment cannot be reported pursuant to this
31 paragraph until the person reaches 21 years of age.

32 (b) Request that the juvenile court take appropriate action
33 pursuant to subsection 6.

34 (c) Contract with a collection agency licensed pursuant to NRS
35 649.075 to collect the judgment and the collection fee. The
36 collection agency must be paid as compensation for its services an
37 amount not greater than the amount of the collection fee imposed
38 pursuant to subsection 4, in accordance with the provisions of the
39 contract.

40 6. If the juvenile court determines that a child or the parent or
41 guardian of a child against whom a civil judgment has been entered
42 pursuant to subsection 1 has failed to make reasonable efforts to
43 satisfy the civil judgment, the juvenile court may take any of the
44 following actions:



(a) Order the suspension of the driver's license of a child for a period not to exceed 1 year. If the child is already the subject of a court order suspending the driver's license of the child, the juvenile court may order the additional suspension to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a child pursuant to this paragraph, the juvenile court shall require the child to surrender to the juvenile court all driver's licenses then held by the child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the driving record of a child, but such a suspension must not be considered for the purpose of rating or underwriting.

(b) If a child does not possess a driver's license, prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.

(c) If the civil judgment was issued for a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt in the manner provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.

7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.

8. If the juvenile court enters a civil judgment pursuant to subsection 1 and the person against whom the judgment is entered is convicted of a crime before he or she satisfies the civil judgment, the court sentencing the person for that crime shall include in the sentence the civil judgment or such portion of the civil judgment that remains unpaid.



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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 ~~H~~ *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.

