

Amendment No. 646

Senate Amendment to Senate Bill No. 360	(BDR 14-911)
Proposed by: Senators Horsford and Wiener	
Amendment Box: Conflicts with Amendments Nos. 405 and 609.	
Resolves Conflicts with: N/A	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: Yes Digest: Yes	

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend section 1, page 4, line 21, by deleting “*shall*” and inserting “*must*”.

Amend the bill as a whole by deleting sec. 2 and renumbering sections 3 and 4 as sections 2 and 3.

Amend sec. 3, page 6, line 34, by deleting “~~12~~ 10” and inserting “12”.

Amend sec. 3, page 7, line 3, by deleting “*1 year*” and inserting “*2 years*”.

Amend the bill as a whole by deleting sections 5 and 6 and renumbering sections 7 through 11 as sections 4 through 8.

Amend sec. 7, pages 10 and 11, by deleting lines 29 through 44 on page 10 and lines 1 through 28 on page 11, and inserting:

“213.090 1. ~~Except as otherwise provided in subsection 2, a person who is granted a pardon for any offense committed:~~

BAW

Date: 4/26/2005

S.B. No. 360—Revises provisions relating to convicted persons.



~~—(a) Is immediately restored to the following civil rights:~~

~~——(1) The right to vote; and~~

~~——(2) The right to serve as a juror in a civil action.~~

~~—(b) Four years after the date that his pardon is granted, is restored to the right to hold office.~~

~~—(c) Six years after the date that his pardon is granted, is restored to the right to serve as a juror in a criminal action.~~

~~—2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been granted a pardon if the person has previously been convicted in this State:~~

~~—(a) Of a category A felony.~~

~~—(b) Of an offense that would constitute a category A felony if committed as of the date that his pardon is granted.~~

~~—(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.~~

~~—(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date that his pardon is granted.~~

~~—(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.~~

~~↪ A person described in this subsection may petition the court in which the person was convicted for an order granting the restoration of his civil rights as set forth in subsection 1.~~

~~—3. Except for a person subject to the limitations set forth in subsection 2, upon receiving a pardon, a person so pardoned must be given an official document which provides:~~

~~—(a) That he has been granted a pardon;~~

~~—(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date that his pardon is granted;~~

~~—(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and~~

~~—(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.~~

~~—4. Subject to the limitations set forth in subsection 2, a] *A person who is granted a full, unconditional pardon by the Board is restored to all civil rights and is relieved of all disabilities incurred upon conviction.*~~

2. A pardon granted by the Board shall be deemed to be a full, unconditional pardon unless the official document issued pursuant to subsection 3 explicitly limits the restoration of the civil rights of the person or does not relieve the person of all disabilities incurred upon conviction.

3. Upon being granted a pardon by the Board, a person so pardoned must be given an official document which provides that he has been granted a pardon. If the person has not been granted a full, unconditional pardon, the official document must explicitly state all limitations on the restoration of the civil rights of the person and all disabilities incurred upon conviction from which the person is not relieved.

4. A person”.

Amend sec. 8, pages 12 through 14, by deleting lines 20 through 44 on page 12, lines 1 through 45 on page 13 and lines 1 through 3 on page 14, and inserting:

“3. A dishonorable discharge from parole releases the parolee from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution, but does not entitle the parolee to any privilege conferred by NRS 213.155.”

Amend sec. 9, page 15, line 28, by deleting “*shall*” and inserting “*must*”.

Amend sec. 10, page 17, line 5, by deleting “*shall*” and inserting “*must*”.

Amend the bill as a whole by deleting sec. 12, renumbering sec. 13 as sec. 10 and adding a new section designated sec. 9, following sec. 11, to read as follows:

“Sec. 9. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this act may, until July 1, 2008, apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to this section, to request that his dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

- (a) The fact that he committed a new crime during the period of his probation or parole;
- (b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

3. The Division shall adopt regulations establishing guidelines and procedures to be used to carry out the provisions of this section. The regulations must include, without limitation, provisions requiring that to be granted a change of discharge pursuant to this section, if an applicant failed to make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

4. A person whose application for a change of discharge is granted by the Division and whose discharge from probation or parole is changed to an honorable discharge from probation or parole pursuant to this section:

(a) Shall be deemed to have been issued an honorable discharge from probation or parole effective as of the date of his original dishonorable discharge from probation or parole;

(b) Is subject to, and must be restored to his civil rights in accordance with, the provisions of NRS 176A.850 or 213.155, as amended by this act; and

(c) Must be given an official document which:

(1) Provides that he has received an honorable discharge from probation or parole; and

(2) States, as applicable, the dates on which his civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him.

