

ASSEMBLY BILL NO. 114—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION
ON THE ADMINISTRATION OF JUSTICE)

FEBRUARY 5, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing restitution.
(BDR 14-560)

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 restitution; providing that a judgment requiring the payment of restitution does not expire until it is satisfied; exempting such a judgment from the time limitation for commencing an action upon or seeking the renewal thereof; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a judgment which, among other things, requires a
2 defendant in a criminal action to pay restitution constitutes a lien which is
3 enforceable as a judgment in a civil action. (NRS 176.275) Existing law also
4 provides that an action upon a judgment or decree or for the renewal of such
5 judgment or decree must be commenced within 6 years. (NRS 11.190) This bill: (1)
6 provides that a judgment requiring a defendant in a criminal action or a parent or
7 guardian of a child to pay restitution does not expire until it is satisfied; and (2)
8 exempts such a judgment from the time limitation for commencing an action or
9 seeking the renewal thereof.

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

1 **Section 1.** NRS 176.275 is hereby amended to read as follows:
2 176.275 *1.* A judgment which imposes a fine or
3 administrative assessment or requires a defendant to pay restitution



1 or repay the expenses of a defense constitutes a lien in like manner
2 as a judgment for money rendered in a civil action.

3 **2. A judgment which requires a defendant to pay restitution:**

4 (a) *May be recorded, docketed and enforced as any other*
5 *judgment for money rendered in a civil action.*

6 (b) *Does not expire until the judgment is satisfied.*

7 **3. An independent action to enforce a judgment which**
8 *requires a defendant to pay restitution may be commenced at any*
9 *time.*

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

11 176A.850 1. A person who:

12 (a) Has fulfilled the conditions of probation for the entire period
13 thereof;

14 (b) Is recommended for earlier discharge by the Division; or

15 (c) Has demonstrated fitness for honorable discharge but
16 because of economic hardship, verified by the Division, has been
17 unable to make restitution as ordered by the court,

18 ➔ may be granted an honorable discharge from probation by order
19 of the court.

20 2. Any amount of restitution remaining unpaid constitutes a
21 civil liability arising upon the date of discharge **†† and is**
22 ***enforceable pursuant to NRS 176.275.***

23 3. Except as otherwise provided in subsection 4, a person who
24 has been honorably discharged from probation:

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

26 (b) Is immediately restored to the following civil rights:

27 (1) The right to vote; and

28 (2) The right to serve as a juror in a civil action.

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

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

34 (e) If the person meets the requirements of NRS 179.245, may
35 apply to the court for the sealing of records relating to the
36 conviction.

37 (f) Must be informed of the provisions of this section and NRS
38 179.245 in the person's probation papers.

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

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



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

3 4. Except as otherwise provided in this subsection, the civil
4 rights set forth in subsection 3 are not restored to a person honorably
5 discharged from probation if the person has previously been
6 convicted in this State:

7 (a) Of a category A felony.

8 (b) Of an offense that would constitute a category A felony if
9 committed as of the date of the honorable discharge from probation.

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

12 (d) Of an offense involving the use of force or violence that
13 resulted in substantial bodily harm to the victim and that would
14 constitute a category B felony if committed as of the date of
15 honorable discharge from probation.

16 (e) Two or more times of a felony, unless a felony for which the
17 person has been convicted arose out of the same act, transaction or
18 occurrence as another felony, in which case the convictions for
19 those felonies shall be deemed to constitute a single conviction for
20 the purposes of this paragraph.

21 ➔ A person described in this subsection may petition a court of
22 competent jurisdiction for an order granting the restoration of civil
23 rights as set forth in subsection 3.

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

28 6. Except for a person subject to the limitations set forth in
29 subsection 4, upon honorable discharge from probation, the person
30 so discharged must be given an official document which provides:

31 (a) That the person has received an honorable discharge from
32 probation;

33 (b) That the person has been restored to his or her civil rights to
34 vote and to serve as a juror in a civil action as of the date of
35 honorable discharge from probation;

36 (c) The date on which the person's civil right to hold office will
37 be restored pursuant to paragraph (c) of subsection 3; and

38 (d) The date on which the person's civil right to serve as a juror
39 in a criminal action will be restored pursuant to paragraph (d) of
40 subsection 3.

