

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:

- 1 Existing law authorizes a court to grant an honorable discharge or a
- 2 dishonorable discharge from probation under certain circumstances. (NRS
- 3 176A.850) **Section 2** of this bill eliminates the distinction between an honorable
- 4 discharge and a dishonorable discharge from probation. **Sections 1.5 and 3** of this
- 5 bill make conforming changes by eliminating certain procedural distinctions related
- 6 to a dishonorable discharge from probation.
- 7 Existing law requires the Division of Parole and Probation of the Department of
- 8 Public Safety to issue an honorable discharge or a dishonorable discharge from
- 9 parole under certain circumstances. (NRS 213.154) **Section 4** of this bill eliminates
- 10 the distinction between an honorable discharge and a dishonorable discharge from
- 11 parole, and instead requires the Division to discharge a person from parole upon the
- 12 expiration of his or her term of sentence. **Section 5** of this bill makes a conforming
- 13 change related to the elimination of the distinction between an honorable discharge
- 14 and a dishonorable discharge from parole.
- 15 Existing law requires the Division to collect and report to the Nevada
- 16 Sentencing Commission certain information relating to the number of persons on
- 17 probation or parole. (NRS 176.01343) **Section 1** of this bill eliminates the
- 18 distinction between an honorable discharge and a dishonorable discharge from
- 19 probation or parole for purposes of collecting and reporting such information.



20 **Section 6** of this bill makes the elimination of the distinction between an
21 honorable discharge and a dishonorable discharge applicable to persons: (1) serving
22 a term of probation or on parole on the effective date of this bill; or (2) released on
23 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:

1 **Section 1.** NRS 176.01343 is hereby amended to read as
2 follows:

3 176.01343 1. The Sentencing Commission shall:

4 (a) Track and assess outcomes resulting from the enactment of
5 chapter 633, Statutes of Nevada 2019, including, without limitation,
6 the following data from the Department of Corrections:

7 (1) With respect to prison admissions:

8 (I) The total number of persons admitted to prison by type
9 of offense, type of admission, felony category, prior criminal
10 history, gender identity or expression, race, ethnicity, sexual
11 orientation, age and, if measured upon intake, risk score;

12 (II) The average minimum and maximum sentence term
13 by type of offense, type of admission, felony category, prior
14 criminal history, gender identity or expression, race, ethnicity,
15 sexual orientation, age, mental health status and, if measured upon
16 intake, risk score; and

17 (III) The number of persons who received a clinical
18 assessment identifying a mental health or substance use disorder
19 upon intake.

20 (2) With respect to parole and release from prison:

21 (I) The average length of stay in prison for each type of
22 release by type of offense, felony category, prior criminal history,
23 gender identity or expression, race, ethnicity, sexual orientation,
24 age, mental health status and, if measured upon intake, risk score;

25 (II) The total number of persons released from prison
26 each year by type of release, type of admission, felony category,
27 prior criminal history, gender identity or expression, race, ethnicity,
28 sexual orientation, age, mental health status and, if measured upon
29 intake, risk score;

30 (III) The recidivism rate of persons released from prison
31 by type of release; and

32 (IV) The total number of persons released from prison
33 each year who return to prison within 36 months by type of
34 admission, type of release, type of return to prison, including,
35 without limitation, whether such a subsequent prison admission was
36 the result of a new felony conviction or a revocation of parole due to
37 a technical violation, prior criminal history, gender identity or



1 expression, race, ethnicity, sexual orientation, age, mental health
2 status and, if measured upon intake, risk score.

3 (3) With respect to the number of persons in prison:

4 (I) The total number of persons held in prison on
5 December 31 of each year, not including those persons released
6 from a term of prison who reside in a parole housing unit, by type of
7 offense, type of admission, felony category, prior criminal history,
8 gender identity or expression, race, ethnicity, sexual orientation,
9 age, mental health status and, if measured upon intake, risk score;

10 (II) The total number of persons held in prison on
11 December 31 of each year who have been granted parole by the
12 State Board of Parole Commissioners but remain in custody, and the
13 reasons therefor;

14 (III) The total number of persons held in prison on
15 December 31 of each year who are serving a sentence of life with or
16 without the possibility of parole or who have been sentenced to
17 death; and

18 (IV) The total number of persons as of December 31 of
19 each year who have started a treatment program while in prison,
20 have completed a treatment program while in prison and are
21 awaiting a treatment program while in prison, by type of treatment
22 program and type of offense.

