
ASSEMBLY BILL NO. 159—ASSEMBLYMEN FLORES, NEAL,
OHRENSCHALL; AIZLEY, BOBZIEN, BUSTAMANTE ADAMS,
CARLTON, COHEN, DONDERO LOOP, HEALEY, HORNE,
MUNFORD, PIERCE AND SPRINKLE

FEBRUARY 21, 2013

JOINT SPONSORS: SENATORS ATKINSON, SEGERBLOM,
PARKS; JONES, KIHUEN, MANENDO AND SPEARMAN

Referred to Committee on Judiciary

SUMMARY—Establishes a diversion program for certain
defendants. (BDR 14-669)

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 criminal offenders; establishing a diversion
program for certain defendants who have been charged
with committing certain offenses; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill establishes a diversion program for persons who plead guilty to, or are
2 convicted of, a felony which does not involve the use or threatened use of force or
3 violence and which is not sexual assault or statutory sexual seduction. A person is
4 eligible for this diversion program if the person: (1) has not previously been
5 convicted of sexual assault or statutory sexual seduction or a felony involving the
6 use or threatened use of force or violence; or (2) is a veteran or member of the
7 military. If a person is eligible for the diversion program, the court may suspend
8 proceedings and place the person on probation upon certain terms and conditions. If
9 the person violates a term or condition, the court may enter a judgment of
10 conviction and proceed as provided in the section of NRS under which the person
11 was charged. If the person fulfills the terms and conditions, the court is required to
12 enter a judgment of conviction for a gross misdemeanor and punish the person for a
13 gross misdemeanor.



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

1 **Section 1.** Chapter 176A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 1. *Except as otherwise provided in NRS 453.3363 and*
4 *notwithstanding any other provision of law, if a person who:*

5 (a) *Has not previously been convicted of any felony offense*
6 *involving the use or threatened use of force or violence, or of a*
7 *sexual offense, pursuant to any statute of this State, of the United*
8 *States or of any state; or*

9 (b) *Is a veteran or a member of the military,*
10 *↪ tenders a plea of guilty, guilty but mentally ill or nolo*
11 *contendere to, or is found guilty or guilty but mentally ill of, a*
12 *felony charge which does not involve the use or threatened use of*
13 *force or violence and which is not a sexual offense, the court,*
14 *without entering a judgment of conviction and with the consent of*
15 *the accused, may suspend further proceedings and place the*
16 *person on probation upon terms and conditions that must include*
17 *attendance and successful completion of an educational program*
18 *or, in the case of a person dependent upon drugs, of a program of*
19 *treatment and rehabilitation pursuant to NRS 453.580.*

20 2. *Upon violation of a term or condition:*

21 (a) *The court may enter a judgment of conviction and proceed*
22 *as provided in the section pursuant to which the accused was*
23 *charged.*

24 (b) *Notwithstanding the provisions of paragraph (e) of*
25 *subsection 2 of NRS 193.130, the court may order the person to*
26 *the custody of the Department of Corrections if the offense is*
27 *punishable by imprisonment in the state prison.*

28 3. *Notwithstanding any other provision of law, upon*
29 *fulfillment of the terms and conditions, the court shall enter a*
30 *judgment of conviction for a gross misdemeanor and the person*
31 *shall be punished as provided in NRS 193.140.*

32 4. *As used in this section, "sexual offense" has a meaning*
33 *ascribed to it in NRS 200.364.*

34 **Sec. 2.** NRS 176A.500 is hereby amended to read as follows:

35 176A.500 1. The period of probation or suspension of
36 sentence may be indeterminate or may be fixed by the court and
37 may at any time be extended or terminated by the court, but the
38 period, including any extensions thereof, must not be more than:

39 (a) Three years for a:

40 (1) Gross misdemeanor; or

41 (2) Suspension of sentence pursuant to NRS 176A.260,
42 176A.290 or 453.3363 **†** or *section 1 of this act; or*



1 (b) Five years for a felony.

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

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

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

30 5. A person who is sentenced to serve a period of probation for
31 a felony or a gross misdemeanor must be allowed for the period of
32 the probation a deduction as set forth in subsection 6 if the offender
33 is in compliance with the terms and conditions of the probation as
34 determined by the Division and is:

35 (a) Current with any fee to defray the cost of the supervision
36 charged pursuant to NRS 213.1076 and with any fines, fees and
37 restitution ordered by the court, including, without limitation, any
38 payment of restitution required pursuant to NRS 176A.430; and

39 (b) Actively involved in employment or enrolled in a program of
40 education, rehabilitation or any other program approved by the
41 Division.

42 6. A person described in subsection 5 must be allowed for the
43 period of the probation a deduction of:



1 (a) Ten days from that period for each month the person serves
2 and is current on any fees to defray the cost of the supervision owed
3 and on any fines, fees and restitution ordered by the court; and

4 (b) Except as otherwise provided in subsection 7, an additional
5 10 days from that period for each month the person serves and is
6 actively involved in employment or enrolled in a program of
7 education, rehabilitation or any other program approved by the
8 Division.

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

18 8. As used in this section, "specialty court program" means a
19 program established by a court to facilitate testing, treatment and
20 oversight of certain persons over whom the court has jurisdiction
21 and who the court has determined suffer from mental illnesses or
22 abuse alcohol or drugs. Such a program includes, without limitation,
23 a program established pursuant to NRS 176A.250 or 453.580.

