

WORK SESSION DOCUMENT II

Advisory Commission on the Administration of Justice
[Nevada Revised Statutes 176.0123]

September 24, 2010

The following “Work Session Document” was prepared by staff of the Advisory Commission on the Administration of Justice (“Advisory Commission”) (*Nevada Revised Statutes* 176.0123). This is the second work session document of this interim and contains recommendations that the Advisory Commission requested to be continued from the meeting of June 23, 2010.

The possible recommendations listed in the document do not necessarily have the support or opposition of the Advisory Commission. Rather, these possible recommendations are compiled and organized to assist the members in considering the recommendations during the work session. The Advisory Commission may adopt, change, reject or further consider any recommendation. The individual sponsor or joint sponsors of each recommendation are referenced in parentheses after each recommendation.

Under NRS 176.0125, the Advisory Commission is charged with examining various aspects of the criminal justice system and, prior to the next regular session of the Legislature must prepare and submit to the Director of the Legislative Counsel Bureau a comprehensive report including the Advisory Commission’s findings and any recommendations for proposed legislation. The Advisory Commission does not have any bill draft requests allocated by statute; however, individual legislators or the Chair of any standing committee may choose to sponsor any Advisory Commission recommendation for legislation.

For purposes of this document, the recommendations have been organized by topic and are not listed in any preferential order. Additionally, although possible actions may be identified within each recommendation, the Advisory Commission may choose to recommend any of the following actions: (1) draft legislation to amend the Nevada Revised Statutes; (2) draft a resolution; (3) draft a letter; or (4) include a statement of support in the final report.

At the work session held on June 23, 2010, the Advisory Commission approved six total recommendations for the drafting of legislation. Additionally, the Advisory Commission approved one recommendation to include a statement in the final report. Finally, the Advisory Commission requested that the following seven recommendations be returned for further consideration:

RECOMMENDATION NO. 1 — Draft legislation to provide for the centralized collection of fines, fees and restitution from convicted persons. (Commissioner Hardesty)

Background Information for Recommendation No. 1

Tab A - Assembly Bill No. 271 (First Reprint) (2009).

Tab B - Proposal for legislation to centralize the collection of fines, administrative assessments, fees and restitution.

During the Advisory Commission meeting held on March 30, 2010, Commissioner Hardesty presented a detailed PowerPoint on the need for the centralized collection of fines, administrative assessments, fees and restitution from convicted persons. Commissioner Hardesty asserted that many of these past due amounts are not collected simply because no single entity is assigned the primary responsibility for coordinating and collecting the obligations. He suggested that there is also confusion over the priority in which to apply any amounts that are actually collected. Further, many offenders do not complete payment of their obligations before they are released from supervision, which further exacerbates collection problems.

Commissioner Hardesty noted that the issue of collecting past due amounts from convicted persons was previously raised in Assembly Bill No. 271 (2009) (Tab A) as was endorsed by the Advisory Commission during the 2008-2009 interim; however, that bill did not pass out of the Senate. As an alternative to AB 271, which would have required the Office of the Court Administrator to collect any past due fines, administrative assessments, fees and restitution, Commissioner Hardesty suggested that the Commission consider recommending alternative legislation to amend chapter 353C of NRS to centralize collections within the offices of the State Controller and the Attorney General.

At the work session held on June 23, 2010, Commissioner Hardesty suggested that the Advisory Commission recommend redrafting AB 271, but delete all of the provisions relating to administrative probation. Additionally, Commissioner Masto further suggested that the State Controller rather than the Office of the Court Administrator collect any past due fines, administrative assessments, fees or restitution. (Tab B)

RECOMMENDATION NO. 2 — Draft legislation to amend the NRS to impose limitations on the use of psychological or psychiatric examinations of victims and witnesses in sexual offense prosecutions. [Advisory Commission on the Administration of Justice's Subcommittee on Victims of Crime (Commissioner Mastro)]

Background Information for Recommendation No. 2

Tab C – Proposed language for a bill draft submitted by the Subcommittee on Victims of Crime.

This proposal for legislation would prohibit a court from ordering a victim or witness to submit to a psychological or psychiatric examination in a criminal prosecution of a sexual offense. The proposed legislation would also authorize a court to exclude such evidence absent a prima facie showing of a compelling need for a psychological or psychiatric examination and consent of the victim or witness to such examination.

At the work session held on June 23, 2010, the Advisory Commission requested this recommendation to be held for the next meeting.

RECOMMENDATION NO. 3 — Draft legislation to reclassify certain category B felonies, all B felonies with a penalty of 1-6 years or certain non-violent category B felonies to be lowered to a category C felony. (Commissioner Kohn)

Background Information for Recommendation No. 3

Tab D – Spreadsheets identifying all category B felonies and listing those category B felonies with a penalty of 1-6 years imprisonment.

The Advisory Commission on the Administration of Justice's Subcommittee on the Reclassification of Crimes held two meetings during which the possibility of reclassifying certain category B felonies was discussed. At those meetings, several Subcommittee members suggested that all category B offenses that currently provide a penalty of a minimum term of imprisonment of 1 year and a maximum term of imprisonment of 6 years, or conversely any category B felonies not involving violence, be lowered to a category C.

Testimony indicated that there are currently over 200 category B felonies currently in Nevada law and that 62 percent of Nevada's prison population is composed of inmates serving a sentence for a category B felony. The Subcommittee noted that one of the major issues with category B felonies is that a person sentenced for committing a category B felony is not eligible for additional credits to reduce the minimum term of imprisonment authorized for category C, D and E felonies pursuant to Assembly Bill No. 510 (2007). However, the Subcommittee did not officially take action on any particular recommendation to lower current category B felonies.

At the work session held on June 23, 2010, the Advisory Commission requested this recommendation to be held for the next meeting. Chairman Horne and Commissioner Hardesty indicated that they would contact the Pew Charitable Trust to determine the possibility of providing funding for future study of Nevada's sentencing scheme.

