
SENATE BILL NO. 430—COMMITTEE ON JUDICIARY

MARCH 24, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning restoration of certain rights of ex-felons. (BDR 14-1222)

FISCAL NOTE: Effect on Local Government: Yes.
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 procedure; making various changes to provide a person who is honorably discharged from probation or parole, or pardoned or released from prison after serving his sentence, to petition the court for a restoration of his civil rights, a release from all penalties and disabilities resulting from his conviction and his right to bear arms; authorizing a court that seals the records of conviction of a person to restore the person's right to bear arms; 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.850 is hereby amended to read as
2 follows:
3 176A.850 1. A person who:
4 (a) Has fulfilled the conditions of his probation for the entire
5 period thereof;
6 (b) Is recommended for earlier discharge by the Division; or
7 (c) Has demonstrated his fitness for honorable discharge but
8 because of economic hardship, verified by a parole and probation
9 officer, has been unable to make restitution as ordered by the
10 court,
11 may be granted an honorable discharge from probation by order of
12 the court.



1 2. Any amount of restitution remaining unpaid constitutes a
2 civil liability arising upon the date of discharge.

3 3. A person honorably discharged from probation:

4 (a) Is free from the terms and conditions of his probation;

5 (b) If he meets the requirements of NRS 176A.860, may ~~apply~~
6 ~~to the Division~~ *petition the court in which he was convicted to*
7 *request a restoration of his civil rights [;], a release from all*
8 *penalties and disabilities which resulted from the offense or crime*
9 *of which he was convicted and a restoration of his right to bear*
10 *arms;* and

11 (c) If he meets the requirements of NRS 179.245, may apply to
12 the court for the sealing of records relating to his conviction.

13 The person must be informed of the provisions of this section and
14 NRS 176A.860 and 179.245 in his probation papers.

15 4. A person honorably discharged from probation who has had
16 his civil rights restored by the court [;] *and who has been released*
17 *from all penalties and disabilities which resulted from the offense*
18 *or crime of which he was convicted:*

19 (a) Is exempt from the requirements of chapter 179C of NRS,
20 but is not exempt from the requirements of chapter 179D of NRS.

21 (b) May vote, hold office or serve as a juror.

22 (c) Shall disclose the conviction to a gaming establishment and
23 to the State and its agencies, departments, boards, commissions and
24 political subdivisions, if required in an application for employment,
25 license or other permit. As used in this paragraph, "establishment"
26 has the meaning ascribed to it in NRS 463.0148.

27 (d) Except as otherwise provided in paragraph (c), need not
28 disclose the conviction to an employer or prospective employer.

29 5. The prior conviction of a person whose ~~civil~~ rights have
30 been restored, *whose penalties and disabilities have been released*
31 *or who has been honorably discharged from probation may be used*
32 *for purposes of impeachment. In any subsequent prosecution of the*
33 *person who has had his [civil] rights restored, who has had*
34 *penalties and disabilities released* or who has been honorably
35 discharged from probation, the prior conviction may be pleaded and
36 proved if otherwise admissible.

37 **Sec. 2.** NRS 176A.860 is hereby amended to read as follows:

38 176A.860 1. If a person is granted an honorable discharge
39 from probation ~~[, not sooner than 6 months after his honorable~~
40 ~~discharge.]~~, the person may ~~apply to the Division~~ *petition the*
41 *court in which he was convicted* to request a restoration of his civil
42 rights, *a release from all penalties and disabilities which resulted*
43 *from the offense or crime of which he was convicted and a*
44 *restoration of his right to bear arms,* if the person ~~[-~~
45 ~~—(a) Has] has~~ not previously been restored to ~~[his civil rights; and~~



1 ~~—(b) Has not been convicted of any offense greater than a traffic~~
2 ~~violation after his honorable discharge.] such rights or released~~
3 ~~from such penalties and disabilities.~~

4 2. If a person ~~[applies to the Division to request a restoration of~~
5 ~~his civil rights,] files a petition with the court pursuant to~~
6 ~~subsection 1,~~ the person must submit with his ~~[application] petition~~
7 a current, certified record of his criminal history received from ~~[the]~~
8 :

9 (a) *The* Central Repository for Nevada Records of Criminal
10 History ~~[.]~~; and

11 (b) *The local law enforcement agency of the city or county in*
12 *which the conviction was entered.*

