

ASSEMBLY BILL NO. 17—COMMITTEE ON JUDICIARY

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

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the discharge of certain persons from probation or parole. (BDR 14-334)

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; eliminating the distinction between an honorable discharge and a dishonorable discharge from probation or parole; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a court to grant an honorable discharge or a dishonorable discharge from probation under certain circumstances. (NRS 176A.850) **Section 2** of this bill eliminates the distinction between an honorable discharge and a dishonorable discharge from probation. **Sections 1 and 3** of this bill make conforming changes by eliminating certain procedural distinctions related to a dishonorable discharge from probation.

Existing law requires the Division of Parole and Probation of the Department of Public Safety to issue an honorable discharge or a dishonorable discharge from parole under certain circumstances. (NRS 213.154) **Section 4** of this bill eliminates the distinction between an honorable discharge and a dishonorable discharge from parole, and instead requires the Division to discharge a person from parole upon the expiration of his or her term of sentence. **Section 5** of this bill makes a conforming change related to the elimination of the distinction between an honorable discharge and a dishonorable discharge.

Section 6 of this bill makes the elimination of the distinction between an honorable discharge and a dishonorable discharge applicable to persons: (1) serving a term of probation or on parole on the effective date of this bill; or (2) released on probation or parole on or after the effective date of this bill.



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. Except as otherwise provided in subsection 2, 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) Twelve months for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.240, 176A.260, 176A.290 or 453.3363;

(b) Eighteen months for a category E felony;

(c) Twenty-four months for a category C or D felony;

(d) Thirty-six months for a category B felony; or

(e) Notwithstanding the provisions of paragraphs (a) to (d), inclusive, 60 months for a violent or sexual offense as defined in NRS 202.876 or a violation of NRS 200.508.

2. The court may extend the period of probation or suspension of sentence ordered pursuant to subsection 1 for a period of not more than 12 months if such an extension is necessary for the defendant to complete his or her participation in a specialty court program.

3. 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.

4. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving the probationer a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 5, the parole and probation officer or the peace officer, after making an arrest, shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted



1 probation of the arrest and detention or residential confinement of
2 the probationer and shall submit a report in writing showing in what
3 manner the probationer has violated the conditions of probation.

4 5. A parole and probation officer or a peace officer may
5 immediately release from custody without any further proceedings
6 any person the officer arrests without a warrant for violating a
7 condition of probation if the parole and probation officer or peace
8 officer determines that there is no probable cause to believe that the
9 person violated the condition of probation.

10 6. A person who is sentenced to serve a period of probation for
11 a felony or a gross misdemeanor must be allowed for the period of
12 the probation a deduction of:

13 (a) Ten days from that period for each month the person serves
14 and is current with any fee to defray the costs of his or her
15 supervision charged by the Division of Parole and Probation of the
16 Department of Public Safety pursuant to NRS 213.1076 and with
17 any payment of restitution ordered by the court, including, without
18 limitation, any payment of restitution required pursuant to NRS
19 176A.430. A person shall be deemed to be current with any such fee
20 and payment of restitution for any given month if, during that
21 month, the person makes at least the minimum monthly payment
22 established by the court or, if the court does not establish a
23 minimum monthly payment, by the Division.

24 (b) Except as otherwise provided in subsection 8, 10 days from
25 that period for each month the person serves and is actively involved
26 in employment or enrolled in a program of education, rehabilitation
27 or any other program approved by the Division.

28 7. A person must be allowed a deduction pursuant to paragraph
29 (a) or (b) of subsection 6 regardless of whether the person has
30 satisfied the requirements of the other paragraph and must be
31 allowed a deduction pursuant to paragraphs (a) and (b) of subsection
32 6 if the person has satisfied the requirements of both paragraphs of
33 that subsection.

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

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

44 176A.850 1. A person ~~who~~:



(a) ~~[Has]~~ *Who has* fulfilled the conditions of probation for the entire period thereof; *or*

~~(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,]~~ *Whose term of probation has expired,*

→ ~~[may]~~ *must* be granted ~~[an honorable]~~ *a* 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.]~~ *who is recommended for early discharge pursuant to NRS 176A.840 may be granted a discharge from probation by order of the court.*

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

(d) Six years after the date of 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.

5. 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.

6. Upon discharge from probation, the person so discharged must be given an official document which provides:

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

(b) That the person is restored to his or her civil right to serve as a juror in a civil action as of the 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 (c) 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 (d) of subsection 4.

7. 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.

8. 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 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 4.

Sec. 3. NRS 179.2445 is hereby amended to read as follows:

179.2445 ~~[1. Except as otherwise provided in subsection 2, upon]~~ Upon the filing of a petition for the sealing of records pursuant to NRS 179.245, 179.255, 179.259 or 179.2595, there is a rebuttable presumption that the records should be sealed if the applicant satisfies all statutory requirements for the sealing of the records.

~~[2. The presumption set forth in subsection 1 does not apply to a defendant who is given a dishonorable discharge from probation pursuant to NRS 176A.850 and applies to the court for the sealing of records relating to the conviction.]~~



Sec. 4. NRS 213.154 is hereby amended to read as follows:

213.154 1. The Division shall issue ~~{an honorable}~~ a 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 is enforceable pursuant to NRS 176.275.

Sec. 5. NRS 213.155 is hereby amended to read as follows:

213.155 1. A person who receives a discharge from parole pursuant to NRS 213.154:

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

(b) Four years after the date of his or her discharge from parole, is restored to the right to hold office.

(c) Six years after the date of his or her discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. 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}~~ a discharge ~~{or dishonorable discharge, as applicable,}~~ from parole;

(b) That the person is restored to his or her civil right to serve as a juror in a civil action as of the 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 (b) 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 (c) of subsection 1.

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



1 or her civil rights pursuant to this section. Upon verification that the
2 person has been discharged from parole and is eligible to be restored
3 to the civil rights set forth in subsection 1, the court shall issue an
4 order restoring the person to the civil rights set forth in subsection 1.
5 A person must not be required to pay a fee to receive such an order.

6 4. A person who has been discharged from parole in this State
7 or elsewhere may present:

8 (a) Official documentation of his or her discharge from parole, if
9 it contains the provisions set forth in subsection 2; or

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

13 5. The Board may adopt regulations necessary or convenient
14 for the purposes of this section.

15 **Sec. 6.** The amendatory provisions of this act apply to any
16 person who is:

17 1. Serving a term of probation or is on parole on the effective
18 date of this act; or

19 2. Released on probation or parole on or after the effective date
20 of this act.

21 **Sec. 7.** This act becomes effective upon passage and approval.

