

CHAPTER.....

AN ACT relating to sentencing; making various changes to the provision pertaining to the authority and discretion of the court to suspend a sentence and grant probation in certain cases; and providing other matters properly relating thereto.

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

**Section 1.** NRS 176A.100 is hereby amended to read as follows:

176A.100 1. Except as otherwise provided in this section and NRS 176A.110 and 176A.120, if a person is found guilty in a district court upon verdict or plea of:

(a) Murder of the first or second degree, kidnapping in the first degree, sexual assault, attempted sexual assault of a child who is less than 16 years of age, an offense for which the suspension of sentence or the granting of probation is expressly forbidden, or if the person is found to be a habitual criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall not suspend the execution of the sentence imposed or grant probation to the person.

(b) A category E felony, except as otherwise provided in this paragraph, the court shall suspend the execution of the sentence imposed and grant probation to the person. The court may, as it deems advisable, decide not to suspend the execution of the sentence imposed and grant probation to the person if, at the time ~~the crime was committed,~~ *of sentencing, it is established that* the person:

(1) Was serving a term of probation ~~;~~ *or was on parole at the time the crime was committed*, whether in this state or elsewhere, for a felony conviction;

(2) Had previously had his probation *or parole* revoked, whether in this state or elsewhere, for a felony conviction; ~~or~~

(3) *Had previously been assigned to a program of treatment and rehabilitation pursuant to NRS 453.580 and failed to successfully complete that program; or*

(4) Had previously been two times convicted, whether in this state or elsewhere, of a crime that under the laws of the situs of the crime or of this state would amount to a felony.

If the person denies the existence of a previous conviction, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the person. At such a hearing, the person may not challenge the validity of a previous conviction. For the purposes of this paragraph, a

certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

(c) Another felony, a gross misdemeanor or a misdemeanor, the court may suspend the execution of the sentence imposed and grant probation as the court deems advisable.

2. In determining whether to grant probation to a person, the court shall not consider whether the person has the financial ability to participate in a program of probation secured by a surety bond established pursuant to NRS 176A.300 to 176A.370, inclusive.

3. The court shall consider the standards adopted pursuant to NRS 213.10988 and the recommendation of the chief parole and probation officer, if any, in determining whether to grant probation to a person.

4. If the court determines that a person is otherwise eligible for probation but requires more supervision than would normally be provided to a person granted probation, the court may, in lieu of sentencing him to a term of imprisonment, grant him probation pursuant to the program of intensive supervision established pursuant to NRS 176A.440.

5. Except as otherwise provided in this subsection, if a person is convicted of a felony and the division is required to make a presentence investigation and report to the court pursuant to NRS 176.135, the court shall not grant probation to the person until the court receives the report of the presentence investigation from the chief parole and probation officer. The chief parole and probation officer shall submit the report of the presentence investigation to the court not later than 45 days after receiving a request for a presentence investigation from the county clerk. If the report of the presentence investigation is not submitted by the chief parole and probation officer within 45 days, the court may grant probation without the report.

6. If the court determines that a person is otherwise eligible for probation, the court shall, when determining the conditions of that probation, consider the imposition of such conditions as would facilitate timely payments by the person of his obligation, if any, for the support of a child and the payment of any such obligation which is in arrears.