
ASSEMBLY BILL NO. 367—ASSEMBLYMEN SETTELMEYER, COBB,
HARDY; ANDERSON, CARPENTER, CHRISTENSEN, CONKLIN,
GANSERT, GOEDHART, GOICOECHEA, GRADY, GUSTAVSON,
HAMBRICK, KIRKPATRICK, MASTROLUCA, MCARTHUR,
MCCLAIN, SEGERBLOM, STEWART AND WOODBURY

MARCH 16, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes relating to departments of
alternative sentencing. (BDR 16-979)

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 departments of alternative sentencing;
authorizing a department of alternative sentencing to
supervise certain persons who are released from custody
before trial or sentencing; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a board of county commissioners to create a department
2 of alternative sentencing for the purposes of supervising certain persons convicted
3 of misdemeanors and serving suspended sentences or terms of residential
4 confinement. (Chapter 211A of NRS) This bill: (1) authorizes a department of
5 alternative sentencing to supervise persons charged with or convicted of
6 misdemeanors, gross misdemeanors or felonies who have been released from
7 custody before trial or sentencing, subject to the conditions imposed by the court;
8 and (2) provides that such persons are generally subject to the same statutory
9 provisions as the other persons currently supervised by a department of alternative
10 sentencing.



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

1 **Section 1.** NRS 211A.050 is hereby amended to read as
2 follows:

3 211A.050 “Court” means a court having jurisdiction over a
4 person who is charged with a misdemeanor ~~[]~~, *gross misdemeanor*
5 *or felony*.

6 **Sec. 2.** NRS 211A.070 is hereby amended to read as follows:

7 211A.070 “Probationer” means a person who ~~[has]~~ :

8 1. *Has* been convicted of a misdemeanor ~~[]~~ *and* who:

9 ~~[]~~ (a) Has had his sentence suspended pursuant to NRS 4.373
10 or 5.055, and is serving that suspended sentence; or

11 ~~[]~~ (b) Has been sentenced to a term of residential confinement
12 pursuant to NRS 4.3762 or 5.076, and is serving that term of
13 residential confinement ~~[]~~; *or*

14 2. *Has been charged with or convicted of a misdemeanor,*
15 *gross misdemeanor or felony and who has been released from*
16 *custody before trial or sentencing, subject to the conditions*
17 *imposed by the court.*

18 **Sec. 3.** NRS 211A.080 is hereby amended to read as follows:

19 211A.080 The board of each county may create a department
20 of alternative sentencing to provide a program of supervision for
21 probationers ~~[]~~ *in accordance with any conditions imposed by the*
22 *court.*

23 **Sec. 4.** NRS 211A.090 is hereby amended to read as follows:

24 211A.090 The department shall:

25 1. Supervise a probationer ~~[]~~ who , as a condition of *pretrial*
26 *or presentence release*, a suspended sentence or a sentence to
27 residential confinement, is released under the supervision of the
28 department by the court.

29 2. At the time a probationer is released under the supervision of
30 the department:

31 (a) Provide the probationer with a written statement describing
32 the terms or conditions of the *pretrial or presentence release*,
33 suspended sentence or residential confinement imposed by the
34 court; and

35 (b) Explain the terms or conditions to the probationer.

36 3. Be knowledgeable about the conduct and activities of each
37 probationer under the supervision of the department.

38 4. Use all reasonable methods to assist a probationer under the
39 supervision of the department to improve his conduct and comply
40 with the terms or conditions of his *pretrial or presentence release*,
41 suspended sentence or residential confinement.



1 5. Collect and disburse any money in accordance with the
2 orders of the court and make a written record of any money so
3 collected or disbursed.

4 6. Cooperate with and assist any agency of law enforcement
5 and any agency providing social services as requested by the court,
6 or as necessary to fulfill the duties of the department.

7 **Sec. 5.** NRS 211A.110 is hereby amended to read as follows:

8 211A.110 The chief shall:

9 1. Hire assistant alternative sentencing officers and other
10 employees as necessary to carry out the responsibilities of the
11 department within the limitations of appropriations to the
12 department by the board.

13 2. Direct the work of all assistants and employees.

14 3. Be responsible for the fiscal affairs of the department.

15 4. Be responsible for the completion of any report regarding an
16 investigation or the supervision of a probationer and any report
17 requested by the court or the board.