RECOMMENDATION NO. 4 — Draft legislation to amend NRS 209.4465 to allow offenders convicted of certain category B felonies to be eligible for credits to reduce the minimum term of imprisonment imposed. (Commissioner Kohn as was suggested by Dr. James Austin to the Advisory Commission on the Administration of Justice's Subcommittee on the Reclassification of Crimes)

Background Information for Recommendation No. 4

Tab E – Bill draft proposal submitted by Commissioner Kohn.

This proposal would extend the application of good time credits earned by offenders convicted of certain category B felonies to the minimum term of imprisonment, as is currently authorized for offenders convicted of category C, D and E felonies pursuant to Assembly Bill No. 510 (2007). As per the existing statutory scheme under NRS 209.4465, this proposal would exclude category B felonies which involve any crime involving the use or threatened use of force or violence against the victim, a sexual offense or driving under the influence.

At the work session held on June 23, 2010, the Advisory Commission requested this recommendation to be held for the next meeting. Chairman Horne and Commissioner Hardesty indicated that they would contact the Pew Charitable Trust to determine the possibility of providing funding for future study of Nevada's sentencing scheme.

RECOMMENDATION NO. 5 — Draft legislation to require DNA testing for all persons arrested for a felony. (Bring Bri Justice Foundation)

Background Information for Recommendation No. 5

Tab F – Bring Bri Justice Foundation - About Us; Brianna’s Law - Preliminary; and Assembly Bill No. 234 (2009).

During the Advisory Commission meeting held on March 30, 2010, Ms. Lauren Denison, Center Coordinator, Bring Bri Justice Foundation, along with several other members of the Bring Bri Justice Foundation, provided the Commission with an overview of their proposed legislation (Brianna’s Law) (Tab F) to mandate DNA testing of all persons arrested on felony charges. Similar legislation was introduced during the 2009 Legislative Session, Assembly Bill No. 234 (Tab F); however, that legislation did not pass. According to testimony, 21 other states and the federal government require DNA testing upon arrest for committing a felony. The Foundation members also asserted that such testing would save Nevada money by identifying felons before they can commit future crimes, thus leading to fewer victims and fewer prosecutions.

At the work session held on June 23, 2010, the Advisory Commission requested this recommendation to be held for the next meeting.

RECOMMENDATION NO. 6 — Draft legislation to revise the laws governing compassionate release for seriously ill offenders. (Commissioner Siegel)

Background Information for Recommendation No. 6

Tab G – Washington House Bill 2194 (2009); and NRS 209.3925.

This recommendation, based on the State of Washington's recently passed legislation (**Tab G**) seeks to revise NRS 209.3925 to authorize the Department of Corrections to release prisoners on parole who have serious medical problems when: 1) the offender has a medical condition that is serious enough to require costly care for treatment; 2) the offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and 3) granting the extraordinary medical placement will result in a cost savings to the State. The medical release would be unavailable to any prisoner serving a sentence of life without the possibility of parole or death. Additionally, any prisoner so released is required to be under electronic surveillance unless it interferes with the medical care, and the medical release may be revoked at any time.

At the work session held on June 23, 2010, the Advisory Commission requested this recommendation to be held for the next meeting. Additionally, staff was directed to compare Washington's law to existing Nevada law. In reviewing Washington's House Bill 2194 (2009) and NRS 209.3925, it does not appear that Washington's law provides any broader authority to grant medical release to an offender than under the current authority provided in NRS 209.3925.

Under current Nevada law, the Director may assign an offender to the Division of Parole and Probation to serve a term of residential confinement if: (1) the Director has reason to believe the offender is physically incapacitated or in ill health and does not pose a threat to the safety of the public or (2) is in ill health and expected to die within 12 months and does not pose a threat to the safety of the public, and (3) at least two physicians have verified the offender's health. The Washington law instead provides that three requirements must be met: (1) the offender has a medical condition that is serious enough to require costly care for treatment; (2) the offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; (3) and granting the extraordinary medical placement will result in a cost savings to the State.

The only other substantive difference between Washington's law and Nevada's current statute is that under Washington's law an offender is released to electronic surveillance. Several Commissioners indicated opposition at the June work session to any release of such offenders to electronic surveillance in Nevada.

RECOMMENDATION NO. 7 — Include a statement in the final report recognizing the need to investigate and support future study of Nevada's criminal justice system. (Chairman Horne and Commissioner Hardesty)

Background Information for Recommendation No. 7

Chairman Horne and Commissioner Hardesty are working to schedule a future meeting with Dr. James Austin and the Pew Charitable Trust to examine the possibility of a financial collaboration to further explore Nevada's criminal justice system, including the current sentencing structure. This recommendation would indicate a statement of support for continued ongoing research and study of Nevada's criminal justice system.

At the work session held on June 23, 2010, the Advisory Commission requested this recommendation to be held for the next meeting. Chairman Horne and Commissioner Hardesty indicated that they would contact the Pew Charitable Trust to determine the possibility of providing funding for future study of Nevada's sentencing scheme.

A

ASSEMBLY BILL NO. 271—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION ON THE
ADMINISTRATION OF JUSTICE)

MARCH 9, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR 14-903)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~(omitted material)~~ is material to be omitted.

AN ACT relating to convicted persons; requiring the Office of Court Administrator to collect fines, administrative assessments, fees and restitution from a person convicted of certain offenses; providing that a person convicted of certain offenses may be placed on administrative probation under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that if a fine, administrative assessment, fee or restitution
2 imposed upon a defendant is delinquent: (1) the defendant is liable for a collection
3 fee; (2) the entity responsible for collecting the delinquent amount may report the
4 delinquency to credit reporting agencies, may contract with a collection agency and
5 may request that the court take appropriate action; and (3) the court may request
6 that a prosecuting attorney undertake collection efforts, may order the suspension
7 of the driver's license of the defendant and may, in the case of a delinquent fine or
8 administrative assessment, order that the defendant be confined in the appropriate
9 prison, jail or detention facility. (NRS 176.064)
10 **Sections 1, 3 and 6** of this bill provide that if a defendant is ordered to pay a
11 fine, administrative assessment, fee or restitution for a felony or gross
12 misdemeanor, the Office of Court Administrator is responsible for: (1) collecting
13 the fine, administrative assessment, fee or restitution; and (2) distributing the fine,
14 administrative assessment, fee or restitution to the entity entitled to receive it.
15 **Section 1** also requires: (1) each district court, the Chief of the Division of Parole
16 and Probation of the Department of Public Safety and the Director of the
17 Department of Corrections to provide, upon request and in the manner prescribed



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18 by the Office of Court Administrator, necessary information to the Office of Court
19 Administrator regarding the amount of any fine, administrative assessment, fee or
20 restitution owed by a person convicted of a felony or gross misdemeanor; and (2)
21 the Office of Court Administrator to collaborate with each judicial district, the
22 Department of Public Safety, the Department of Corrections and any other state or
23 local agency involved in the collection of fines, administrative assessments, fees or
24 restitution.