13 3. If the ~~[Division determines after an investigation] court~~
14 ~~determines~~ that the person ~~[meets the requirements of this section,~~
15 ~~the Division shall petition the court in which the person was~~
16 ~~convicted for] has been honorably discharged from probation and~~
17 ~~is not currently serving a sentence of imprisonment or subject to a~~
18 ~~period of parole or probation, the court:~~

19 (a) *Shall, as soon as reasonably practicable, enter* an order
20 ~~[granting the restoration of his] restoring the~~ civil rights ~~[- If the~~
21 ~~Division refuses to submit such a petition, the person may, after~~
22 ~~notice to the Division, directly petition the court for an order~~
23 ~~granting the restoration of his civil rights.] of the person and~~
24 ~~releasing the person from all penalties and disabilities which~~
25 ~~resulted from the offense or crime of which he was convicted; and~~

26 (b) *May enter an order restoring the right of the person to bear*
27 *arms if the court determines that the person is not likely to pose a*
28 *threat to the safety of others.*

29 4. *If the court does not restore the right of the person to bear*
30 *arms pursuant to subsection 3, the court shall include in the order*
31 *a date after which the person may submit another petition to the*
32 *court in the manner set forth in this section to request the*
33 *restoration of his right to bear arms.*

34 **Sec. 3.** NRS 179.285 is hereby amended to read as follows:

35 179.285 1. Except as otherwise provided in NRS 179.301, if
36 the court orders a record sealed pursuant to NRS 176A.265,
37 179.245, 179.255, 179.259 or 453.3365 ~~[-~~

38 ~~—1.—All], all~~ proceedings recounted in the record are deemed
39 never to have occurred, and the person to whom the order pertains
40 may properly answer accordingly to any inquiry concerning the
41 arrest, conviction, dismissal or acquittal and the events and
42 proceedings relating to the arrest, conviction, dismissal or acquittal.

43 2. ~~[The court shall] If the court determines that the person~~
44 ~~whose records are sealed pursuant to subsection 1 is not currently~~



1 *-serving a sentence of imprisonment or subject to a period of parole*
2 *or probation, the court:*

3 (a) *Shall, as soon as reasonably practicable, enter an order*
4 *restoring the civil rights of the person to whom the order pertains*
5 ~~*[to be restored if the person has not been restored to his civil rights.]*~~
6 *and releasing the person from all penalties and disabilities which*
7 *resulted from the offense or crime of which he was convicted, if*
8 *the person has not previously been restored to such rights and*
9 *released from such penalties and disabilities; and*

10 (b) *May enter an order restoring the right of the person to bear*
11 *arms if the court determines that the person is not likely to pose a*
12 *threat to the safety of others.*

13 3. *If the court does not restore the right of the person to bear*
14 *arms pursuant to subsection 2, the court shall include in the order*
15 *a date after which the person may submit a petition to the court to*
16 *request the restoration of his right to bear arms.*

17 4 *A person who petitions the court for the restoration of his*
18 *right to bear arms pursuant to subsection 3 must submit with his*
19 *petition a current, certified record of his criminal history received*
20 *from:*

21 (a) *The Central Repository for Nevada Records of Criminal*
22 *History; and*

23 (b) *The local law enforcement agency of the city or county in*
24 *which the conviction was entered.*

25 **Sec. 4.** NRS 202.360 is hereby amended to read as follows:

26 202.360 1. A person who has been convicted of a felony in
27 this or any other state, or in any political subdivision thereof, or of a
28 felony in violation of the laws of the United States of America,
29 ~~*[unless he has received a pardon and the pardon does not restrict his*~~
30 ~~*right to bear arms.]*~~ shall not own or have in his possession or under
31 his custody or control any firearm ~~*[.]*~~, *unless the person has had*
32 *his right to bear arms restored by court order pursuant to NRS*
33 *176A.860, 179.285, 213.090, 213.155 or 213.157.*

34 2. As used in this section, "firearm" includes any firearm that
35 is loaded or unloaded and operable or inoperable.

36 3. A person who violates the provisions of this section is guilty
37 of a category B felony and shall be punished by imprisonment in the
38 state prison for a minimum term of not less than 1 year and a
39 maximum term of not more than 6 years, and may be further
40 punished by a fine of not more than \$5,000.

