

Amendment No. 711

Senate Amendment to Assembly Bill No. 114 Second Reprint	(BDR 14-560)
Proposed by: Senate 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	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



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.

~

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 ~~expires 10 years after the date on which the judgment is rendered;~~ **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; ~~until the judgment expires;~~ 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 ~~expires 10 years after the date on which the judgment is rendered;~~ **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. ~~until the judgment expires.~~

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

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

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

~~(b) *[Expires 10 years after the date on which]* Does not expire until the judgment is rendered, satisfied.~~

~~3. An independent action to enforce a judgment which requires a defendant to pay restitution may be commenced at any time. *[before the judgment expires.]*~~

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

176A.850 1. A person who:

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

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

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

➤ may be granted an honorable discharge from probation by order of the court.

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

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

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

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

(1) The right to vote; and

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

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

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

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

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

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

(h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" 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.

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

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

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

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

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

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

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

19 7. Subject to the limitations set forth in subsection 4, a person who has been
20 honorably discharged from probation in this State or elsewhere and whose official
21 documentation of honorable discharge from probation is lost, damaged or destroyed
22 may file a written request with a court of competent jurisdiction to restore the
23 person's civil rights pursuant to this section. Upon verification that the person has
24 been honorably discharged from probation and is eligible to be restored to the civil
25 rights set forth in subsection 3, the court shall issue an order restoring the person to
26 the civil rights set forth in subsection 3. A person must not be required to pay a fee
27 to receive such an order.

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

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

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

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

36 176A.870 A defendant whose term of probation has expired and:

37 1. Whose whereabouts are unknown;

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

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

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

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

48 11.190 Except as otherwise provided in NRS 40.4639, 125B.050 and
49 217.007, actions other than those for the recovery of real property, unless further
50 limited by specific statute, may only be commenced as follows:

51 1. Within 6 years:

1 (a) ~~Am~~ *Except as otherwise provided in NRS 62B.420 and 176.275, an*
2 action upon a judgment or decree of any court of the United States, or of any state
3 or territory within the United States, or the renewal thereof.

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

7 2. Within 4 years:

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

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

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

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

18 3. Within 3 years:

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

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

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

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

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

42 4. Within 2 years:

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

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

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

52 (d) An action against a sheriff or other officer for the escape of a prisoner
53 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. The juvenile court may supervise the civil judgment and take any of the actions authorized by the laws of this State.

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

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

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

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

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

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

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

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

12 (c) Contract with a collection agency licensed pursuant to NRS 649.075 to
13 collect the judgment and the collection fee. The collection agency must be paid as
14 compensation for its services an amount not greater than the amount of the
15 collection fee imposed pursuant to subsection 4, in accordance with the provisions
16 of the contract.

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

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

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

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

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

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

50 8. If the juvenile court enters a civil judgment pursuant to subsection 1 and
51 the person against whom the judgment is entered is convicted of a crime before he
52 or she satisfies the civil judgment, the court sentencing the person for that crime

1 shall include in the sentence the civil judgment or such portion of the civil
2 judgment that remains unpaid.

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

4 213.154 1. The Division shall issue an honorable discharge to a parolee
5 whose term of sentence has expired if the parolee has:

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

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

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

13 (a) The whereabouts of the parolee are unknown;

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

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

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

21 **Sec. 6.** The amendatory provisions of this act apply to any judgment which
22 requires a defendant to pay restitution which is rendered before, on or after October
23 1, 2015.