

ASSEMBLY BILL NO. 431—ASSEMBLYMAN FRIERSON

MARCH 25, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the restoration of the right to vote. (BDR 14-981)

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 convicted persons; revising provisions governing the restoration of the right to vote for convicted persons who have been discharged from probation or parole or released from prison; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the restoration of certain civil rights, including the right to vote, for persons who have been convicted of certain felonies and discharged from probation or parole or released from prison. Existing law restores the right to vote immediately upon such persons as of the date of their discharge from probation or parole or release from prison, except for persons who have previously been convicted of certain offenses. If the person was convicted of a category B felony involving the use of force or violence under certain circumstances, existing law provides that the person's right to vote is automatically restored 2 years after his or her discharge from probation or parole or release from prison. If the person was convicted of: (1) a category A felony under certain circumstances; (2) a category B felony that resulted in substantial bodily harm to the victim under certain circumstances; or (3) a felony two or more times under certain circumstances, existing law authorizes that person, after his or her discharge from probation or parole or release from prison, to petition a court to restore his or her civil rights, including the right to vote. (NRS 176A.850, 213.155, 213.157)

Sections 1-3 of this bill restore certain civil rights, including the immediate restoration of the right to vote, to a person who has been discharged from probation or parole or released from prison. **Section 7** of this bill provides for the restoration of the right to vote to certain residents of this State who: (1) have not had their right to vote restored; (2) are not on probation or parole or serving a sentence of imprisonment on July 1, 2019; and (3) before July 1, 2019, were discharged from probation or parole or released from prison after serving their sentences.

Existing law requires a county clerk to cancel a person's preregistration to vote if the person was convicted of a felony unless the person: (1) was convicted of a



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felony in this State and his or her right to vote has been restored; or (2) was convicted of a felony in another state and his or her right to vote has been restored under the laws of that state. (NRS 293.540) **Section 5** of this bill requires the county clerk to cancel the preregistration of such a person who was convicted of a felony in another state unless that person has been discharged from probation or parole or released from prison.

Existing law also authorizes an elector who was previously convicted of a crime and whose preregistration to vote has been cancelled by the county clerk to reregister to vote if the elector's: (1) conviction has been overturned; or (2) civil rights have been restored pursuant to the laws of the state in which the person was convicted. (NRS 293.543) **Section 6** of this bill authorizes such an elector who was convicted of a felony in another state to reregister to vote if the elector is not on probation or parole or incarcerated.

Existing law authorizes the prior conviction of a person who has been discharged from probation to be used for purposes of impeaching the credibility of that person under certain circumstances. (NRS 50.095, 176A.850) **Section 1** of this bill prohibits such a conviction from being used for impeachment. **Section 4** of this bill makes a conforming change.

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

Section 1. 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. A person whose term of probation has expired and:

(a) Whose whereabouts are unknown;

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

(c) Who has otherwise failed to qualify for an honorable discharge as provided in subsection 1,

➤ is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the person from any further obligation, except as otherwise provided in subsection 3.

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



4. ~~[Except as otherwise provided in subsection 5, a]~~ A person who has been discharged from probation:

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

(b) Is immediately restored to the right to serve as a juror in a civil action.

~~(c) [Except as otherwise provided in paragraph (d), is]~~ Is immediately restored to the right to vote.

~~(d) [Two years after the date of discharge from probation, is restored to the right to vote if the person has previously been convicted in this State:~~

~~— (1) Of a category B felony involving the use of force or violence.~~

~~— (2) Of an offense involving the use of force or violence that would constitute a category B felony if committed as of the date of discharge from probation.~~

~~(e)]~~ Four years after the date of discharge from probation, is restored to the right to hold office.

~~[(f)]~~ (e) Six years after the date of discharge from probation, is restored to the right to serve as a juror in a criminal action.

~~[(g)]~~ (f) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.

~~[(h)]~~ (g) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.

~~[(i)]~~ (h) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

~~[(j)]~~ (i) 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.

~~[(k)]~~ (j) Except as otherwise provided in paragraph ~~[(j)]~~ (i), need not disclose the conviction to an employer or prospective employer.

5. ~~[Except as otherwise provided in this subsection, the civil rights set forth in subsection 4 are not restored to a person 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 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 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 4.~~

~~—6. The prior conviction of a person who has been 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.~~

~~—7. Except for a person subject to the limitations set forth in subsection 5, upon} Upon discharge from probation, the person so discharged must be given an official document which provides:~~

(a) That the person has received an honorable discharge or dishonorable discharge, as applicable, from probation;

(b) That the person is restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~[applicable dates set forth in paragraphs (b), (c) and (d) of subsection 4;]~~ *date of his or her discharge from probation;*

(c) The date on which the person's civil right to hold office will be restored pursuant to paragraph ~~[(e)]~~ *(d)* of subsection 4; 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 ~~[(f)]~~ *(e)* of subsection 4.