25 Existing law provides that a court may suspend the execution of the sentence of
26 a person and grant probation to the person under certain circumstances. (NRS
27 176A.100) Sections 2 and 5 of this bill provide that at the time of granting
28 probation to a person convicted of a felony or gross misdemeanor or during or at
29 the termination of the period of probation of such a person, the court may also place
30 the person on administrative probation, to commence after termination of the period
31 of probation, if any fine, administrative assessment, fee or restitution is imposed
32 against the person as part of his sentence. During the period of administrative
33 probation: (1) the Office of Court Administrator is required to supervise the person
34 to ensure the collection of any fine, administrative assessment, fee or restitution
35 owed; (2) the person is not required to pay any fee for supervision; and (3) the
36 person remains subject to certain statutory provisions that authorize the court to
37 take action against the person, including suspending his driver's license.

38 Section 4 of this bill authorizes the court to terminate the period of probation of
39 a person and order that the person be placed on administrative probation if the
40 person has satisfied all conditions of his probation other than the payment of any
41 fines, administrative assessments, fees or restitution. (NRS 176A.500)

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

1 Section 1. NRS 176.064 is hereby amended to read as follows:

2 176.064 1. *If a fine, administrative assessment, fee or*
3 *restitution is imposed upon a defendant pursuant to this chapter*
4 *for a felony or gross misdemeanor, the Office of Court*
5 *Administrator shall, in collaboration with the appropriate district*
6 *court, the Department of Public Safety, the Department of*
7 *Corrections and any other state or local agency involved in the*
8 *collection of fines, administrative assessments, fees or restitution:*

9 (a) *Collect the fine, administrative assessment, fee or*
10 *restitution from each defendant through any lawful means,*
11 *including, without limitation, taking any or all of the actions set*
12 *forth in this section; and*

13 (b) *Distribute the fine, administrative assessment, fee or*
14 *restitution collected to the entity that is entitled to receive the fine,*
15 *administrative assessment, fee or restitution.*

16 2. If a fine, administrative assessment, fee or restitution is
17 imposed upon a defendant pursuant to this chapter, whether or not
18 the fine, administrative assessment, fee or restitution is in addition
19 to any other punishment, and the fine, administrative assessment,
20 fee or restitution or any part of it remains unpaid after the time
21 established by the court for its payment, the defendant is liable for a



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1 collection fee, to be imposed by the court at the time it finds that the
2 fine, administrative assessment, fee or restitution is delinquent, of:

3 (a) Not more than \$100, if the amount of the delinquency is less
4 than \$2,000.

5 (b) Not more than \$500, if the amount of the delinquency is
6 \$2,000 or greater, but is less than \$5,000.

7 (c) Ten percent of the amount of the delinquency, if the amount
8 of the delinquency is \$5,000 or greater.

9 ~~{2.} A state}~~

10 3. *The Office of Court Administrator* or a local entity that is
11 responsible for collecting a delinquent fine, administrative
12 assessment, fee or restitution may, in addition to attempting to
13 collect the fine, administrative assessment, fee or restitution through
14 any other lawful means, take any or all of the following actions:

15 (a) Report the delinquency to reporting agencies that assemble
16 or evaluate information concerning credit.

17 (b) Request that the court take appropriate action pursuant to
18 subsection ~~{3.}~~ 4.

19 (c) Contract with a collection agency licensed pursuant to NRS
20 649.075 to collect the delinquent amount and the collection fee. The
21 collection agency must be paid as compensation for its services an
22 amount not greater than the amount of the collection fee imposed
23 pursuant to subsection ~~{4.}~~ 2, in accordance with the provisions of
24 the contract.

25 ~~{3.}~~ 4. The court may, on its own motion or at the request of ~~{a~~
26 ~~state}~~ *the Office of Court Administrator* or a local entity that is
27 responsible for collecting the delinquent fine, administrative
28 assessment, fee or restitution, take any or all of the following
29 actions, in the following order of priority if practicable:

30 (a) Request that a prosecuting attorney undertake collection of
31 the delinquency, including, without limitation, the original amount
32 and the collection fee, by attachment or garnishment of the
33 defendant's property, wages or other money receivable.

34 (b) Order the suspension of the driver's license of the defendant.
35 If the defendant does not possess a driver's license, the court may
36 prohibit the defendant from applying for a driver's license for a
37 specified period. If the defendant is already the subject of a court
38 order suspending or delaying the issuance of his driver's license, the
39 court may order the additional suspension or delay, as appropriate,
40 to apply consecutively with the previous order. At the time the court
41 issues an order suspending the driver's license of a defendant
42 pursuant to this paragraph, the court shall require the defendant to
43 surrender to the court all driver's licenses then held by the
44 defendant. The court shall, within 5 days after issuing the order,
45 forward to the Department of Motor Vehicles the licenses, together



1 with a copy of the order. At the time the court issues an order
2 pursuant to this paragraph delaying the ability of a defendant to
3 apply for a driver's license, the court shall, within 5 days after
4 issuing the order, forward to the Department of Motor Vehicles a
5 copy of the order. The Department of Motor Vehicles shall report a
6 suspension pursuant to this paragraph to an insurance company or
7 its agent inquiring about the defendant's driving record, but such a
8 suspension must not be considered for the purpose of rating or
9 underwriting.

