

Amendment No. CA4

Conference Committee Amendment to (BDR 14-171)
Assembly Bill No. 25 First Reprint

Proposed by: Conference Committee

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

NCA



Date: 6/5/2017

A.B. No. 25—Revises provisions relating to certain allowable deductions from the period of probation or sentence of a person. (BDR 14-171)



ASSEMBLY BILL NO. 25—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE DIVISION OF PAROLE AND PROBATION
OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to certain allowable deductions from the period of probation or sentence of a person. (BDR 14-171)

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 criminal offenders; revising provisions relating to certain allowable deductions from the period of probation or sentence of a person; authorizing the Governor to grant certain deductions from the period of the sentence of a person under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires that a person who is sentenced to serve a period of probation for a
2 felony or gross misdemeanor be allowed for the period of probation a deduction of a certain
3 number of days from that period for each month the person serves if he or she is in
4 compliance with the terms and conditions of the probation and is: (1) current with any fee to
5 defray the costs of the person's supervision and any fines, fees and restitution ordered by the
6 court; and (2) actively involved in employment or enrolled in a program of education,
7 rehabilitation or another program approved by the Division of Parole and Probation of the
8 Department of Public Safety. (NRS 176A.500) Existing law similarly requires that certain
9 persons who are on parole or released on parole be allowed for the period the person is on
10 parole a deduction of a certain number of days from the person's sentence for each month
11 served if the person is current with any fee to defray the costs of his or her supervision and
12 any payment of restitution required by the State Board of Parole Commissioners. (NRS
13 209.4475)

14 **Section 1** of this bill revises the requirements that a probationer must satisfy to be
15 allowed a deduction from his or her period of probation. **Section 1** removes the requirements
16 that the probationer be in compliance with the terms and conditions of the probation and be
17 current on the payment of fines and fees ordered by the court, thereby making the
18 requirements for probationers to be allowed a deduction more similar to the existing
19 requirements imposed on parolees. **Section 1** also removes the requirement that a probationer,
20 to be allowed a deduction, must be both: (1) current with any fee to defray the costs of his or
21 her supervision and any payment of restitution; and (2) actively involved in employment or

22 enrolled in a program approved by the Division, and instead provides that a probationer is
23 allowed a separate deduction for satisfying each such requirement.

24 Existing law provides that under certain circumstances an offender may earn credits
25 to reduce his or her sentence of imprisonment for each month the offender serves. (NRS
26 209.4465) Section 1.5 of this bill authorizes the Governor, by executive order, if the
27 Governor determines it is necessary, to grant additional credits to reduce an offender's
28 sentence by not more than 5 days for each month an offender serves.

29 Sections 1 and 2 of this bill, respectively, provide that for the purpose of determining
30 whether a probationer is allowed a deduction from his or her period of probation for being
31 current with any fee to defray the costs of his or her supervision and any payment of
32 restitution or whether a parolee is allowed a deduction from his or her sentence, the
33 probationer or parolee shall be deemed to be current with any fee to defray the costs of his or
34 her supervision and any payment of restitution for any given month if, during that month, the
35 probationer or parolee makes at least the minimum monthly payment established by the court,
36 the Division or the Board, as applicable.

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

1 **Section 1.** NRS 176A.500 is hereby amended to read as follows:

2 176A.500 1. The period of probation or suspension of sentence may be
3 indeterminate or may be fixed by the court and may at any time be extended or
4 terminated by the court, but the period, including any extensions thereof, must not
5 be more than:

6 (a) Three years for a:

7 (1) Gross misdemeanor; or

8 (2) Suspension of sentence pursuant to NRS 176A.260, 176A.290 or
9 453.3363; or

10 (b) Five years for a felony.

11 2. At any time during probation or suspension of sentence, the court may
12 issue a warrant for violating any of the conditions of probation or suspension of
13 sentence and cause the defendant to be arrested. Except for the purpose of giving a
14 dishonorable discharge from probation, and except as otherwise provided in this
15 subsection, the time during which a warrant for violating any of the conditions of
16 probation is in effect is not part of the period of probation. If the warrant is
17 cancelled or probation is reinstated, the court may include any amount of that time
18 as part of the period of probation.

19 3. Any parole and probation officer or any peace officer with power to arrest
20 may arrest a probationer without a warrant, or may deputize any other officer with
21 power to arrest to do so by giving the probationer a written statement setting forth
22 that the probationer has, in the judgment of the parole and probation officer,
23 violated the conditions of probation. Except as otherwise provided in subsection 4,
24 the parole and probation officer or the peace officer, after making an arrest, shall
25 present to the detaining authorities, if any, a statement of the charges against the
26 probationer. The parole and probation officer shall at once notify the court which
27 granted probation of the arrest and detention or residential confinement of the
28 probationer and shall submit a report in writing showing in what manner the
29 probationer has violated the conditions of probation.