18 5. After reviewing and considering recognized correctional
19 programs and courses for training correctional staff, develop and
20 provide to assistants and other employees training in methods and
21 policies regarding the investigation and supervision of probationers,
22 the recordkeeping of the department and the reporting on matters
23 relating to probationers.

24 6. Submit a written report, on or before January 31 of each
25 year, to the board and to each court having jurisdiction over a
26 probationer under his supervision, setting forth in detail the
27 activities of the department during the previous calendar year. The
28 report must include statistical data concerning the department's
29 activities and operations and the probationers who were under the
30 supervision of the department during that period.

31 7. Advise the court of any probationer who has violated the
32 terms or conditions of his *pretrial or presentence release*,
33 suspended sentence or residential confinement.

34 **Sec. 6.** NRS 211A.125 is hereby amended to read as follows:

35 211A.125 1. The chief or an assistant may arrest a
36 probationer without a warrant if there is probable cause to believe
37 that the probationer has committed an act that constitutes a violation
38 of a condition of his *pretrial or presentence release*, suspended
39 sentence or residential confinement.

40 2. Any other peace officer may arrest a probationer upon
41 receipt of a written order by a chief or an assistant stating that there
42 is probable cause to believe that a probationer has committed an act
43 that constitutes a violation of a condition of his *pretrial or*
44 *presentence release*, suspended sentence or residential confinement.



1 3. After making an arrest, the chief, assistant or other peace
2 officer shall immediately notify the ~~[sentencing]~~ court of the arrest
3 of the probationer and shall submit a written report setting forth the
4 act that constituted a violation of a condition of the *pretrial or*
5 *presentence release*, suspended sentence or residential confinement
6 of the probationer.

7 4. A chief, an assistant or another peace officer may
8 immediately release from custody without any further proceedings
9 any probationer arrested without a warrant pursuant to this section if
10 he determines that there is not probable cause to believe that the
11 person violated the condition of his *pretrial or presentence release*,
12 suspended sentence or residential confinement.

13 **Sec. 7.** NRS 211A.127 is hereby amended to read as follows:

14 211A.127 1. If a probationer has violated a condition of his
15 suspended sentence, the court may, upon its own motion or upon the
16 report and recommendation of the chief or an assistant, do any or all
17 of the following:

18 (a) Modify the conditions of the suspension of the sentence.

19 (b) Modify and extend the suspension of the sentence, in whole
20 or in part, for a period of not more than 1 year after the date on
21 which the court finds that the probationer has committed the
22 violation, unless a longer period is authorized by specific statute.

23 (c) Revoke the suspension of the sentence, in whole or in part,
24 and cause all or part of the sentence to be executed.

25 2. *If a probationer has violated a condition of his pretrial or*
26 *presentence release, the court may, upon its own motion or upon*
27 *the report and recommendation of the chief or an assistant, do any*
28 *or all of the following:*

29 (a) *Modify the conditions of his pretrial or presentence release.*

30 (b) *Revoke his pretrial or presentencing release.*

31 (c) *Consider the violation at the time of sentencing.*

32 3. Before taking any action described in subsection 1 ~~H~~ or 2,
33 the court shall provide the probationer with notice of the proposed
34 action and an opportunity to be heard.

35 **Sec. 8.** NRS 211A.130 is hereby amended to read as follows:

36 211A.130 1. The board shall adopt a schedule of fees to be
37 imposed on probationers to defray the cost of the supervision of a
38 probationer. The schedule adopted must provide for a monthly fee
39 of not less than \$20 for the supervision of a probationer.

40 2. Except as otherwise provided in subsection 3:

41 (a) The department shall charge each probationer the fee set
42 forth in the schedule adopted pursuant to subsection 1.

43 (b) Payment of the required fee by the probationer is a condition
44 of his *pretrial or presentence release*, suspended sentence or
45 residential confinement.



1 3. If the chief determines that payment of the fee would result
2 in economic hardship to a probationer, the chief may waive the
3 imposition of, or reduce the amount of, the fee. If the chief waives
4 the imposition of the fee, payment of the fee by the probationer does
5 not constitute a condition of his *pretrial or presentence release*,
6 suspended sentence or residential confinement.

7 **Sec. 9.** This act becomes effective on July 1, 2009.