5. The Division shall, on or before January 1, 2008, submit a written report to the Director of the Legislative Counsel Bureau that includes, without limitation, the following information:

- (a) The number of persons who applied for a change of discharge pursuant to this section;
- (b) The number of applications that were granted or denied and the general reasons for denial of the applications;
- (c) The estimated amount of restitution and fees for supervision paid as the result of the enactment of this section;
- (d) Any recommendations and conclusions concerning the desirability of extending the application of the provisions of this section; and
- (e) Any other information deemed appropriate by the Division.”.

Amend the title of the bill by deleting the fourth through eighth lines and inserting:

“to vote; revising the provisions pertaining to the restoration of civil rights pursuant to a pardon issued by the State Board of Pardons Commissioners; reducing the period that persons convicted of certain crimes must wait before petitioning to seal the records relating to their conviction; authorizing certain persons who were dishonorably discharged from probation or parole to apply, during a limited period, to change their dishonorable discharge to an honorable discharge under certain circumstances; and providing other”.

Amend the bill as a whole by adding the following Assemblyman as a primary joint sponsor:
Assemblyman Munford.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law provides for the immediate restoration of the civil right to vote and to sit as a juror in a civil action and for the automatic restoration, on specified future dates, of certain other civil rights of ex-felons who have been honorably discharged from probation or parole, pardoned or released from prison, unless those ex-felons have previously been convicted of certain crimes. An ex-felon who has been previously convicted of those crimes may petition for a court order granting the restoration of those civil rights. (NRS 176A.850, 213.090, 213.155, 213.157) Any person whose civil rights have been restored must receive an official document of such restoration of civil rights and may present the document as proof of his restoration of civil rights. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) Existing law does not provide for the restoration of the civil rights of a person who receives a dishonorable discharge from probation or parole. (NRS 176A.870, 213.154, 213.155)

This bill provides that a person whose civil rights are restored must not be required to present documentation as proof of such restoration of civil rights. This bill also authorizes certain persons who were dishonorably discharged from probation or parole to apply to the Division of Parole and Probation of the Department of Public Safety, during a limited period, to change their dishonorable discharge to an honorable discharge under certain circumstances. Persons who were dishonorably discharged for certain reasons would not be eligible to seek a change of discharge under the bill. The bill further provides that if the discharge of the person is changed from dishonorable to honorable,

the provisions of law pertaining to a person who received an honorable discharge would then apply to the person and the civil rights of the person would be restored as if the person had received an honorable discharge.

Under existing law, pardons issued by the State Board of Pardons Commissioners are subject to the same restrictions and limitations on the restoration of civil rights that are contained in the statutes pertaining to restoration of civil rights following discharge from probation or parole or release from prison. (NRS 176A.850, 213.090, 213.155, 213.157) Section 14 of Article 5 of the Nevada Constitution vests the State Board of Pardons Commissioners with the constitutional authority to grant pardons upon such conditions and with such limitations and restrictions as thought proper, subject only to the laws enacted by the Legislature that regulate the manner of applying for pardons. Consequently, restrictions or limitations on the power of the Board to restore the civil rights of a convicted person may infringe upon the constitutional authority of the Board.

This bill provides that if a person is granted a full, unconditional pardon by the Board, the person is restored to all civil rights and is relieved of all disabilities incurred upon conviction. This bill also provides that a pardon granted by the Board shall be deemed to be a full, unconditional pardon unless the official document issued by the Board explicitly limits the restoration of the civil rights of the person or does not relieve the person of all disabilities incurred upon conviction.

Under existing law, a person may petition the court in which he was convicted to seal all records relating to his conviction. The petitioner must wait a specified number of years after his release from custody or his discharge from parole or probation before petitioning the court to have his records sealed. (NRS 179.245) Once a court enters an order sealing the person's records relating to his

conviction, that person is immediately restored the right to vote, the right to hold office and the right to serve on a jury, if those rights have not already been restored. (NRS 179.285)

This bill reduces the time before which a person may petition the court to have his criminal records sealed for certain offenses. For a category E felony, the period is reduced from 10 years to 7 years after release from custody or discharge from parole or probation. For misdemeanors other than a battery that constitutes domestic violence or a conviction for driving under the influence of alcohol or drugs, the period is reduced from 3 years to 2 years.