30 4. A parole and probation officer or a peace officer may immediately release
31 from custody without any further proceedings any person the officer arrests without
32 a warrant for violating a condition of probation if the parole and probation officer

1 or peace officer determines that there is no probable cause to believe that the person
2 violated the condition of probation.

3 5. A person who is sentenced to serve a period of probation for a felony or a
4 gross misdemeanor ~~must be allowed for the period of the probation a deduction as~~
5 ~~set forth in subsection 6 if the offender is in compliance with the terms and~~
6 ~~conditions of the probation as determined by the Division and is:~~

7 ~~— (a) Current with any fee to defray the cost of the supervision charged pursuant~~
8 ~~to NRS 213.1076 and with any fines, fees and restitution ordered by the court,~~
9 ~~including, without limitation, any payment of restitution required pursuant to NRS~~
10 ~~176A.430; and~~

11 ~~— (b) Actively involved in employment or enrolled in a program of education,~~
12 ~~rehabilitation or any other program approved by the Division.~~

13 ~~6. A person described in subsection 5 must be allowed for the period of the~~
14 ~~probation a deduction of:~~

15 (a) Ten days from that period for each month the person serves and is current
16 ~~with any fees fee~~ to defray the ~~cost costs~~ of ~~the~~ his or her supervision
17 ~~owed charged by the Division of Parole and Probation of the Department of~~
18 ~~Public Safety pursuant to NRS 213.1076 and with any fines, fees and~~
19 ~~payment of restitution ordered by the court and , including, without limitation,~~
20 ~~any payment of restitution required pursuant to NRS 176A.430. A person shall be~~
21 ~~deemed to be current with any such fee and payment of restitution for any given~~
22 ~~month if, during that month, the person makes at least the minimum monthly~~
23 ~~payment established by the court or, if the court does not establish a minimum~~
24 ~~monthly payment, by the Division.~~

25 (b) Except as otherwise provided in subsection 7, ~~an additional~~ 10 days from
26 that period for each month the person serves and is actively involved in
27 employment or enrolled in a program of education, rehabilitation or any other
28 program approved by the Division.

29 **6. A person must be allowed a deduction pursuant to paragraph (a) or (b) of**
30 **subsection 5 regardless of whether the person has satisfied the requirements of**
31 **the other paragraph and must be allowed a deduction pursuant to paragraphs (a)**
32 **and (b) of subsection 5 if the person has satisfied the requirements of both**
33 **paragraphs of that subsection.**

34 7. A person who is sentenced to serve a period of probation for a felony or a
35 gross misdemeanor and who is a participant in a specialty court program must be
36 allowed a deduction from the period of probation for being actively involved in
37 employment or enrolled in a program of education, rehabilitation or any other
38 program approved by the Division only if the person successfully completes the
39 specialty court program. Such a deduction must not exceed the length of time
40 remaining on the person's period of probation.

41 8. As used in this section, "specialty court program" means a program
42 established by a court to facilitate testing, treatment and oversight of certain
43 persons over whom the court has jurisdiction and who the court has determined
44 suffer from mental illnesses or abuse alcohol or drugs. Such a program includes,
45 without limitation, a program established pursuant to NRS 176A.250 or 453.580.

46 **Sec. 1.5. NRS 209.4465 is hereby amended to read as follows:**

47 209.4465 1. An offender who is sentenced to prison for a crime committed
48 on or after July 17, 1997, who has no serious infraction of the regulations of the
49 Department, the terms and conditions of his or her residential confinement or the
50 laws of the State recorded against the offender, and who performs in a faithful,
51 orderly and peaceable manner the duties assigned to the offender, must be allowed:

1 (a) For the period the offender is actually incarcerated pursuant to his or her
2 sentence;

3 (b) For the period the offender is in residential confinement; and

4 (c) For the period the offender is in the custody of the Division of Parole and
5 Probation of the Department of Public Safety pursuant to NRS 209.4886 or
6 209.4888,

7 ↪ a deduction of 20 days from his or her sentence for each month the offender
8 serves.

9 2. In addition to the credits allowed pursuant to subsection 1, the Director
10 may allow not more than 10 days of credit each month for an offender whose
11 diligence in labor and study merits such credits. In addition to the credits allowed
12 pursuant to this subsection, an offender is entitled to the following credits for
13 educational achievement:

14 (a) For earning a general educational development certificate or an equivalent
15 document, 60 days.

16 (b) For earning a high school diploma, 90 days.

17 (c) For earning his or her first associate degree, 120 days.

18 3. The Director may, in his or her discretion, authorize an offender to receive
19 a maximum of 90 days of credit for each additional degree of higher education
20 earned by the offender.

21 4. The Director may allow not more than 10 days of credit each month for an
22 offender who participates in a diligent and responsible manner in a center for the
23 purpose of making restitution, program for reentry of offenders and parolees into
24 the community, conservation camp, program of work release or another program
25 conducted outside of the prison. An offender who earns credit pursuant to this
26 subsection is eligible to earn the entire 30 days of credit each month that is allowed
27 pursuant to subsections 1 and 2.