23 (b) Track and assess outcomes resulting from the enactment of
24 chapter 633, Statutes of Nevada 2019, with respect to the following
25 data, which the Division shall collect and report to the Sentencing
26 Commission:

27 (1) With respect to the number of persons on probation or
28 parole:

29 (I) The total number of supervision intakes by type of
30 offense, felony category, prior criminal history, gender identity or
31 expression, race, ethnicity, sexual orientation, age, mental health
32 status and, if measured upon intake, risk score;

33 (II) The average term of probation imposed for persons
34 on probation by type of offense;

35 (III) The average time served by persons on probation or
36 parole by ~~[type of discharge,]~~ felony category and type of offense;

37 (IV) The average time credited to a person's term of
38 probation or parole as a result of successful compliance with
39 supervision;

40 (V) The total number of supervision discharges ~~[by type
41 of discharge, including, without limitation, honorable discharges
42 and dishonorable discharges,]~~ and cases resulting in a return to
43 prison;



1 (VI) The recidivism rate of persons discharged from
2 supervision, ~~by type of discharge,~~ according to the Division's
3 internal definition of recidivism;

4 (VII) The number of persons identified as having a
5 mental health issue or a substance use disorder; and

6 (VIII) The total number of persons on probation or parole
7 who are located within this State on December 31 of each year, not
8 including those persons who are under the custody of the
9 Department of Corrections.

10 (2) With respect to persons on probation or parole who
11 violate a condition of supervision or commit a new offense:

12 (I) The total number of revocations and the reasons
13 therefor, including, without limitation, whether the revocation was
14 the result of a mental health issue or substance use disorder;

15 (II) The average amount of time credited to a person's
16 suspended sentence or the remainder of the person's sentence from
17 time spent on supervision;

18 (III) The total number of persons receiving administrative
19 or jail sanctions, by type of offense and felony category; and

20 (IV) The median number of administrative sanctions
21 issued by the Division to persons on supervision, by type of offense
22 and felony category.

23 (c) Track and assess outcomes resulting from the enactment of
24 chapter 633, Statutes of Nevada 2019, with respect to savings and
25 reinvestment, including, without limitation:

26 (1) The total amount of annual savings resulting from the
27 enactment of any legislation relating to the criminal justice system;

28 (2) The total annual costs avoided by this State because of
29 the enactment of chapter 633, Statutes of Nevada 2019, as
30 calculated pursuant to NRS 176.01347; and

31 (3) The entities that received reinvestment funds, the total
32 amount directed to each such entity and a description of how the
33 funds were used.

34 (d) Track and assess trends observed after the enactment of
35 chapter 633, Statutes of Nevada 2019, including, without limitation,
36 the following data, which the Central Repository for Nevada
37 Records of Criminal History shall collect and report to the
38 Sentencing Commission as reported to the Federal Bureau of
39 Investigation:

40 (1) The uniform crime rates for this State and each county in
41 this State by index crimes and type of crime; and

42 (2) The percentage changes in uniform crime rates for this
43 State and each county in this State over time by index crimes and
44 type of crime.



1 (e) Identify gaps in this State's data tracking capabilities related
2 to the criminal justice system and make recommendations for filling
3 any such gaps.

4 (f) Prepare and submit a report not later than the first day of the
5 second full week of each regular session of the Legislature to the
6 Governor, the Director of the Legislative Counsel Bureau for
7 transmittal to the Legislature and the Chief Justice of the Nevada
8 Supreme Court. The report must include recommendations for
9 improvements, changes and budgetary adjustments and may also
10 present additional recommendations for future legislation and policy
11 options to enhance public safety and control corrections costs.

12 (g) Employ and retain other professional staff as necessary to
13 coordinate performance and outcome measurement and develop the
14 report required pursuant to this section.

15 2. As used in this section:

16 (a) "Technical violation" has the meaning ascribed to it in
17 NRS 176A.510.

18 (b) "Type of admission" means the manner in which a person
19 entered into the custody of the Department of Corrections,
20 according to the internal definitions used by the Department of
21 Corrections.