10 (c) For a delinquent fine or administrative assessment, order the
11 confinement of the person in the appropriate prison, jail or detention
12 facility, as provided in NRS 176.065 and 176.075.

13 ~~{4.}~~ 5. Money collected from a collection fee imposed pursuant
14 to subsection ~~{4}~~ 2 must be distributed in the following manner:

15 (a) Except as otherwise provided in paragraph (d), if the money
16 is collected by or on behalf of a municipal court, the money must be
17 deposited in a special fund in the appropriate city treasury. The city
18 may use the money in the fund only to develop and implement a
19 program for the collection of fines, administrative assessments, fees
20 and restitution.

21 (b) Except as otherwise provided in paragraph (d), if the money
22 is collected by or on behalf of a Justice Court or district court, the
23 money must be deposited in a special fund in the appropriate county
24 treasury. The county may use the money in the special fund only to
25 develop and implement a program for the collection of fines,
26 administrative assessments, fees and restitution.

27 (c) Except as otherwise provided in paragraph (d), if the money
28 is collected by ~~{a state entity,}~~ *the Office of Court Administrator,*
29 the money must be deposited in an account, which is hereby created
30 in the State Treasury. The *Office of Court Administrator* may use
31 the money in the account ~~{only}~~ to develop and implement a
32 program for the collection of fines, administrative assessments, fees
33 and restitution ~~{in this State.}~~ *and to pay any costs associated with*
34 *the administrative probation of persons as set forth in section 2 of*
35 *this act.*

36 (d) If the money is collected by a collection agency, after the
37 collection agency has been paid its fee pursuant to the terms of the
38 contract, any remaining money must be deposited in the state, city
39 or county treasury, whichever is appropriate, to be used ~~{only}~~ for
40 the purposes set forth in paragraph (a), (b) or (c) of this subsection.

41 **6. To carry out the provisions of this section:**

42 (a) *Each district court, the Chief of the Division of Parole and*
43 *Probation of the Department of Public Safety and the Director of*
44 *the Department of Corrections shall, upon the request of and in*
45 *the manner prescribed by the Office of Court Administrator,*



1 provide to the Office of Court Administrator such information in
2 their possession regarding the amount of any fine, administrative
3 assessment, fee or restitution owed by a person convicted of a
4 felony or gross misdemeanor as determined necessary by the
5 Office of Court Administrator.

6 (b) The Office of Court Administrator shall collaborate with
7 each district court, the Department of Public Safety, the
8 Department of Corrections and any other state or local agency
9 involved in the collection of fines, administrative assessments, fees
10 or restitution.

11 **Sec. 2.** Chapter 176A of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 1. If a person is convicted of a felony or gross misdemeanor
14 and granted probation pursuant to this chapter, the court may, at
15 the time of granting probation or, upon request of the Office of
16 Court Administrator or the Chief Parole and Probation Officer,
17 during or at the termination of the period of probation, also
18 impose a period of administrative probation, to commence after
19 termination of the period of probation, if any fine, administrative
20 assessment, fee or restitution is imposed on the person as part of
21 his judgment and sentence.

22 2. During the period of administrative probation, the Office
23 of Court Administrator shall supervise the person placed on
24 administrative probation to ensure the collection of any fine,
25 administrative assessment, fee or restitution imposed on the
26 person as part of his judgment and sentence.

27 3. The period of administrative probation must last for a fixed
28 time as determined by the court, except that the court may
29 terminate the administrative probation before the fixed time if the
30 person placed on administrative probation has paid all required
31 fines, administrative assessments, fees and restitution.

32 4. A person placed on administrative probation:

33 (a) Is not required to pay any fee for supervision pursuant to
34 NRS 213.1076 or any other provision of law during the period of
35 administrative probation; and

36 (b) Except as otherwise provided in this paragraph, remains
37 subject to the provisions of NRS 176.064, and the Office of Court
38 Administrator may attempt to collect any fines, administrative
39 assessments, fees and restitution owed by the person through any
40 lawful means, including, without limitation, taking any or all of
41 the actions set forth in NRS 176.064. A person placed on
42 administrative probation is not subject to confinement in the
43 appropriate prison, jail or detention facility, as provided in NRS
44 176.065 and 176.075, for a delinquent fine or administrative
45 assessment.



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1 5. *Except as otherwise provided in this section, administrative*
2 *probation pursuant to this section shall be deemed not to*
3 *constitute a form of probation for the purposes of any other*
4 *provision of law.*

5 **Sec. 3.** NRS 176A.430 is hereby amended to read as follows:

6 176A.430 1. The court shall order as a condition of probation
7 or suspension of sentence, in appropriate circumstances, that the
8 defendant make full or partial restitution to the person or persons
9 named in the order, at the times and in the amounts specified in the
10 order unless the court finds that restitution is impracticable. Such an
11 order may require payment for medical or psychological treatment
12 of any person whom the defendant has injured. In appropriate
13 circumstances, the court shall include as a condition of probation or
14 suspension of sentence that the defendant execute an assignment of
15 wages earned by him while on probation or subject to the conditions
16 of suspension of sentence to the ~~{Division}~~ *Office of Court*
17 *Administrator* for restitution.

18 2. All money received by the ~~{Division}~~ *Office of Court*
19 *Administrator* for restitution for:

20 (a) One victim may; and

21 (b) More than one victim must,

22 ↪ be deposited with the State Treasurer for credit to the Restitution
23 Trust Fund. All payments from the Fund must be paid as other
24 claims against the State are paid.

25 3. If restitution is not required, the court shall set forth the
26 circumstances upon which it finds restitution impracticable in its
27 order of probation or suspension of sentence.

28 4. Failure to comply with the terms of an order for restitution is
29 a violation of a condition of probation or suspension of sentence
30 unless the defendant's failure has been caused by economic hardship
31 resulting in his inability to pay the amount due. The defendant is
32 entitled to a hearing to show the existence of such a hardship.