~~[8.—Subject to the limitations set forth in subsection 5, a]~~

6. A person who has been discharged from probation in this State or elsewhere and whose official documentation of 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 discharged from probation and is eligible to be restored to the civil rights set forth in subsection 4, the court shall issue an order restoring the person to the civil rights set forth in subsection 4. A person must not be required to pay a fee to receive such an order.

~~[9.]~~ **7.** A person who has been discharged from probation in this State or elsewhere may present:

(a) Official documentation of discharge from probation, if it contains the provisions set forth in subsection ~~[7;]~~ *5*; or

(b) A court order restoring the person's civil rights,



1 ➡ as proof that the person has been restored to the civil rights set
2 forth in subsection 4.

3 **Sec. 2.** NRS 213.155 is hereby amended to read as follows:

4 213.155 1. ~~{Except as otherwise provided in subsection 2, a}~~
5 A person who receives a discharge from parole pursuant to
6 NRS 213.154:

7 (a) Is immediately restored to the right to serve as a juror in a
8 civil action.

9 (b) ~~{Except as otherwise provided in paragraph (c), is}~~ Is
10 immediately restored to the right to vote.

11 (c) ~~{Two years after the date of his or her discharge from parole,
12 is restored to the right to vote if the person has previously been
13 convicted in this State:~~

14 ~~—(1) Of a category B felony involving the use of force or
15 violence.~~

16 ~~—(2) Of an offense involving the use of force or violence that
17 would constitute a category B felony if committed as of the date of
18 discharge from parole.~~

19 ~~—(d)}~~ Four years after the date of his or her discharge from parole,
20 is restored to the right to hold office.

21 ~~{(e)}~~ (d) Six years after the date of his or her discharge from
22 parole, is restored to the right to serve as a juror in a criminal action.

23 2. ~~{Except as otherwise provided in this subsection, the civil
24 rights set forth in subsection 1 are not restored to a person who has
25 received a discharge from parole if the person has previously been
26 convicted in this State:~~

27 ~~—(a) Of a category A felony~~

28 ~~—(b) Of an offense that would constitute a category A felony if
29 committed as of the date of discharge from parole.~~

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

32 ~~—(d) Of an offense involving the use of force or violence that
33 resulted in substantial bodily harm to the victim and that would
34 constitute a category B felony if committed as of the date of
35 discharge from parole.~~

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

41 ➡ A person described in this subsection may petition a court of
42 competent jurisdiction for an order granting the restoration of his or
43 her civil rights as set forth in subsection 1.



~~3. Except for a person subject to the limitations set forth in subsection 2, upon~~ **Upon** his or her discharge from parole, a person

so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge or dishonorable discharge, as applicable, from parole;

(b) That the person is restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~{applicable dates set forth in paragraphs (a), (b) and (c) of subsection 1;}~~ **date of his or her discharge from parole.**

(c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph ~~{(d)}~~ **(c)** of subsection 1; and

(d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph ~~{(e)}~~ **(d)** of subsection 1.

~~{4. Subject to the limitations set forth in subsection 2, a}~~

3. A person who has been discharged from parole in this State or elsewhere and whose official documentation of his or her discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

~~{5.}~~ **4.** A person who has been discharged from parole in this State or elsewhere may present:

(a) Official documentation of his or her discharge from parole, if it contains the provisions set forth in subsection ~~{3.}~~ **2;** or

(b) A court order restoring his or her civil rights,
➤ as proof that the person has been restored to the civil rights set forth in subsection 1.

~~{6.}~~ **5.** The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 3. NRS 213.157 is hereby amended to read as follows:

213.157 1. ~~{Except as otherwise provided in subsection 2, a}~~

A person convicted of a felony in the State of Nevada who has served his or her sentence and has been released from prison:

(a) Is immediately restored to the right to serve as a juror in a civil action.

(b) ~~{Except as otherwise provided in paragraph (c), is}~~ **Is** immediately restored to the right to vote.

(c) ~~{Two years after the date of his or her release from prison, is restored to the right to vote if the person has previously been convicted in this State:}~~



~~— (1) Of a category B felony involving the use of force or violence.~~

~~— (2) Of an offense involving the use of force or violence that would constitute a category B felony if committed as of the date of his or her release from prison.~~

~~— (d)]~~ Four years after the date of his or her release from prison, is restored to the right to hold office.