22 (c) "Type of offense" means an offense categorized by the
23 Department of Corrections as a violent offense, sex offense, drug
24 offense, property offense, DUI offense or other offense, consistent
25 with the internal data systems used by the Department of
26 Corrections.

27 **Sec. 1.5.** NRS 176A.500 is hereby amended to read as
28 follows:

29 176A.500 1. Except as otherwise provided in subsection 2,
30 the period of probation or suspension of sentence may be
31 indeterminate or may be fixed by the court and may at any time be
32 extended or terminated by the court, but the period, including any
33 extensions thereof, must not be more than:

34 (a) Twelve months for a:

35 (1) Gross misdemeanor; or

36 (2) Suspension of sentence pursuant to NRS 176A.240,
37 176A.260, 176A.290 or 453.3363;

38 (b) Eighteen months for a category E felony;

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

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

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

44 2. The court may extend the period of probation or suspension
45 of sentence ordered pursuant to subsection 1 for a period of not



1 more than 12 months if such an extension is necessary for the
2 defendant to complete his or her participation in a specialty court
3 program.

4 3. At any time during probation or suspension of sentence, the
5 court may issue a warrant for violating any of the conditions of
6 probation or suspension of sentence and cause the defendant to be
7 arrested. Except ~~for the purpose of giving a dishonorable discharge~~
8 ~~from probation, and except~~ as otherwise provided in this
9 subsection, the time during which a warrant for violating any of the
10 conditions of probation is in effect is not part of the period of
11 probation. If the warrant is cancelled or probation is reinstated, the
12 court may include any amount of that time as part of the period of
13 probation.

14 4. Any parole and probation officer or any peace officer with
15 power to arrest may arrest a probationer without a warrant, or may
16 deputize any other officer with power to arrest to do so by giving the
17 probationer a written statement setting forth that the probationer has,
18 in the judgment of the parole and probation officer, violated the
19 conditions of probation. Except as otherwise provided in subsection
20 5, the parole and probation officer or the peace officer, after making
21 an arrest, shall present to the detaining authorities, if any, a
22 statement of the charges against the probationer. The parole and
23 probation officer shall at once notify the court which granted
24 probation of the arrest and detention or residential confinement of
25 the probationer and shall submit a report in writing showing in what
26 manner the probationer has violated the conditions of probation.

27 5. A parole and probation officer or a peace officer may
28 immediately release from custody without any further proceedings
29 any person the officer arrests without a warrant for violating a
30 condition of probation if the parole and probation officer or peace
31 officer determines that there is no probable cause to believe that the
32 person violated the condition of probation.

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

36 (a) Ten days from that period for each month the person serves
37 and is current with any fee to defray the costs of his or her
38 supervision charged by the Division of Parole and Probation of the
39 Department of Public Safety pursuant to NRS 213.1076 and with
40 any payment of restitution ordered by the court, including, without
41 limitation, any payment of restitution required pursuant to NRS
42 176A.430. A person shall be deemed to be current with any such fee
43 and payment of restitution for any given month if, during that
44 month, the person makes at least the minimum monthly payment



1 established by the court or, if the court does not establish a
2 minimum monthly payment, by the Division.

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

7 7. A person must be allowed a deduction pursuant to paragraph
8 (a) or (b) of subsection 6 regardless of whether the person has
9 satisfied the requirements of the other paragraph and must be
10 allowed a deduction pursuant to paragraphs (a) and (b) of subsection
11 6 if the person has satisfied the requirements of both paragraphs of
12 that subsection.

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

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

23 176A.850 1. A person ~~{who:}~~ :

24 (a) ~~{Has}~~ *Who has* fulfilled the conditions of probation for the
25 entire period thereof; *or*

26 (b) ~~{Is recommended for earlier discharge by the Division; or~~
27 ~~—(c) Has demonstrated fitness for honorable discharge but~~
28 ~~because of economic hardship, verified by the Division, has been~~
29 ~~unable to make restitution as ordered by the court,}~~ *Whose term of*
30 *probation has expired,*

31 ~~↪~~ *{may} must* be granted ~~{an honorable}~~ *a* discharge from probation
32 by order of the court.