41 **Sec. 5.** NRS 213.090 is hereby amended to read as follows:

42 213.090 1. When a pardon is granted for any offense
43 committed, the pardon may or may not include *a* restoration of civil
44 rights ~~*[.]*~~, *a release of the person from all penalties and disabilities*
45 *resulting from the offense or crime of which he was convicted or a*



1 *restoration of the right to bear arms, as deemed appropriate by the*
2 *Board.* If the pardon includes *a* restoration of civil rights, *a release*
3 *from all penalties and disabilities resulting from the offense or*
4 *crime of which he was convicted or a restoration of the right to*
5 *bear arms,* it must be so stated in the instrument or certificate of
6 pardon and, when granted upon conditions, limitations or
7 restrictions, ~~they~~ *the conditions, limitations or restrictions* must
8 be fully set forth in the instrument.

9 2. In any case where a convicted person has received a pardon
10 without *an* immediate restoration of his civil rights, *release from all*
11 *penalties and disabilities resulting from the offense or crime of*
12 *which he was convicted or restoration of his right to bear arms,* he
13 may ~~apply to the State Board of Pardons Commissioners for~~
14 *petition the court in which he was convicted to request a*
15 restoration of his civil rights and , *a* release from *all* penalties and
16 disabilities resulting from the offense or crime of which he was
17 convicted ~~;~~ *or a restoration of his right to bear arms, as*
18 *applicable. The person must submit with his petition a current,*
19 *certified record of his criminal history received from:*

20 (a) *The Central Repository for Nevada Records of Criminal*
21 *History; and*

22 (b) *The local law enforcement agency of the city or county in*
23 *which the conviction was entered.*

24 3. Upon receiving ~~an application~~ *a petition* pursuant to
25 subsection 2, the ~~Board~~ *court* shall determine whether the
26 ~~applicant~~ *person* has received a pardon. If the ~~Board~~ *court*
27 determines that the ~~applicant~~ *person* has received a pardon ~~the~~
28 ~~Board shall,~~ *and is not currently serving a sentence of*
29 *imprisonment or subject to a period of parole or probation, the*
30 *court:*

31 (a) *Shall,* as soon as reasonably practicable, ~~restore him to his~~
32 *enter an order restoring the* civil rights *of the person* and ~~release~~
33 ~~him~~ *releasing the person* from all penalties and disabilities
34 resulting from the offense or crime of which he was convicted ~~;~~

35 ~~—4.— An applicant must not be required to pay a fee to have his~~
36 ~~civil rights restored or to be released from penalties and disabilities~~
37 ~~pursuant to this section.~~ *; and*

38 (b) *May enter an order restoring the right of the person to bear*
39 *arms if the court determines that the person is not likely to pose a*
40 *threat to the safety of others.*

41 4. *If the court does not restore the rights of the person to bear*
42 *arms pursuant to subsection 3, the court shall include in the order*
43 *a date after which the person may submit another petition to the*
44 *court in the manner set forth in this section to request the*
45 *restoration of his right to bear arms.*



1 **Sec. 6.** NRS 213.155 is hereby amended to read as follows:
2 213.155 1. ~~1. [The Board may restore a paroled prisoner to his~~
3 ~~civil rights, conditioned upon the prisoner receiving]~~ *If the Division*
4 *issues* an honorable discharge from parole pursuant to NRS 213.154
5 ~~[. Such restoration must take effect at the expiration of the parole of~~
6 ~~the prisoner.~~
7 ~~— 2. In any case where a convicted person has completed his~~
8 ~~parole without immediate restoration of his civil rights and has been~~
9 ~~issued an honorable discharge from parole pursuant to NRS~~
10 ~~213.154, he may apply to the Division]~~ *to a person, the person may*
11 *petition the court in which he was convicted* to request a restoration
12 of his civil rights ~~[and]~~, *a* release from *all* penalties and disabilities
13 which resulted from the offense or crime of which he was convicted
14 ~~[. 3. Upon receiving an application]~~ *and a restoration of his*
15 *right to bear arms, if the person has not previously been restored*
16 *to such rights or released from such penalties and disabilities.*
17 2. *If a person files a petition with the court pursuant to*
18 *subsection 1, the person must submit with his petition a current,*
19 *certified record of his criminal history received from:*
20 (a) *The Central Repository for Nevada Records of Criminal*
21 *History; and*
22 (b) *The local law enforcement agency of the city or county in*
23 *which the conviction was entered.*
24 3. *Upon receiving a petition* pursuant to ~~[subsection 2, the~~
25 ~~Division]~~ *this section, the court* shall determine whether the
26 ~~[applicant]~~ *person* has received an honorable discharge from parole.
27 If the ~~[Division]~~ *court* determines that the ~~[applicant]~~ *person* has
28 received an honorable discharge ~~[, the Division shall forward the~~
29 ~~application to the Board.~~
30 ~~— 4. Upon receiving an application pursuant to subsection 3, the~~
31 ~~Board shall, as soon as reasonably practicable, restore the applicant~~
32 ~~to his civil rights and release him from all penalties and disabilities~~
33 ~~resulting from the offense or crime of which he was convicted.~~
34 ~~— 5. An applicant must not be required to pay a fee to have his~~
35 ~~civil rights restored or to be released from penalties and disabilities~~
36 ~~pursuant to this section.~~
37 ~~— 6. The Board may adopt regulations necessary or convenient~~
38 ~~for the purposes of this section.]~~ *from parole and is not currently*
39 *-serving a sentence of imprisonment or subject to a period of parole*
40 *or probation, the court:*
41 (a) *Shall, as soon as reasonably practicable, enter an order*
42 *restoring the civil rights of the person and releasing the person*
43 *from all penalties and disabilities which resulted from the offense*
44 *or crime of which he was convicted; and*