~~[(e)]~~ (d) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. ~~[Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison 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 his or her release from prison.~~

~~— (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 his or her release from prison.~~

~~— (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 his or her civil rights as set forth in subsection 1.~~

~~3. Except for a person subject to the limitations set forth in subsection 2, upon] Upon~~ his or her release from prison, a person so released must be given an official document which provides:

(a) That the person has been released from prison;

(b) That the person is restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~[applicable dates set forth in paragraphs (a), (b) and (c) of subsection 1;]~~ *date of his or her release from prison.*

(c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph ~~[(d)]~~ (c) of subsection 1; and

(d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph ~~[(e)]~~ (d) of subsection 1.

~~[4. Subject to the limitations set forth in subsection 2, a]~~



3. A person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

~~15-1~~ 4. A person who has been released from prison in this State or elsewhere may present:

(a) Official documentation of his or her release from prison, if it contains the provisions set forth in subsection ~~13-1~~ 2; or

(b) A court order restoring his or her civil rights, as proof that the person has been restored to the civil rights set forth in subsection 1.

Sec. 4. NRS 50.095 is hereby amended to read as follows:

50.095 1. For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime is admissible but only if the crime was punishable by death or imprisonment for more than 1 year under the law under which the witness was convicted.

2. Evidence of a conviction is inadmissible under this section if a period of more than 10 years has elapsed since:

(a) The date of the release of the witness from confinement; or

(b) The expiration of the period of the witness's parole ~~16-1~~ probation or sentence, whichever is the later date.

3. Evidence of a conviction is inadmissible under this section if the conviction has been the subject of a pardon.

4. *Evidence of a conviction is inadmissible under this section if the witness was discharged from probation.*

5. Evidence of juvenile adjudications is inadmissible under this section.

~~15-1~~ 6. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

~~16-1~~ 7. A certified copy of a conviction is prima facie evidence of the conviction.

Sec. 5. NRS 293.540 is hereby amended to read as follows:

293.540 1. The county clerk shall cancel the preregistration of a person:

(a) If the county clerk has personal knowledge of the death of the person or if an authenticated certificate of the death of the person is filed in the county clerk's office.

(b) At the request of the person.



(c) If the county clerk has discovered an incorrect preregistration pursuant to the provisions of NRS 293.5235 and the person has failed to respond within the required time.

(d) As required by NRS 293.541.

(e) Upon verification that the application to preregister to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

2. The county clerk shall cancel the registration of a person:

(a) If the county clerk has personal knowledge of the death of the person or if an authenticated certificate of the death of the person is filed in the county clerk's office.

(b) If the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process.

(c) Upon the determination that the person has been convicted of a felony unless:

(1) If the person was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS **176A.850**, 213.090, 213.155 or 213.157.

(2) If the person was convicted of a felony in another state, ~~[the right to vote of]~~ the person has been ~~[restored pursuant to the laws of the state in which the person was convicted.]~~ **discharged from probation or parole or released from prison.**

(d) Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

(e) Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

(f) At the request of the person.

(g) If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.

(h) As required by NRS 293.541.

(i) Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

Sec. 6. NRS 293.543 is hereby amended to read as follows:

293.543 1. If the registration of an elector is cancelled pursuant to paragraph (b) of subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been found by the district court to have the mental capacity to vote. The court must include the



finding in a court order and, not later than 30 days after issuing the order, provide a certified copy of the order to the county clerk of the county in which the person is a resident and to the Office of the Secretary of State.

2. If the registration of an elector is cancelled pursuant to paragraph (c) of subsection 2 of NRS 293.540, the elector may reregister ~~[after presenting satisfactory evidence which demonstrates that the elector's:] if:~~

(a) ~~[Conviction]~~ *The conviction of the elector* has been overturned; ~~[or]~~

(b) ~~[Civil rights have been restored:]~~
~~—(1) If the]~~ *The elector was convicted in this State, the civil rights of the elector have been restored* pursuant to the provisions of NRS *176A.850*, 213.090, 213.155 or 213.157 ~~[-~~

~~—(2) If the]~~ ; or

(c) *The elector was convicted in another state, [pursuant to the laws of the state in which he or she was convicted.] the elector has been discharged from probation or parole or released from prison.*

3. If the registration of an elector is cancelled pursuant to the provisions of paragraph (e) of subsection 2 of NRS 293.540, the elector may reregister immediately.

4. If the registration of an elector is cancelled pursuant to the provisions of paragraph (f) of subsection 2 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.

5. A county clerk shall not require an elector to present evidence, including without limitation, a court order or any other document, to prove that the elector satisfies the requirements of subsection 2.

Sec. 7. Any person residing in this State who:

1. Before July 1, 2019, was discharged from probation pursuant to NRS 176A.850, discharged from parole pursuant to NRS 213.155 or released from prison pursuant to NRS 213.157, as those sections existed before July 1, 2019;

2. Is not on probation or parole or serving a sentence of imprisonment on July 1, 2019; and

3. Has not already had his or her right to vote restored,
↪ is immediately restored the right to vote.

Sec. 8. This act becomes effective on July 1, 2019.