33 5. If, within 3 years after the defendant has been discharged
34 from probation, the ~~{Division}~~ *Office of Court Administrator* has
35 not located the person to whom the restitution was ordered, the
36 money paid by the defendant must be deposited with the State
37 Treasurer for credit to the Fund for the Compensation of Victims of
38 Crime.

39 **Sec. 4.** NRS 176A.500 is hereby amended to read as follows:

40 176A.500 1. The period of probation or suspension of
41 sentence may be indeterminate or may be fixed by the court and
42 may at any time be extended or terminated by the court, but the
43 period, including any extensions thereof, must not be more than:

44 (a) Three years for a:

45 (1) Gross misdemeanor; or



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1 (2) Suspension of sentence pursuant to NRS 176A.260 or
2 453.3363; or

3 (b) Five years for a felony.

4 *↪ At any time during the period of probation or suspension of*
5 *sentence, if a probationer has satisfied all conditions of probation*
6 *other than the payment of any fines, administrative assessments,*
7 *fees or restitution, the court may terminate the period of probation*
8 *and order that the person be placed on administrative probation as*
9 *set forth in section 2 of this act. Any period of administrative*
10 *probation ordered by the court pursuant to this subsection or*
11 *section 2 of this act must not be counted or considered for the*
12 *purposes of the limitation on the period of probation set forth in*
13 *this subsection.*

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

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

36 4. A parole and probation officer or a peace officer may
37 immediately release from custody without any further proceedings
38 any person he arrests without a warrant for violating a condition of
39 probation if the parole and probation officer or peace officer
40 determines that there is no probable cause to believe that the person
41 violated the condition of probation.

42 5. An offender who is sentenced to serve a period of probation
43 for a felony who has no serious infraction of the regulations of the
44 Division, the terms and conditions of his probation or the laws of
45 the State recorded against him, and who performs in a faithful,



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1 orderly and peaceable manner the duties assigned to him, must be
2 allowed for the period of his probation a deduction of 20 days from
3 that period for each month he serves.

4 **Sec. 5.** NRS 213.1076 is hereby amended to read as follows:
5 213.1076 1. The Division shall:

6 (a) Except as otherwise provided in this section, charge each
7 parolee, probationer or person supervised by the Division through
8 residential confinement a fee to defray the cost of his supervision.

9 (b) Adopt by regulation a schedule of fees to defray the costs of
10 supervision of a parolee, probationer or person supervised by the
11 Division through residential confinement. The regulation must
12 provide for a monthly fee of at least \$30.

13 2. The Chief may waive the fee to defray the cost of
14 supervision, in whole or in part, if he determines that payment of the
15 fee would create an economic hardship on the parolee, probationer
16 or person supervised by the Division through residential
17 confinement.

18 3. Unless waived pursuant to subsection 2, the payment by a
19 parolee, probationer or person supervised by the Division through
20 residential confinement of a fee charged pursuant to subsection 1 is
21 a condition of his parole, probation or residential confinement.

22 4. *This section does not apply to a person who is subject to*
23 *administrative probation pursuant to NRS 176A.500 or section 2*
24 *of this act.*

25 **Sec. 6.** NRS 213.126 is hereby amended to read as follows:

26 213.126 1. Unless complete restitution was made while the
27 parolee was incarcerated, the Board shall impose as a condition of
28 parole, in appropriate circumstances, a requirement that the parolee
29 make restitution to the person or persons named in the statement of
30 parole conditions, including restitution to a governmental entity for
31 expenses related to extradition, at the times specified in the
32 statement unless the Board finds that restitution is impracticable.
33 The amount of restitution must be the amount set by the court
34 pursuant to NRS 176.033. In appropriate circumstances, the Board
35 shall include as a condition of parole that the parolee execute an
36 assignment of wages earned by him while on parole to the
37 ~~{Division}~~ *Office of Court Administrator* for restitution.

38 2. All money received by the ~~{Division}~~ *Office of Court*
39 *Administrator* for restitution for:

40 (a) One victim may; and

41 (b) More than one victim must,

42 ↪ be deposited in the State Treasury for credit to the Restitution
43 Trust Fund which is hereby created.

44 3. The ~~{Division}~~ *Office of Court Administrator* shall make
45 pro rata payments from the money received from the parolee to each



* A B 2 7 1 R 1 *

1 person to whom the restitution was ordered pursuant to NRS
2 176.033. Such a payment must be made:

3 (a) If the money received from the parolee in a single payment is
4 \$200 or more or if the total accumulated amount received from the
5 parolee is \$200 or more, whenever money is received from the
6 parolee.

7 (b) If the money received from the parolee in a single payment
8 is less than \$200 or if the total accumulated amount received from
9 the parolee is less than \$200, at the end of each year until the
10 parolee has paid the entire restitution owed.

11 Any money received from the parolee that is remaining at the end
12 of each year must be paid at that time in pro rata payments to each
13 person to whom the restitution was ordered. A final pro rata
14 payment must be made to such persons when the parolee pays the
15 entire restitution owed.

16 4. A person to whom restitution was ordered pursuant to NRS
17 176.033 may at any time file an application with the {Division}
18 *Office of Court Administrator* requesting the {Division} *Office of*
19 *Court Administrator* to make a pro rata payment from the money
20 received from the parolee. If the {Division} *Office of Court*
21 *Administrator* finds that the applicant is suffering a serious financial
22 hardship and is in need of financial assistance, the {Division} *Office*
23 *of Court Administrator* shall pay to the applicant his pro rata share
24 of the money received from the parolee.

25 5. All payments from the Fund must be paid as other claims
26 against the State are paid.

27 6. If restitution is not required, the Board shall set forth the
28 circumstances upon which it finds restitution impracticable in its
29 statement of parole conditions.

30 7. Failure to comply with a restitution requirement imposed by
31 the Board is a violation of a condition of parole unless the parolee's
32 failure is caused by economic hardship resulting in his inability to
33 pay the amount due. The defendant is entitled to a hearing to show
34 the existence of that hardship.

