

Assembly Bill No. 159—Assemblymen O’Neill, Dickman, Kasama,  
Considine, Hardy; Anderson, DeLong, Gallant, Gray, Gurr,  
Hansen and Hibbetts

CHAPTER.....

AN ACT relating to offenders; adding certain offenses relating to cruelty to animals to the list of offenses for which credits earned by offenders may not be deducted from the minimum term or the minimum aggregate term imposed by a sentence; adding certain offenses relating to cruelty to animals to the list of offenses for which a court may not defer judgment; revising the maximum period for which a court may set or extend probation or suspension of a sentence for certain offenses; adding certain offenses relating to cruelty to animals to the list of offenses a person must not be convicted of to be eligible for a petition for early discharge; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides that under certain circumstances an offender may earn credits to reduce his or her sentence of imprisonment, which must be deducted from the maximum term or the maximum aggregate term imposed by a sentence. For certain offenders, credits must also be deducted from the minimum term or minimum aggregate term imposed by a sentence and apply to eligibility for parole. However, credits earned by offenders convicted of certain offenses may not be deducted from the minimum term or the minimum aggregate term imposed by a sentence. (NRS 209.4465) **Section 1** of this bill adds certain offenses relating to cruelty to animals to the list of offenses for which credits earned by offenders may not be deducted from the minimum term or the minimum aggregate term imposed by a sentence.

Existing law provides that a court may defer judgment on a case under certain circumstances. However, the court may not defer judgment for offenders who have been convicted of certain crimes. (NRS 176.211) **Section 2** of this bill adds certain offenses relating to cruelty to animals to the list of offenses for which the court may not defer judgment.

Existing law establishes a maximum period of probation or suspension of a sentence for certain crimes, based generally upon the severity of the crime. (NRS 176A.500) **Section 3** of this bill sets the maximum period of probation or suspension of sentence for certain offenses relating to cruelty to animals at 60 months.

Existing law requires the Division of Parole and Probation of the Department of Public Safety to petition a court to recommend the early discharge of a person from probation, unless the person has been convicted of certain violent or sexual offenses. (NRS 176A.840) **Section 4** of this bill adds certain offenses relating to cruelty to animals to the list of offenses for which a person must not have been convicted in order to be eligible for such early discharge from probation.



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

**Section 1.** NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↳ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate or an equivalent document, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.



5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in subsections 8 and 9, credits earned pursuant to this section:

(a) Must be deducted from the maximum term or the maximum aggregate term imposed by the sentence, as applicable; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; ~~or~~

(d) A category A or B felony ~~or~~; *or*

*(e) A violation of NRS 574.100 that is punishable pursuant to subsection 6 of that section,*

↪ apply to eligibility for parole and, except as otherwise provided in subsection 9, must be deducted from the minimum term or the minimum aggregate term imposed by the sentence, as applicable, until the offender becomes eligible for parole and must be deducted from the maximum term or the maximum aggregate term imposed by the sentence, as applicable.

9. Credits deducted pursuant to subsection 8 may reduce the minimum term or the minimum aggregate term imposed by the sentence, as applicable, by not more than 58 percent for an offender who:

(a) Is serving a sentence for an offense committed on or after July 1, 2014; or

(b) On or after July 1, 2014, makes an irrevocable election to have his or her consecutive sentences aggregated pursuant to NRS 213.1212.

10. In addition to the credits allowed pursuant to this section, if the Governor determines, by executive order, that it is necessary, the Governor may authorize the deduction of not more than 5 days from a sentence for each month an offender serves. This subsection must be uniformly applied to all offenders under a sentence at the time the Governor makes such a determination.



**Sec. 2.** NRS 176.211 is hereby amended to read as follows:

176.211 1. Except as otherwise provided in this subsection, upon a plea of guilty, guilty but mentally ill or nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer judgment on the case to a specified future date and set forth specific terms and conditions for the defendant. The duration of the deferral period must not exceed the applicable period set forth in subsection 1 of NRS 176A.500 or the extension of the period pursuant to subsection 2 of NRS 176A.500. The court may not defer judgment pursuant to this subsection if the defendant has entered into a plea agreement with a prosecuting attorney unless the plea agreement allows the deferral.

2. The terms and conditions set forth for the defendant during the deferral period may include, without limitation, the:

- (a) Payment of restitution;
- (b) Payment of court costs;
- (c) Payment of an assessment in lieu of any fine authorized by law for the offense;
- (d) Payment of any other assessment or cost authorized by law;
- (e) Completion of a term of community service;
- (f) Placement on probation pursuant to NRS 176A.500 and the ordering of any conditions which can be imposed for probation pursuant to NRS 176A.400; or
- (g) Completion of a specialty court program.

3. The court:

- (a) Upon the consent of the defendant:
  - (1) Shall defer judgment for any defendant who has entered a plea of guilty, guilty but mentally ill or nolo contendere to a violation of paragraph (a) of subsection 2 of NRS 453.336; or
  - (2) May defer judgment for any defendant who is placed in a specialty court program. The court may extend any deferral period for not more than 12 months to allow for the completion of a specialty court program.

(b) Shall not defer judgment for any defendant who has been convicted of a violent or sexual offense as defined in NRS 202.876, a crime against a child as defined in NRS 179D.0357, ~~for~~ a violation of NRS 200.508 ~~or~~ ***or a violation of NRS 574.100 that is punishable pursuant to subsection 6 of that section.***

4. Upon violation of a term or condition:

- (a) Except as otherwise provided in paragraph (b):



(1) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(2) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

(b) If the defendant has been placed in the program for a first or second violation of paragraph (a) of subsection 2 of NRS 453.336, the court may allow the defendant to continue to participate in the program or terminate the participation of the defendant in the program. If the court terminates the participation of the defendant in the program, the court shall allow the defendant to withdraw his or her plea.

5. Upon completion of the terms and conditions of the deferred judgment, and upon a finding by the court that the terms and conditions have been met, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information.

6. The court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division or the prosecutor petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

7. If the court orders sealed the record of a defendant discharged pursuant to this section, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

8. As used in this section:

(a) "Court" means a district court of the State of Nevada.



(b) "Specialty court program" has the meaning ascribed to it in NRS 176A.065.

**Sec. 3.** 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, ~~for~~ a violation of NRS 200.508 ~~or~~ *or a violation of NRS 574.100 that is punishable pursuant to subsection 6 of that section.*

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

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

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

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

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

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

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



**Sec. 4.** NRS 176A.840 is hereby amended to read as follows:

176A.840 1. The Division shall petition the court to recommend the early discharge of a person from probation if the person:

(a) Has not violated any condition of probation during the immediately preceding 12 months;

(b) Is current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076;

(c) Has paid restitution in full or, because of economic hardship that is verified by the Division, has been unable to make restitution as ordered by the court;

(d) Has completed any program of substance use treatment or mental health treatment or a specialty court program as mandated by the court or the Division; and

(e) Has not been convicted of a violent or sexual offense as defined in NRS 202.876 , ~~or~~ a violation of NRS 200.508 ~~;~~ *or a violation of NRS 574.100 that is punishable pursuant to subsection 6 of that section.*

2. This section must not be construed to prohibit the court from allowing the early discharge of a person from probation if the person does not meet the requirements set forth in subsection 1.

**Sec. 5.** The amendatory provisions of this act apply prospectively to offenses committed on or after the effective date of this act for all purposes, including, without limitation, the purpose of calculating credits earned by a person pursuant to NRS 209.4465, as amended by section 1 of this act.

**Sec. 6.** This act becomes effective upon passage and approval.

