

ASSEMBLY BILL NO. 95—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

FEBRUARY 13, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provision pertaining to authority and discretion of court to suspend sentence and grant probation in certain cases. (BDR 14-284)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 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:

- 1 **Section 1.** NRS 176A.100 is hereby amended to read as
2 follows:
3 176A.100 1. Except as otherwise provided in this section and
4 NRS 176A.110 and 176A.120, if a person is found guilty in a
5 district court upon verdict or plea of:
6 (a) Murder of the first or second degree, kidnapping in the first
7 degree, sexual assault, attempted sexual assault of a child who is
8 less than 16 years of age, an offense for which the suspension of
9 sentence or the granting of probation is expressly forbidden, or if the
10 person is found to be a habitual criminal pursuant to NRS 207.010, a
11 habitually fraudulent felon pursuant to NRS 207.014 or a habitual
12 felon pursuant to NRS 207.012, the court shall not suspend the
13 execution of the sentence imposed or grant probation to the person.



* A B 9 5 R 1 *

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

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

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

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

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

19 If the person denies the existence of a previous conviction, the court
20 shall determine the issue of the previous conviction after hearing all
21 relevant evidence presented on the issue by the prosecution and the
22 person. At such a hearing, the person may not challenge the validity
23 of a previous conviction. For the purposes of this paragraph, a
24 certified copy of a felony conviction is prima facie evidence of
25 conviction of a prior felony.

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

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

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

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

43 5. Except as otherwise provided in this subsection, if a person
44 is convicted of a felony and the division is required to make a
45 presentence investigation and report to the court pursuant to NRS



1 176.135, the court shall not grant probation to the person until the
2 court receives the report of the presentence investigation from the
3 chief parole and probation officer. The chief parole and probation
4 officer shall submit the report of the presentence investigation to the
5 court not later than 45 days after receiving a request for a
6 presentence investigation from the county clerk. If the report of the
7 presentence investigation is not submitted by the chief parole and
8 probation officer within 45 days, the court may grant probation
9 without the report.

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