35 8. If, within 3 years after the parolee is discharged from parole,
36 the {Division} *Office of Court Administrator* has not located the
37 person to whom the restitution was ordered, the money paid to the
38 {Division} *Office of Court Administrator* by the parolee must be
39 deposited in the fund for the compensation of victims of crime.

40 **Sec. 7.** This act becomes effective on January 1, 2010.



B

2

Proposal for Legislation to Centralize the Collection of Fines, Administrative Assessments, Fees and Restitution

Request a Bill Draft Request that:

- Makes the State Controller responsible for collecting fines, administrative assessments, fees and restitution owed by a defendant and makes the State Controller responsible for distributing any amounts so collected from a convicted person.
- Requires the district court, Chief of the Division of Parole and Probation of the Department of Public Safety and Director of the Department of Corrections to provide, upon the request of the State Controller and in the manner prescribed by the State Controller, any information the State Controller deems necessary regarding the amount of any fine, administrative assessment, fee or restitution that is owed by a convicted person.
- Requires the State Controller to collaborate with each judicial district, the Department of Public Safety, the Department of Correction and any other state or local entity that is involved in the collection of amounts owed by convicted persons.

Note: This proposal does not include authority for a court to grant administrative probation to oversee the payment of amounts owed by convicted persons.

C

Psychological or psychiatric examination of victims and witnesses in sexual offense prosecutions

1. In a criminal prosecution of an alleged sexual offense, a court shall not order a victim or witness to take or submit to a psychological or psychiatric examination.
2. The court may exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on a victim or witness upon:
 - (a) a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness by a licensed psychologist, psychiatrist or clinical worker; and
 - (b) a refusal by a victim or witness to submit to an additional psychological or psychiatric examination by a licensed psychologist, psychiatrist or clinical worker.
3. In determining whether a prima facie showing has been made of a compelling need for an additional psychological or psychiatric examination of a victim or witness by a psychologist, psychiatrist or clinical worker, a Court must consider:
 - (a) whether there is a reasonable basis for believing that the mental or emotional state of the victim or witness may have affected his or her ability to perceive and relate events relevant to the criminal prosecution; and
 - (b) whether little or no corroboration of the offense exists beyond the testimony of the victim or witness.
4. If a Court finds a prima facie showing of a compelling need for an additional psychological or psychiatric examination of a victim or witness by a psychologist, psychiatrist or clinical worker, the Court shall set forth a particularized factual finding detailing those reasons to believe that an additional psychological or psychiatric examination of a victim or witness is warranted.
5. If the victim or witness consents to an additional psychological or psychiatric examination, and the court makes the particularized factual findings supporting a compelling need for said examination, then the court shall set parameters for the examination consistent with the purpose of determining the ability of the victim or witness to perceive and relate events relevant to the criminal prosecution.
6. As used in this section, "sexual offense" means any of the following offenses:
 - (a) Sexual assault pursuant to NRS 200.366;
 - (b) Statutory sexual seduction pursuant to NRS 200.368;
 - (c) Battery with intent to commit sexual assault pursuant to NRS 200.400;
 - (d) Abuse of a child pursuant to NRS 200.508 if the abuse involved sexual abuse or sexual exploitation;

- (e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730;
- (f) Incest pursuant to NRS 201.180;
- (g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.095;
- (h) Open or Gross Lewdness pursuant to NRS 201.210;
- (i) Indecent or obscene exposure pursuant to NRS 201.220;
- (j) Lewdness with a child pursuant to NRS 201.230;
- (k) Sexual penetration of a dead human body;
- (l) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section;
- (m) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section;
- (n) Luring a child or a person with mental illness pursuant to NRS 201.560;
- (o) An offense that is found to be sexually motivated pursuant to NRS 175.547 or 207.193;
- (p) Pandering of a child pursuant to NRS 201.300 and NRS 201.330 to 201.340;
- (q) Any other offense that has an element involving a sexual act or sexual conduct of another;
- (r) Any attempt or conspiracy to commit an offense listed in paragraphs (a) to (q).

D

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years. Fines are optional unless otherwise noted. Mandatory restitution is included for those sentences noted by an asterisk (*). (NRS 193.130)

CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Aid or conceal child escaped from a state detention facility (63.610)	1 to 6 years	Not more than \$5,000
Securities fraud (90.650)	1 to 20 years*	Not more than \$500,000
Attempted A felony (193.330)	2 to 20 years	No fine
Attempted B felony with maximum penalty of more than 10 years (193.330)	1 to 10 years	No fine
Treason (196.010)	2 to 10 years	No fine
Rescuing gross misdemeanor or misdemeanor prisoner, use of weapon (199.100)	1 to 6 years	Not more than \$5,000
Intimidating public officer, force involved and subsequent offense (199.300)	2 to 10 years	Not more than \$10,000
Substitution of child (199.370)	1 to 10 years	Not more than \$10,000
Conspiracy to commit robbery; sexual assault; kidnapping in first or second degrees; arson in the first or second degrees; or using personal identifying information unlawfully (199.480)	1 to 6 years	Not more than \$5,000
Conspiracy to commit murder (199.480)	2 to 10 years	Not more than \$5,000
Solicitation to commit murder (199.500)	2 to 15 years	Not more than \$10,000
Voluntary manslaughter (200.080)	1 to 10 years	Not more than \$10,000
Killing unborn quick child (200.210)	1 to 10 years	Not more than \$10,000
Woman taking drugs to terminate pregnancy, after 24th week (200.220)	1 to 10 years	Not more than \$10,000
Killing by overloading vessel, willful conduct (200.230)	1 to 10 years	Not more than \$10,000
Mayhem (200.280)	2 to 10 years	Not more than \$10,000
Kidnapping, second degree (200.330)	2 to 15 years	Not more than \$15,000
Aiding or abetting kidnapping in the second degree (200.340)	2 to 15 years	No fine
Robbery (200.380)	2 to 15 years	No fine
Battery with intent to commit mayhem, robbery, or grand larceny (200.400)	2 to 10 years	Not more than \$10,000
Battery with intent to kill (200.400)	2 to 20 years	No fine
Administration of a drug to aid commission of felony (200.405)	1 to 10 years	No fine
Administration of drug to aid commission of violent crime (200.408)	1 to 20 years	No fine
Challenges to fight or acting for another in challenge to fight; use of deadly weapon (200.450)	1 to 6 years	Not more than \$5,000
False imprisonment either by prisoner without deadly weapon or by other person with deadly weapon (200.460)	1 to 6 years	No fine
False imprisonment by prisoner with deadly weapon (200.460)	1 to 20 years	No fine
False imprisonment using person as a shield (200.460)	1 to 15 years	No fine
Involuntary servitude crimes (200.463)	5 to 20 years	Not more than \$50,000
Involuntary servitude crimes; substantial bodily harm (200.463)	7 to 20 years	Not more than \$50,000
Knowingly recruiting, transporting, or providing person for involuntary servitude or benefiting from involuntary servitude (200.464)	1 to 15 years	Not more than \$50,000
Sale or purchase of another person; related acts (200.465)	5 to 20 years	Not more than \$50,000
Trafficking in persons for financial gain (200.467)	1 to 10 years	Not more than \$50,000
Trafficking in persons for illegal purposes (200.468)	1 to 20 years	Not more than \$50,000
Assault with deadly weapon (200.471) Note: Definition of assault expanded (A.B. 93, Chapter 37, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Assault with a deadly weapon upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official (200.471) Note: Definition of assault expanded (A.B. 93, Chapter 37, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Assault with a deadly weapon upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official by a probationer, prisoner, or parolee (200.471) Note: Definition of assault expanded (A.B. 93, Chapter 37, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Battery upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official performing his duty, substantial bodily harm or strangulation (200.481) (A.B. 164, Chapter 42, <i>Statutes of Nevada 2009</i>)	2 to 10 years	Not more than \$10,000
Battery with a deadly weapon (200.481)	2 to 10 years	Not more than \$10,000
Battery with a deadly weapon, substantial bodily harm or strangulation (200.481) (A.B. 164, Chapter 42, <i>Statutes of Nevada 2009</i>)	2 to 15 years	Not more than \$10,000
Battery by prisoner, probationer, or parolee without a weapon (200.481)	1 to 6 years	No fine
Battery by a prisoner, probationer, or parolee with a deadly weapon (200.481)	2 to 10 years	No fine
Battery by a prisoner, probationer, or parolee with a deadly weapon, substantial bodily harm or strangulation (200.481) (A.B. 164, Chapter 42, <i>Statutes of Nevada 2009</i>)	2 to 15 years	No fine
Criminal neglect of patient, resulting in death (200.495)	1 to 20 years	No fine
Criminal neglect of patient, resulting in substantial bodily harm (200.495)	1 to 6 years	Not more than \$5,000
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering resulting in substantial bodily or mental harm (200.508)	2 to 20 years	No fine
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering, no substantial bodily or mental harm (200.508)	1 to 6 years	No fine
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering, no substantial bodily or mental harm, subsequent violation (200.508)	2 to 15 years	No fine
Child abuse/neglect: Permitting or allowing child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, resulting in substantial bodily or mental harm (200.508)	2 to 20 years	No fine
Mutilation of genitalia of female child (200.5083)	2 to 10 years	Not more than \$10,000
Abuse of older person or vulnerable person, subsequent offense (200.5099)	2 to 6 years*	No fine
Abuse of older person or vulnerable person; substantial bodily or mental harm or death (200.5099)	2 to 20 years*	No fine
Neglecting or permitting older person or vulnerable person to suffer by person with legal responsibility; resulting in substantial bodily or mental harm or death (200.5099)	2 to 6 years*	No fine
Exploitation of older person or vulnerable person, value \$250 - \$5,000 (200.5099)	2 to 10 years*	Not more than \$10,000
Exploitation of older person or vulnerable person, value more than \$5,000 (200.5099)	2 to 20 years*	Not more than \$25,000
Isolation of older person or vulnerable person, subsequent offense (200.5099)	2 to 10 years*	Not more than \$5,000
Aggravated stalking (200.575)	2 to 15 years	Not more than \$5,000
Entering property with intent to conceal self and peer through opening of dwelling; possession of deadly weapon (200.603)	1 to 6 years	Not more than \$5,000
Distribution of child pornography (200.725)	1 to 15 years	Not more than \$15,000
Intentionally viewing pornography depicting child less than 16 years of age controlled through the Internet, subsequent offense (Chapter 200) (A.B. 88, Chapter 471, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Possession of child pornography, first offense (201.730)	1 to 6 years	Not more than \$5,000
Abortion not pursuant to law (201.120)	1 to 10 years	Not more than \$10,000
