

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 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 prescribes the punishment for a habitual criminal, a habitual
4 felon or a habitually fraudulent felon. (NRS 207.010, 207.012, 207.014) Under
5 existing law, a prosecuting attorney may file a count alleging that a person is a
6 habitual criminal, a habitual felon or a habitually fraudulent felon after the person’s
7 conviction for the primary offense. (NRS 207.016) This bill requires a count
8 alleging that a person is a habitual criminal, a habitual felon or a habitually
9 fraudulent felon to be filed within 30 days after the defendant’s arraignment on the
10 primary offense, unless for good cause shown the court extends such time.

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



1 previous conviction must be alleged in the accusatory pleading, but
2 no such conviction may be alluded to on trial of the primary offense,
3 nor may any allegation of the conviction be read in the presence of a
4 jury trying the offense or a grand jury considering an indictment for
5 the offense. A count pursuant to NRS 207.010, 207.012 or 207.014
6 may be ~~separately~~ filed ~~after conviction of~~ *separately from the*
7 *indictment or information charging* the primary offense, but if it is
8 so filed, *the count pursuant to NRS 207.010, 207.012 or 207.014*
9 *must be filed within 30 days after the defendant's arraignment on*
10 *the primary offense unless the court for good cause shown makes*
11 *an order extending the time. If a count pursuant to NRS 207.010,*
12 *207.012 or 207.014 is filed separately from the indictment or*
13 *information charging the primary offense, the* sentence must not
14 be imposed, or the hearing required by subsection 3 held, until 15
15 days after the separate filing.

16 3. If a defendant charged pursuant to NRS 207.010, 207.012 or
17 207.014 pleads guilty or guilty but mentally ill to, or is found guilty
18 or guilty but mentally ill of, the primary offense but denies any
19 previous conviction charged, the court shall determine the issue of
20 the previous conviction after hearing all relevant evidence presented
21 on the issue by the prosecution and the defendant. At such a hearing,
22 the defendant may not challenge the validity of a previous
23 conviction. The court shall impose sentence:

24 (a) Pursuant to NRS 207.010 upon finding that the defendant
25 has suffered previous convictions sufficient to support an
26 adjudication of habitual criminality;

27 (b) Pursuant to NRS 207.012 upon finding that the defendant
28 has suffered previous convictions sufficient to support an
29 adjudication of habitual felon; or

30 (c) Pursuant to NRS 207.014 upon finding that the defendant
31 has suffered previous convictions sufficient to support an
32 adjudication of habitually fraudulent felon.

33 4. Nothing in the provisions of this section, NRS 207.010,
34 207.012 or 207.014 limits the prosecution in introducing evidence
35 of prior convictions for purposes of impeachment.

36 5. For the purposes of NRS 207.010, 207.012 and 207.014, a
37 certified copy of a felony conviction is prima facie evidence of
38 conviction of a prior felony.

39 6. Nothing in the provisions of this section, NRS 207.010,
40 207.012 or 207.014 prohibits a court from imposing an adjudication
41 of habitual criminality, adjudication of habitual felon or adjudication
42 of habitually fraudulent felon based upon a stipulation of the parties.