41 7. Subject to the limitations set forth in subsection 4, a person
42 who has been honorably discharged from probation in this State or
43 elsewhere and whose official documentation of honorable 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 honorably discharged from probation and is eligible to be
3 restored to the civil rights set forth in subsection 3, the court shall
4 issue an order restoring the person to the civil rights set forth in
5 subsection 3. A person must not be required to pay a fee to receive
6 such an order.

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

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

11 (b) A court order restoring the person's civil rights,
12 → as proof that the person has been restored to the civil rights set
13 forth in subsection 3.

14 **Sec. 3.** NRS 176A.870 is hereby amended to read as follows:

15 176A.870 A defendant whose term of probation has expired
16 and:

17 1. Whose whereabouts are unknown;

18 2. Who has failed to make restitution in full as ordered by the
19 court, without a verified showing of economic hardship; or

20 3. Who has otherwise failed to qualify for an honorable
21 discharge as provided in NRS 176A.850,

22 → is not eligible for an honorable discharge and must be given a
23 dishonorable discharge. A dishonorable discharge releases the
24 probationer from any further obligation, except a civil liability
25 arising on the date of discharge for any unpaid restitution ~~†~~ *which*
26 *is enforceable pursuant to NRS 176.275*, but does not entitle the
27 probationer to any privilege conferred by NRS 176A.850.

28 **Sec. 4.** NRS 11.190 is hereby amended to read as follows:

29 11.190 Except as otherwise provided in NRS 40.4639,
30 125B.050 and 217.007, actions other than those for the recovery of
31 real property, unless further limited by specific statute, may only be
32 commenced as follows:

33 1. Within 6 years:

34 (a) ~~†An†~~ *Except as otherwise provided in NRS 62B.420 and*
35 *176.275, an* action upon a judgment or decree of any court of the
36 United States, or of any state or territory within the United States, or
37 the renewal thereof.

38 (b) An action upon a contract, obligation or liability founded
39 upon an instrument in writing, except those mentioned in the
40 preceding sections of this chapter.

41 2. Within 4 years:

42 (a) An action on an open account for goods, wares and
43 merchandise sold and delivered.

44 (b) An action for any article charged on an account in a store.



1 (c) An action upon a contract, obligation or liability not founded
2 upon an instrument in writing.

3 (d) An action against a person alleged to have committed a
4 deceptive trade practice in violation of NRS 598.0903 to 598.0999,
5 inclusive, but the cause of action shall be deemed to accrue when
6 the aggrieved party discovers, or by the exercise of due diligence
7 should have discovered, the facts constituting the deceptive trade
8 practice.

9 3. Within 3 years:

10 (a) An action upon a liability created by statute, other than a
11 penalty or forfeiture.

12 (b) An action for waste or trespass of real property, but when the
13 waste or trespass is committed by means of underground works
14 upon any mining claim, the cause of action shall be deemed to
15 accrue upon the discovery by the aggrieved party of the facts
16 constituting the waste or trespass.

17 (c) An action for taking, detaining or injuring personal property,
18 including actions for specific recovery thereof, but in all cases
19 where the subject of the action is a domestic animal usually included
20 in the term "livestock," which has a recorded mark or brand upon it
21 at the time of its loss, and which strays or is stolen from the true
22 owner without the owner's fault, the statute does not begin to run
23 against an action for the recovery of the animal until the owner has
24 actual knowledge of such facts as would put a reasonable person
25 upon inquiry as to the possession thereof by the defendant.

26 (d) Except as otherwise provided in NRS 112.230 and 166.170,
27 an action for relief on the ground of fraud or mistake, but the cause
28 of action in such a case shall be deemed to accrue upon the discovery
29 by the aggrieved party of the facts constituting the fraud or mistake.

30 (e) An action pursuant to NRS 40.750 for damages sustained by
31 a financial institution or other lender because of its reliance on
32 certain fraudulent conduct of a borrower, but the cause of action in
33 such a case shall be deemed to accrue upon the discovery by the
34 financial institution or other lender of the facts constituting the
35 concealment or false statement.

36 4. Within 2 years:

37 (a) An action against a sheriff, coroner or constable upon
38 liability incurred by acting in his or her official capacity and in
39 virtue of his or her office, or by the omission of an official duty,
40 including the nonpayment of money collected upon an execution.

