

Amendment No. 141

Assembly Amendment to Assembly Bill No. 125	(BDR 16-233)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No 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"/>

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.



ASSEMBLY BILL NO. 125—ASSEMBLYMEN DURAN, NGUYEN, FLORES, WATTS; PETERS AND TORRES

FEBRUARY 15, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to credits against sentences of offenders. (BDR 16-233)

FISCAL NOTE: Effect on Local Government: No. 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 offenders; allowing certain offenders ~~[convicted of Category B felonies]~~ to have credits deducted from the minimum term or minimum aggregate term imposed by a sentence; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that under certain circumstances an offender may earn credits to reduce his or her sentence of imprisonment, which must be deducted from the maximum term or the maximum aggregate term imposed by a sentence. For certain offenders, credits must also be deducted from the minimum term or the minimum aggregate term imposed by a sentence. However, credits earned by offenders convicted of certain offenses, such as a category B felony, may not be deducted from the minimum term or the minimum aggregate term imposed by a sentence. (NRS 209.4465)

Section 1 of this bill eliminates the restriction against deducting credits from the minimum term or the minimum aggregate term imposed by a sentence for an offender who has been convicted of a category B felony ~~§~~, but provides that an offender who has been convicted of certain offenses remains ineligible to deduct credits from the minimum term or minimum aggregate term imposed by a sentence. Section 1 also revises the applicability of this provision to offenses committed on or after July 1, 2007. Section 2 of this bill makes the changes in section 1 retroactive for offenders who committed offenses before October 1, 2021, the effective date of this bill ~~§~~, unless doing so would violate the ex post facto clause of the United States Constitution or Nevada Constitution.

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

Section 1. NRS 209.4465 is hereby amended to read as follows:
209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, 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 committed the
40 offense on or after July 1, 2007, and who has not been 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 or an attempt to commit a sexual offense that is
44 punishable as a felony;

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

47 (d) A residential burglary pursuant to paragraph (a) of subsection 1 of NRS
48 205.060 that was committed on or after July 1, 2020;

49 (e) A habitual criminal adjudication pursuant to paragraph (a) of subsection
50 1 of NRS 207.010; or

51 (f) A category A ~~[or B]~~ felony,

52 ↪ apply to eligibility for parole and, except as otherwise provided in subsection 9,
53 must be deducted from the minimum term or the minimum aggregate term imposed

1 by the sentence, as applicable, until the offender becomes eligible for parole and
2 must be deducted from the maximum term or the maximum aggregate term
3 imposed by the sentence, as applicable.

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

7 (a) Is serving a sentence for an offense committed on or after July 1, 2014; or

8 (b) On or after July 1, 2014, makes an irrevocable election to have his or her
9 consecutive sentences aggregated pursuant to NRS 213.1212.

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

15 **Sec. 2. 1. Except as otherwise provided in subsection 2:**

16 **(a)** The amendatory provisions of this act apply to offenses committed before,
17 on or after October 1, 2021.

18 **(b)** For the purpose of calculating credits earned by a person pursuant to NRS
19 209.4465, as amended by section 1 of this act, the amendatory provisions of this act
20 must be applied retroactively.

21 **2. The amendatory provisions of this act do not apply to offenses**
22 **committed before, on or after October 1, 2021, and for the purpose of**
23 **calculating credits earned by a person pursuant to NRS 209.4465, as amended**
24 **by section 1 of this act, must not be applied retroactively if applying the**
25 **amendatory provisions of this act in such a manner would constitute a**
26 **violation of Section 10 of Article 1 of the United States Constitution or Section**
27 **15 of Article 1 of the Nevada Constitution.**