

ASSEMBLY BILL NO. 25—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE DIVISION OF PAROLE AND PROBATION
OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to certain allowable
deductions from the period of probation or sentence
of a person. (BDR 14-171)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 criminal offenders; revising provisions relating
to certain allowable deductions from the period of
probation or sentence of a person; authorizing the
Governor to grant certain deductions from the period of
the sentence of a person under certain circumstances; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that a person who is sentenced to serve a period of probation for a felony or gross misdemeanor be allowed for the period of probation a deduction of a certain number of days from that period for each month the person serves if he or she is in compliance with the terms and conditions of the probation and is: (1) current with any fee to defray the costs of the person's supervision and any fines, fees and restitution ordered by the court; and (2) actively involved in employment or enrolled in a program of education, rehabilitation or another program approved by the Division of Parole and Probation of the Department of Public Safety. (NRS 176A.500) Existing law similarly requires that certain persons who are on parole or released on parole be allowed for the period the person is on parole a deduction of a certain number of days from the person's sentence for each month served if the person is current with any fee to defray the costs of his or her supervision and any payment of restitution required by the State Board of Parole Commissioners. (NRS 209.4475)

Section 1 of this bill revises the requirements that a probationer must satisfy to be allowed a deduction from his or her period of probation. **Section 1** removes the



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requirements that the probationer be in compliance with the terms and conditions of the probation and be current on the payment of fines and fees ordered by the court, thereby making the requirements for probationers to be allowed a deduction more similar to the existing requirements imposed on parolees. **Section 1** also removes the requirement that a probationer, to be allowed a deduction, must be both: (1) current with any fee to defray the costs of his or her supervision and any payment of restitution; and (2) actively involved in employment or enrolled in a program approved by the Division, and instead provides that a probationer is allowed a separate deduction for satisfying each such requirement.

Existing law provides that under certain circumstances an offender may earn credits to reduce his or her sentence of imprisonment for each month the offender serves. (NRS 209.4465) **Section 1.5** of this bill authorizes the Governor, by executive order, if the Governor determines it is necessary, to grant additional credits to reduce an offender's sentence by not more than 5 days for each month an offender serves.

Sections 1 and 2 of this bill, respectively, provide that for the purpose of determining whether a probationer is allowed a deduction from his or her period of probation for being current with any fee to defray the costs of his or her supervision and any payment of restitution or whether a parolee is allowed a deduction from his or her sentence, the probationer or parolee shall be deemed to be current with any fee to defray the costs of his or her supervision and any payment of restitution for any given month if, during that month, the probationer or parolee makes at least the minimum monthly payment established by the court, the Division or the Board, as applicable.

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

Section 1. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260, 176A.290 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.



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1 3. Any parole and probation officer or any peace officer with
2 power to arrest may arrest a probationer without a warrant, or may
3 deputize any other officer with power to arrest to do so by giving the
4 probationer a written statement setting forth that the probationer has,
5 in the judgment of the parole and probation officer, violated the
6 conditions of probation. Except as otherwise provided in subsection
7 4, the parole and probation officer or the peace officer, after making
8 an arrest, shall present to the detaining authorities, if any, a
9 statement of the charges against the probationer. The parole and
10 probation officer shall at once notify the court which granted
11 probation of the arrest and detention or residential confinement of
12 the probationer and shall submit a report in writing showing in what
13 manner the probationer has violated the conditions of probation.

14 4. A parole and probation officer or a peace officer may
15 immediately release from custody without any further proceedings
16 any person the officer arrests without a warrant for violating a
17 condition of probation if the parole and probation officer or peace
18 officer determines that there is no probable cause to believe that the
19 person violated the condition of probation.