1 (b) *May enter an order restoring the right of the person to bear*
2 *arms if the court determines that the person is not likely to pose a*
3 *threat to the safety of others.*

4 4. *If the court does not restore the right of the person to bear*
5 *arms pursuant to subsection 2, the court shall include in the order*
6 *a date after which the person may submit another petition to the*
7 *court in the manner set forth in this section to request the*
8 *restoration of his right to bear arms.*

9 **Sec. 7.** NRS 213.157 is hereby amended to read as follows:

10 213.157 1. In any case where a person convicted of a felony
11 in the State of Nevada has served his sentence and been released
12 from prison ~~[, he may apply to the Division requesting]~~ *and is not*
13 *subject to a period of parole or probation, the person may petition*
14 *the court in which he was convicted to request a restoration of his*
15 *civil rights ~~[and], a release from all penalties and disabilities which~~*
16 *resulted from the offense or crime of which he was convicted ~~[.]~~ and*
17 *a restoration of his right to bear arms, if the person has not*
18 *previously been restored to such rights and released from such*
19 *penalties and disabilities.*

20 2. *If a person files a petition with the court pursuant to*
21 *subsection 1, the person must submit with his petition a current,*
22 *certified record of his criminal history received from:*

23 (a) *The Central Repository for Nevada Records of Criminal*
24 *History; and*

25 (b) *The local law enforcement agency of the city or county in*
26 *which the conviction was entered.*

27 3. Upon receiving ~~[an application]~~ *a petition* pursuant to
28 subsection 1, the ~~[Division]~~ *court* shall determine whether the
29 ~~[applicant]~~ *person* has served his sentence and been released from
30 prison. If the ~~[division]~~ *court* determines that the ~~[applicant]~~ *person*
31 has served his sentence and been released from prison ~~[, the~~
32 ~~Division shall forward the application to the district court in which~~
33 ~~the conviction was obtained.~~

34 ~~—3.— Upon receiving an application pursuant to subsection 2,] and~~
35 ~~is not currently serving a sentence of imprisonment or subject to a~~
36 ~~period of parole or probation, the court [shall,] :~~

37 (a) *Shall, as soon as reasonably practicable, restore the civil*
38 *rights of the ~~[applicant and] person and~~ release him from all*
39 *penalties and disabilities which resulted from the offense or crime of*
40 *which he was convicted ~~[.~~*

41 ~~—4.— An applicant must not be required to pay a fee to have his~~
42 ~~civil rights restored or to be released from penalties and disabilities~~
43 ~~pursuant to this section.] ; and~~



1 ***(b) May restore the right of the person to bear arms if the***
2 ***court determines that the person is not likely to pose a threat to the***
3 ***safety of others.***
4 ***4. If the court does not restore the right of the person to bear***
5 ***arms, the court shall include in the order a date after which the***
6 ***person may submit another petition to the court in the manner set***
7 ***forth in this section to request the restoration of his right to bear***
8 ***arms.***

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