

ASSEMBLY BILL NO. 97—ASSEMBLYMEN AIZLEY; MUNFORD,
NEAL AND OHRENSCHALL

FEBRUARY 13, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing habitual criminals,
habitual felons and habitually fraudulent felons.
(BDR 15-680)

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 crimes; revising provisions relating to the time
for filing a count alleging that a person is a habitual
criminal, habitual felon or habitually fraudulent felon; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law: (1) authorizes a prosecuting attorney to prosecute a person as a
2 habitual criminal, a habitual felon or a habitually fraudulent felon if certain
3 conditions exist; and (2) prescribes the punishment for a habitual criminal, a
4 habitual felon or a habitually fraudulent felon. (NRS 207.010, 207.012, 207.014)
5 Under existing law, a prosecuting attorney may: (1) include in the information
6 charging the primary offense a count alleging that a person is a habitual criminal, a
7 habitual felon or a habitually fraudulent felon; or (2) file such a count after the
8 person's conviction for the primary offense but, in such a case, the sentence must
9 not be imposed or a certain hearing held until 15 days after the filing. (NRS
10 207.016) This bill requires a count alleging that a person is a habitual criminal, a
11 habitual felon or a habitually fraudulent felon to be filed not less than 2 days before
12 the trial on the primary offense, unless an agreement of the parties provides
13 otherwise or for good cause shown the court extends such time. This bill also
14 authorizes the prosecution to supplement or amend such a count at any time before
15 sentence is imposed, but, if such a supplement or amendment is filed, the sentence
16 must not be imposed or a certain hearing must not occur until 15 days after the
17 filing.



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

1 **Section 1.** NRS 207.016 is hereby amended to read as follows:
2 207.016 1. A conviction pursuant to NRS 207.010, 207.012
3 or 207.014 operates only to increase, not to reduce, the sentence
4 otherwise provided by law for the principal crime.
5 2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is
6 included in an information charging the primary offense, each
7 previous conviction must be alleged in the accusatory pleading, but
8 no such conviction may be alluded to on trial of the primary offense,
9 nor may any allegation of the conviction be read in the presence of a
10 jury trying the offense or a grand jury considering an indictment for
11 the offense. A count pursuant to NRS 207.010, 207.012 or 207.014
12 may be ~~separately~~ filed ~~after conviction of~~ *separately from the*
13 *indictment or information charging* the primary offense, but if it is
14 so filed, *the count pursuant to NRS 207.010, 207.012 or 207.014*
15 *must be filed not less than 2 days before the start of the trial on the*
16 *primary offense, unless an agreement of the parties provides*
17 *otherwise or the court for good cause shown makes an order*
18 *extending the time. For good cause shown, the prosecution may*
19 *supplement or amend a count pursuant to NRS 207.010, 207.012*
20 *or 207.014 at any time before the sentence is imposed, but if such*
21 *a supplement or amendment is filed, the* sentence must not be
22 imposed, or the hearing required by subsection 3 held, until 15 days
23 after the separate filing.
24 3. If a defendant charged pursuant to NRS 207.010, 207.012 or
25 207.014 pleads guilty or guilty but mentally ill to, or is found guilty
26 or guilty but mentally ill of, the primary offense but denies any
27 previous conviction charged, the court shall determine the issue of
28 the previous conviction after hearing all relevant evidence presented
29 on the issue by the prosecution and the defendant. At such a hearing,
30 the defendant may not challenge the validity of a previous
31 conviction. The court shall impose sentence:
32 (a) Pursuant to NRS 207.010 upon finding that the defendant
33 has suffered previous convictions sufficient to support an
34 adjudication of habitual criminality;
35 (b) Pursuant to NRS 207.012 upon finding that the defendant
36 has suffered previous convictions sufficient to support an
37 adjudication of habitual felon; or
38 (c) Pursuant to NRS 207.014 upon finding that the defendant
39 has suffered previous convictions sufficient to support an
40 adjudication of habitually fraudulent felon.



- 1 4. Nothing in the provisions of this section, NRS 207.010,
2 207.012 or 207.014 limits the prosecution in introducing evidence
3 of prior convictions for purposes of impeachment.
4 5. For the purposes of NRS 207.010, 207.012 and 207.014, a
5 certified copy of a felony conviction is prima facie evidence of
6 conviction of a prior felony.
7 6. Nothing in the provisions of this section, NRS 207.010,
8 207.012 or 207.014 prohibits a court from imposing an adjudication
9 of habitual criminality, adjudication of habitual felon or adjudication
10 of habitually fraudulent felon based upon ~~fa-stipulation~~ *an*
11 *agreement* of the parties.