20 5. A person who is sentenced to serve a period of probation for
21 a felony or a gross misdemeanor ~~must be allowed for the period of~~
22 ~~the probation a deduction as set forth in subsection 6 if the offender~~
23 ~~is in compliance with the terms and conditions of the probation as~~
24 ~~determined by the Division and is:~~

25 ~~—(a) Current with any fee to defray the cost of the supervision~~
26 ~~charged pursuant to NRS 213.1076 and with any fines, fees and~~
27 ~~restitution ordered by the court, including, without limitation, any~~
28 ~~payment of restitution required pursuant to NRS 176A.430; and~~

29 ~~—(b) Actively involved in employment or enrolled in a program of~~
30 ~~education, rehabilitation or any other program approved by the~~
31 ~~Division.~~

32 ~~6. A person described in subsection 5] must be allowed for the~~
33 ~~period of the probation a deduction of:~~

34 (a) Ten days from that period for each month the person serves
35 and is current ~~on] with~~ any ~~{fees} fee~~ to defray the ~~{cost} costs~~ of
36 ~~{the} his or her~~ supervision ~~{owed} charged by the Division of~~
37 ~~Parole and Probation of the Department of Public Safety pursuant~~
38 ~~to NRS 213.1076 and {on] with any {fines, fees and} payment of~~
39 ~~restitution ordered by the court {-and} , including, without~~
40 ~~limitation, any payment of restitution required pursuant to NRS~~
41 ~~176A.430. A person shall be deemed to be current with any such~~
42 ~~fee and payment of restitution for any given month if, during that~~
43 ~~month, the person makes at least the minimum monthly payment~~
44 ~~established by the court or, if the court does not establish a~~
45 ~~minimum monthly payment, by the Division.~~



(b) Except as otherwise provided in subsection 7, ~~an additional~~ 10 days from that period for each month the person serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

6. A person must be allowed a deduction pursuant to paragraph (a) or (b) of subsection 5 regardless of whether the person has satisfied the requirements of the other paragraph and must be allowed a deduction pursuant to paragraphs (a) and (b) of subsection 5 if the person has satisfied the requirements of both paragraphs of that subsection.

7. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who is a participant in a specialty court program must be allowed a deduction from the period of probation for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division only if the person successfully completes the specialty court program. Such a deduction must not exceed the length of time remaining on the person's period of probation.

8. As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 1.5. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

→ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such



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1 credits. In addition to the credits allowed pursuant to this subsection,
2 an offender is entitled to the following credits for educational
3 achievement:

4 (a) For earning a general educational development certificate or
5 an equivalent document, 60 days.

6 (b) For earning a high school diploma, 90 days.

7 (c) For earning his or her first associate degree, 120 days.

8 3. The Director may, in his or her discretion, authorize an
9 offender to receive a maximum of 90 days of credit for each
10 additional degree of higher education earned by the offender.

11 4. The Director may allow not more than 10 days of credit each
12 month for an offender who participates in a diligent and responsible
13 manner in a center for the purpose of making restitution, program
14 for reentry of offenders and parolees into the community,
15 conservation camp, program of work release or another program
16 conducted outside of the prison. An offender who earns credit
17 pursuant to this subsection is eligible to earn the entire 30 days of
18 credit each month that is allowed pursuant to subsections 1 and 2.

19 5. The Director may allow not more than 90 days of credit each
20 year for an offender who engages in exceptional meritorious service.

21 6. The Board shall adopt regulations governing the award,
22 forfeiture and restoration of credits pursuant to this section.

23 7. Except as otherwise provided in subsections 8 and 9, credits
24 earned pursuant to this section:

25 (a) Must be deducted from the maximum term or the maximum
26 aggregate term imposed by the sentence, as applicable; and

27 (b) Apply to eligibility for parole unless the offender was
28 sentenced pursuant to a statute which specifies a minimum sentence
29 that must be served before a person becomes eligible for parole.