41 (b) An action upon a statute for a penalty or forfeiture, where the
42 action is given to a person or the State, or both, except when the
43 statute imposing it prescribes a different limitation.

44 (c) An action for libel, slander, assault, battery, false
45 imprisonment or seduction.



1 (d) An action against a sheriff or other officer for the escape of a
2 prisoner arrested or imprisoned on civil process.

3 (e) Except as otherwise provided in NRS 11.215, an action to
4 recover damages for injuries to a person or for the death of a person
5 caused by the wrongful act or neglect of another. The provisions of
6 this paragraph relating to an action to recover damages for injuries
7 to a person apply only to causes of action which accrue after
8 March 20, 1951.

9 (f) An action to recover damages under NRS 41.740.

10 5. Within 1 year:

11 (a) An action against an officer, or officer de facto to recover
12 goods, wares, merchandise or other property seized by the officer in
13 his or her official capacity, as tax collector, or to recover the price or
14 value of goods, wares, merchandise or other personal property so
15 seized, or for damages for the seizure, detention or sale of, or injury
16 to, goods, wares, merchandise or other personal property seized, or
17 for damages done to any person or property in making the seizure.

18 (b) An action against an officer, or officer de facto for money
19 paid to the officer under protest, or seized by the officer in his or her
20 official capacity, as a collector of taxes, and which, it is claimed,
21 ought to be refunded.

22 **Sec. 4.5.** NRS 62B.420 is hereby amended to read as follows:

23 62B.420 1. Except as otherwise provided in this subsection,
24 if, pursuant to this title, a child or a parent or guardian of a child is
25 ordered by the juvenile court to pay a fine, administrative
26 assessment, fee or restitution or to make any other payment and the
27 fine, administrative assessment, fee, restitution or other payment or
28 any part of it remains unpaid after the time established by the
29 juvenile court for its payment, the juvenile court may enter a civil
30 judgment against the child or the parent or guardian of the child for
31 the amount due in favor of the victim, the state or local entity to
32 whom the amount is owed or both. The juvenile court may not enter
33 a civil judgment against a person who is a child unless the person
34 has attained the age of 18 years, the person is a child who is
35 determined to be outside the jurisdiction of the juvenile court
36 pursuant to NRS 62B.330 or 62B.335 or the person is a child who is
37 certified for proper criminal proceedings as an adult pursuant to
38 NRS 62B.390.

39 2. Notwithstanding the termination of the jurisdiction of the
40 juvenile court pursuant to NRS 62B.410 or the termination of any
41 period of supervision or probation ordered by the juvenile court, the
42 juvenile court retains jurisdiction over any civil judgment entered
43 pursuant to subsection 1 and retains jurisdiction over the person
44 against whom a civil judgment is entered pursuant to subsection 1.



1 The juvenile court may supervise the civil judgment and take any of
2 the actions authorized by the laws of this State.

3 3. A civil judgment entered pursuant to subsection 1 may be
4 enforced and renewed in the manner provided by law for the
5 enforcement and renewal of a judgment for money rendered in a
6 civil action. *A judgment which requires a parent or guardian of a
7 child to pay restitution does not expire until the judgment is
8 satisfied. An independent action to enforce a judgment that
9 requires a parent or guardian of a child to pay restitution may be
10 commenced at any time.*

11 4. If the juvenile court enters a civil judgment pursuant to
12 subsection 1, the person or persons against whom the judgment is
13 issued is liable for a collection fee, to be imposed by the juvenile
14 court at the time the civil judgment is issued, of:

15 (a) Not more than \$100, if the amount of the judgment is less
16 than \$2,000.

17 (b) Not more than \$500, if the amount of the judgment is \$2,000
18 or greater, but is less than \$5,000.

19 (c) Ten percent of the amount of the judgment, if the amount of
20 the judgment is \$5,000 or greater.

21 5. In addition to attempting to collect the judgment through any
22 other lawful means, a victim, a representative of the victim or a state
23 or local entity that is responsible for collecting a civil judgment
24 entered pursuant to subsection 1 may take any or all of the following
25 actions:

26 (a) Except as otherwise provided in this paragraph, report the
27 judgment to reporting agencies that assemble or evaluate
28 information concerning credit. If the judgment was entered against a
29 person who was less than 21 years of age at the time the judgment
30 was entered, the judgment cannot be reported pursuant to this
31 paragraph until the person reaches 21 years of age.