33 2. A person ~~{whose term of probation has expired and:~~

34 ~~—(a) Whose whereabouts are unknown;~~

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

37 ~~—(c) Who has otherwise failed to qualify for an honorable~~
38 ~~discharge as provided in subsection 1;~~

39 ~~↪ is not eligible for an honorable discharge and must be given a~~
40 ~~dishonorable discharge. A dishonorable discharge releases the~~
41 ~~person from any further obligation, except as otherwise provided in~~
42 ~~subsection 3.}~~ *who is recommended for early discharge pursuant to*
43 *NRS 176A.840 may be granted a discharge from probation by*
44 *order of the court.*



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

4 4. A person who has been discharged from probation:

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

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

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

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

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

15 (f) Must be informed of the provisions of this section and NRS
16 179.245 in the person's probation papers.

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

19 (h) Shall disclose the conviction to a gaming establishment and
20 to the State and its agencies, departments, boards, commissions and
21 political subdivisions, if required in an application for employment,
22 license or other permit. As used in this paragraph, "establishment"
23 has the meaning ascribed to it in NRS 463.0148.

24 (i) Except as otherwise provided in paragraph (h), need not
25 disclose the conviction to an employer or prospective employer.

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

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

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

34 (b) That the person is restored to his or her civil right to serve as
35 a juror in a civil action as of the date of his or her discharge from
36 probation;

37 (c) The date on which the person's civil right to hold office will
38 be restored pursuant to paragraph (c) of subsection 4; and

39 (d) The date on which the person's civil right to serve as a juror
40 in a criminal action will be restored pursuant to paragraph (d) of
41 subsection 4.

42 7. A person who has been discharged from probation in this
43 State or elsewhere and whose official documentation of discharge
44 from probation is lost, damaged or destroyed may file a written
45 request with a court of competent jurisdiction to restore the person's



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

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

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

10 (b) A court order restoring the person's civil rights,
11 ↪ as proof that the person has been restored to the civil rights set
12 forth in subsection 4.

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

14 179.2445 ~~[1.—Except as otherwise provided in subsection 2,~~
15 ~~upon] Upon~~ the filing of a petition for the sealing of records
16 pursuant to NRS 179.245, 179.255, 179.259 or 179.2595, there is a
17 rebuttable presumption that the records should be sealed if the
18 applicant satisfies all statutory requirements for the sealing of the
19 records.

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

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

25 213.154 1. The Division shall issue ~~[an honorable]~~ a
26 discharge to a parolee whose term of sentence has expired . ~~[if the~~
27 ~~parolee has:~~

28 ~~—(a) Fulfilled the conditions of his or her parole for the entire~~
29 ~~period of his or her parole; or~~

30 ~~—(b) Demonstrated his or her fitness for honorable discharge but~~
31 ~~because of economic hardship, verified by a parole and probation~~
32 ~~officer, has been unable to make restitution as ordered by the court.]~~

33 2. ~~[The Division shall issue a dishonorable discharge to a~~
34 ~~parolee whose term of sentence has expired if:~~

35 ~~—(a) The whereabouts of the parolee are unknown;~~

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

38 ~~—(c) The parolee has otherwise failed to qualify for an honorable~~
39 ~~discharge pursuant to subsection 1.~~

40 ~~—3.]~~ Any amount of restitution that remains unpaid by a person
41 after the person has been discharged from parole constitutes a civil
42 liability as of the date of discharge and is enforceable pursuant to
43 NRS 176.275.



1 **Sec. 5.** NRS 213.155 is hereby amended to read as follows:
2 213.155 1. A person who receives a discharge from parole
3 pursuant to NRS 213.154:

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

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

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

10 2. Upon his or her discharge from parole, a person so
11 discharged must be given an official document which provides:

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

14 (b) That the person is restored to his or her civil right to serve as
15 a juror in a civil action as of the date of his or her discharge from
16 parole;

17 (c) The date on which his or her civil right to hold office will be
18 restored to the person pursuant to paragraph (b) of subsection 1; and

19 (d) The date on which his or her civil right to serve as a juror in
20 a criminal action will be restored to the person pursuant to
21 paragraph (c) of subsection 1.

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

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

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

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

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

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

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

44 2. Released on probation or parole on or after the effective date
45 of this act.



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

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