30 8. Credits earned pursuant to this section by an offender who
31 has not been convicted of:

32 (a) Any crime that is punishable as a felony involving the use or
33 threatened use of force or violence against the victim;

34 (b) A sexual offense that is punishable as a felony;

35 (c) A violation of NRS 484C.110, 484C.120, 484C.130 or
36 484C.430 that is punishable as a felony; or

37 (d) A category A or B felony,

38 ➤ apply to eligibility for parole and, except as otherwise provided
39 in subsection 9, must be deducted from the minimum term or the
40 minimum aggregate term imposed by the sentence, as applicable,
41 until the offender becomes eligible for parole and must be deducted
42 from the maximum term or the maximum aggregate term imposed
43 by the sentence, as applicable.

44 9. Credits deducted pursuant to subsection 8 may reduce the
45 minimum term or the minimum aggregate term imposed by the



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1 sentence, as applicable, by not more than 58 percent for an offender
2 who:

3 (a) Is serving a sentence for an offense committed on or after
4 July 1, 2014; or

5 (b) On or after July 1, 2014, makes an irrevocable election to
6 have his or her consecutive sentences aggregated pursuant to
7 NRS 213.1212.

8 *10. In addition to the credits allowed pursuant to this section,*
9 *if the Governor determines, by executive order, that it is necessary,*
10 *the Governor may authorize the deduction of not more than 5 days*
11 *from a sentence for each month an offender serves. This*
12 *subsection must be uniformly applied to all offenders under a*
13 *sentence at the time the Governor makes such a determination.*

14 **Sec. 2.** NRS 209.4475 is hereby amended to read as follows:

15 209.4475 1. In addition to any credits earned pursuant to
16 NRS 209.447, an offender who is on parole as of January 1, 2004, or
17 who is released on parole on or after January 1, 2004, for a term less
18 than life must be allowed for the period the offender is actually on
19 parole a deduction of 20 days from the offender's sentence for each
20 month the offender serves if:

21 (a) The offender is current with any fee to defray the costs of his
22 or her supervision *charged by the Division of Parole and Probation*
23 *of the Department of Public Safety* pursuant to NRS 213.1076; and

24 (b) The offender is current with any payment of restitution
25 required *by the State Board of Parole Commissioners* pursuant to
26 NRS 213.126.

27 2. *An offender shall be deemed to be current with any fee and*
28 *payment of restitution described in subsection 1 for any given*
29 *month if, during that month, the offender makes at least the*
30 *minimum monthly payment established by:*

31 *(a) The Division of Parole and Probation of the Department of*
32 *Public Safety, if any; and*

33 *(b) The State Board of Parole Commissioners, if any.*

34 3. In addition to any credits earned pursuant to subsection 1
35 and NRS 209.447, the Director may allow not more than 10 days of
36 credit each month for an offender:

37 (a) Who is on parole as of January 1, 2004, or who is released
38 on parole on or after January 1, 2004, for a term less than life; and

39 (b) Whose diligence in labor or study merits such credits.

40 ~~13-1~~ 4. An offender is entitled to the deductions authorized by
41 this section only if the offender satisfies the conditions of subsection
42 1 or ~~12-1~~ 3, as determined by the Director. The Chief Parole and
43 Probation Officer or other person responsible for the supervision of
44 an offender shall report to the Director the failure of an offender to
45 satisfy those conditions.



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~~14~~ 5. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term or the maximum aggregate term imposed by the sentence, as applicable.

~~15~~ 6. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 3. 1. The amendatory provisions of this act apply to offenses committed before, on or after July 1, 2017.

2. For the purpose of calculating credits earned by a person pursuant to:

(a) NRS 176A.500 or 209.4475, the amendatory provisions of this act must be applied only to credits earned by the person on or after July 1, 2017.

(b) NRS 209.4465, the amendatory provisions of this act may be applied retroactively for not more than 5 years after the date of any executive order issued pursuant to subsection 10 of NRS 209.4465, if the Governor determines that it is necessary.

Sec. 4. This act becomes effective on July 1, 2017.