32 (b) Request that the juvenile court take appropriate action
33 pursuant to subsection 6.

34 (c) Contract with a collection agency licensed pursuant to NRS
35 649.075 to collect the judgment and the collection fee. The
36 collection agency must be paid as compensation for its services an
37 amount not greater than the amount of the collection fee imposed
38 pursuant to subsection 4, in accordance with the provisions of the
39 contract.

40 6. If the juvenile court determines that a child or the parent or
41 guardian of a child against whom a civil judgment has been entered
42 pursuant to subsection 1 has failed to make reasonable efforts to
43 satisfy the civil judgment, the juvenile court may take any of the
44 following actions:



1 (a) Order the suspension of the driver's license of a child for a
2 period not to exceed 1 year. If the child is already the subject of a
3 court order suspending the driver's license of the child, the juvenile
4 court may order the additional suspension to apply consecutively
5 with the previous order. At the time the juvenile court issues an
6 order suspending the driver's license of a child pursuant to this
7 paragraph, the juvenile court shall require the child to surrender to
8 the juvenile court all driver's licenses then held by the child. The
9 juvenile court shall, within 5 days after issuing the order, forward to
10 the Department of Motor Vehicles the licenses, together with a copy
11 of the order. The Department of Motor Vehicles shall report a
12 suspension pursuant to this paragraph to an insurance company or
13 its agent inquiring about the driving record of a child, but such a
14 suspension must not be considered for the purpose of rating or
15 underwriting.

16 (b) If a child does not possess a driver's license, prohibit the
17 child from applying for a driver's license for a period not to exceed
18 1 year. If the child is already the subject of a court order delaying
19 the issuance of a license to drive, the juvenile court may order any
20 additional delay in the ability of the child to apply for a driver's
21 license to apply consecutively with the previous order. At the time
22 the juvenile court issues an order pursuant to this paragraph
23 delaying the ability of a child to apply for a driver's license, the
24 juvenile court shall, within 5 days after issuing the order, forward to
25 the Department of Motor Vehicles a copy of the order.

26 (c) If the civil judgment was issued for a delinquent fine or
27 administrative assessment, order the confinement of the person in
28 the appropriate prison, jail or detention facility, as provided in NRS
29 176.065 and 176.075.

30 (d) Enter a finding of contempt against a child or the parent or
31 guardian of a child and punish the child or the parent or guardian for
32 contempt in the manner provided in NRS 62E.040. A person who is
33 indigent may not be punished for contempt pursuant to this
34 subsection.

35 7. Money collected from a collection fee imposed pursuant to
36 subsection 4 must be deposited and used in the manner set forth in
37 subsection 4 of NRS 176.064.

38 8. If the juvenile court enters a civil judgment pursuant to
39 subsection 1 and the person against whom the judgment is entered is
40 convicted of a crime before he or she satisfies the civil judgment,
41 the court sentencing the person for that crime shall include in the
42 sentence the civil judgment or such portion of the civil judgment
43 that remains unpaid.



1 **Sec. 5.** NRS 213.154 is hereby amended to read as follows:
2 213.154 1. The Division shall issue an honorable discharge to
3 a parolee whose term of sentence has expired if the parolee has:
4 (a) Fulfilled the conditions of his or her parole for the entire
5 period of his or her parole; or
6 (b) Demonstrated his or her fitness for honorable discharge but
7 because of economic hardship, verified by a parole and probation
8 officer, has been unable to make restitution as ordered by the court.
9 2. The Division shall issue a dishonorable discharge to a
10 parolee whose term of sentence has expired if:
11 (a) The whereabouts of the parolee are unknown;
12 (b) The parolee has failed to make full restitution as ordered by
13 the court, without a verified showing of economic hardship; or
14 (c) The parolee has otherwise failed to qualify for an honorable
15 discharge pursuant to subsection 1.
16 3. Any amount of restitution that remains unpaid by a person
17 after the person has been discharged from parole constitutes a civil
18 liability as of the date of discharge ~~H~~ *and is enforceable pursuant*
19 *to NRS 176.275.*
20 **Sec. 6.** The amendatory provisions of this act apply to any
21 judgment which requires a defendant to pay restitution which is
22 rendered before, on or after October 1, 2015.