28 5. The Director may allow not more than 90 days of credit each year for an
29 offender who engages in exceptional meritorious service.

30 6. The Board shall adopt regulations governing the award, forfeiture and
31 restoration of credits pursuant to this section.

32 7. Except as otherwise provided in subsections 8 and 9, credits earned
33 pursuant to this section:

34 (a) Must be deducted from the maximum term or the maximum aggregate term
35 imposed by the sentence, as applicable; and

36 (b) Apply to eligibility for parole unless the offender was sentenced pursuant to
37 a statute which specifies a minimum sentence that must be served before a person
38 becomes eligible for parole.

39 8. Credits earned pursuant to this section by an offender who has not been
40 convicted of:

41 (a) Any crime that is punishable as a felony involving the use or threatened use
42 of force or violence against the victim;

43 (b) A sexual offense that is punishable as a felony;

44 (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is
45 punishable as a felony; or

46 (d) A category A or B felony,

47 ↪ apply to eligibility for parole and, except as otherwise provided in subsection 9,
48 must be deducted from the minimum term or the minimum aggregate term imposed
49 by the sentence, as applicable, until the offender becomes eligible for parole and
50 must be deducted from the maximum term or the maximum aggregate term
51 imposed by the sentence, as applicable.

1 9. Credits deducted pursuant to subsection 8 may reduce the minimum term
2 or the minimum aggregate term imposed by the sentence, as applicable, by not
3 more than 58 percent for an offender who:

- 4 (a) Is serving a sentence for an offense committed on or after July 1, 2014; or
5 (b) On or after July 1, 2014, makes an irrevocable election to have his or her
6 consecutive sentences aggregated pursuant to NRS 213.1212.

7 10. In addition to the credits allowed pursuant to this section, if the
8 Governor determines, by executive order, that it is necessary, the Governor may
9 authorize the deduction of not more than 5 days from a sentence for each month
10 an offender serves. This subsection must be uniformly applied to all offenders
11 under a sentence at the time the Governor makes such a determination.

12 **Sec. 2.** NRS 209.4475 is hereby amended to read as follows:

13 209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an
14 offender who is on parole as of January 1, 2004, or who is released on parole on or
15 after January 1, 2004, for a term less than life must be allowed for the period the
16 offender is actually on parole a deduction of 20 days from the offender's sentence
17 for each month the offender serves if:

18 (a) The offender is current with any fee to defray the costs of his or her
19 supervision *charged by the Division of Parole and Probation of the Department of*
20 *Public Safety* pursuant to NRS 213.1076; and

21 (b) The offender is current with any payment of restitution required *by the*
22 *State Board of Parole Commissioners* pursuant to NRS 213.126.

23 2. *An offender shall be deemed to be current with any fee and payment of*
24 *restitution described in subsection 1 for any given month if, during that month,*
25 *the offender makes at least the minimum monthly payment established by:*

26 (a) *The Division of Parole and Probation of the Department of Public Safety,*
27 *if any; and*

28 (b) *The State Board of Parole Commissioners, if any.*

29 3. In addition to any credits earned pursuant to subsection 1 and NRS
30 209.447, the Director may allow not more than 10 days of credit each month for an
31 offender:

32 (a) Who is on parole as of January 1, 2004, or who is released on parole on or
33 after January 1, 2004, for a term less than life; and

34 (b) Whose diligence in labor or study merits such credits.

35 ~~1-3~~ 4. An offender is entitled to the deductions authorized by this section
36 only if the offender satisfies the conditions of subsection 1 or ~~1-2~~ 3, as determined
37 by the Director. The Chief Parole and Probation Officer or other person responsible
38 for the supervision of an offender shall report to the Director the failure of an
39 offender to satisfy those conditions.

40 ~~1-4~~ 5. Credits earned pursuant to this section must, in addition to any credits
41 earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and
42 209.449, be deducted from the maximum term or the maximum aggregate term
43 imposed by the sentence, as applicable.

44 ~~1-5~~ 6. The Director shall maintain records of the credits to which each
45 offender is entitled pursuant to this section.

46 **Sec. 3.** 1. The amendatory provisions of this act apply to offenses
47 committed before, on or after July 1, 2017.

48 2. For the purpose of calculating credits earned by a person pursuant to :

49 (a) NRS 176A.500 or 209.4475, the amendatory provisions of this act must be
50 applied only to credits earned by the person on or after July 1, 2017.

51 (b) NRS 209.4465, the amendatory provisions of this act may be applied
52 retroactively for not more than 5 years after the date of any executive order

1 **issued pursuant to subsection 10 of NRS 209.4465, if the Governor determines**
2 **that it is necessary.**
3 **Sec. 4.** This act becomes effective on July 1, 2017.