Knowingly engaging in conduct likely to spread HIV (201.205)	2 to 10 years	Not more than \$10,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Pandering of a child, force or threat of force (201.300) (A.B. 380, Chapter 160, <i>Statutes of Nevada 2009</i>)	2 to 20 years	Not more than \$20,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Pandering of a child, no force or threat of force (201.300) (A.B. 380, Chapter 160, <i>Statutes of Nevada 2009</i>)	1 to 10 years	Not more than \$10,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Detention of child in brothel because of debt, force or threat of force (201.330) (A.B. 380, Chapter 160, <i>Statutes of Nevada 2009</i>)	2 to 20 years	Not more than \$20,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Detention of child in brothel because of debt, no force or threat of force (201.330) (A.B. 380, Chapter 160, <i>Statutes of Nevada 2009</i>)	1 to 10 years	Not more than \$10,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Transporting a prostitute - child; force or threat of force (201.340) (A.B. 380, Chapter 160, <i>Statutes of Nevada 2009</i>)	2 to 20 years	Not more than \$20,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Transporting a prostitute - child; no force or threat of force (201.340) (A.B. 380, Chapter 160, <i>Statutes of Nevada 2009</i>)	1 to 10 years	Not more than \$10,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Prostitute knowingly engaging in conduct likely to spread HIV (201.358)	2 to 10 years	Not more than \$10,000
Unlawful sexual conduct between school employee or volunteer and pupil who is 14 or 15 years old (201.540)	1 to 6 years	Not more than \$5,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Using a computer, system or network to lure a child, person believed to be a child, or mentally ill person to engage in sexual conduct (201.560)	1 to 10 years	Not more than \$10,000
Luring a child, person believed to be a child, or mentally ill person to engage in sexual conduct (201.560)	2 to 15 years	Not more than \$10,000
Luring a child, person believed to be a child, or mentally ill person to provide material harmful to minors (201.560)	1 to 6 years	Not more than \$10,000
Willfully poisoning food, water, or medicine (202.170)	2 to 15 years	Not more than \$10,000
Setting spring gun and causing injury (202.255)	1 to 6 years	Not more than \$5,000
Setting spring gun and causing death (202.255)	1 to 10 years; may be prosecuted as murder depending on circumstances	Not more than \$10,000
Possession, manufacture, or disposition of bomb (202.260)	1 to 6 years	Not more than \$5,000
Possession of components of explosive or incendiary device (202.261)	1 to 6 years	Not more than \$5,000
Discharging firearm into occupied structure (202.285)	1 to 6 years	Not more than \$5,000
Drive-by shooting (202.287)	2 to 15 years	Not more than \$5,000
Permitting minor to unlawfully handle firearm; subsequent offense (202.300)	1 to 6 years	Not more than \$5,000
Unlawful sale of firearm to minor (202.310)	1 to 6 years	Not more than \$5,000
Unlawful use of stun gun (202.357)	1 to 6 years	Not more than \$5,000
Possession of stun gun by person convicted of a felony or a fugitive from justice (202.357) Note: Fugitive from justice defined (A.B. 481, Chapter 135, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Possession of firearm by ex-felon, fugitive from justice, or user of controlled substance (202.360) Note: Fugitive from justice defined (A.B. 481, Chapter 135, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Unlawful sale of firearm to felon, fugitive from justice, person adjudicated mentally ill, or person unlawfully in the United States (202.362) Note: Fugitive from justice defined (A.B. 481, Chapter 135, <i>Statutes of Nevada 2009</i>)	1 to 10 years	Not more than \$10,000
Ex-felon, possession of tear gas (202.380)	1 to 6 years	Not more than \$5,000
Knowingly assisting in crimes involving weapons of mass destruction, biological or chemical agents, or similar lethal agents (202.446)	2 to 15 years*	Not more than \$10,000
Unlawful threats involving act of terrorism, biological or chemical agents, or similar lethal agents (202.448)	2 to 20 years	Not more than \$5,000
Delivering a "hoax substance" causing substantial bodily harm or death (202.449)	2 to 20 years*	Not more than \$5,000
Transportation or receipt of explosives for unlawful purpose, no substantial bodily harm (202.780)	2 to 10 years	\$2,000 to \$10,000
Transportation or receipt of explosives for unlawful purpose, with substantial bodily harm (202.780)	2 to 20 years	\$2,000 to \$20,000
Use or possession of explosives during commission of a felony, first offense (202.820)	1 to 10 years	Not more than \$10,000
Use or possession of explosives during commission of felony, subsequent offense (202.820)	2 to 20 years	No fine
Use of explosives to destroy property, no substantial bodily harm (202.830)	2 to 10 years	\$2,000 to \$10,000
Use of explosives to destroy property, with substantial bodily harm (202.830)	2 to 20 years	\$2,000 to \$20,000
Bomb threats (202.840)	1 to 6 years	Not more than \$5,000
Criminal anarchy (203.115)	1 to 6 years	Not more than \$10,000
Criminal syndicalism (203.117)	1 to 6 years	Not more than \$5,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Arson, first degree (205.010)	2 to 15 years	Not more than \$15,000
Arson, second degree (205.015)	1 to 10 years	Not more than \$10,000
Arson, aiding and abetting, with the intent to defraud (205.030)	1 to 6 years*	Not more than \$5,000
Burglary (205.060)	1 to 10 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Burglary with a weapon (205.060)	2 to 15 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Invasion of the home (205.067)	1 to 10 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Invasion of the home with a deadly weapon (205.067)	2 to 15 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Burglary using explosives (205.075)	2 to 15 years	No fine
Participation in organized retail theft ring, aggregated value of loss within 90-day period of \$2,500 to \$10,000 (205.08345)	1 to 10 years*	Not more than \$10,000, mandatory
Participation in an organized retail theft ring, aggregated value of loss within 90-day period of \$10,000 or more (205.08345)	2 to 15 years*	Not more than \$20,000, mandatory
Theft; value of \$2,500 or more (205.0835)	1 to 10 years*	Mandatory fine, not more than \$10,000
Grand larceny, value of \$2,500 or more (205.220 and 205.222)	1 to 10 years*	Mandatory fine, not more than \$10,000
Grand larceny of firearm (205.226)	1 to 10 years*	Mandatory fine, not more than \$10,000
Grand larceny of motor vehicle, value proven to be \$2,500 or more (205.228)	1 to 10 years*	Mandatory fine, not more than \$10,000
Taking not amounting to robbery, value \$2,500 or more (205.270)	1 to 10 years*; no probation or suspended sentence if victim was elderly or handicapped	Mandatory fine, not more than \$10,000
Theft from vending machine, value of \$2,500 or more (205.2707)	1 to 10 years*	Mandatory fine, not more than \$10,000
Receiving or transporting stolen vehicle, value proven to be \$2,500 or more (205.273)	1 to 10 years*	Mandatory fine, not more than \$10,000
Receiving or possessing stolen goods, value \$2,500 or more (205.275)	1 to 10 years*	Mandatory fine, not more than \$10,000
Extortion (205.320)	1 to 10 years*	Not more than \$10,000
Extortion for a debt (205.322)	1 to 6 years*	Not more than \$10,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Pattern of mortgage lending fraud (205.372) Note: Loan modification consultant added (A.B. 152, Chapter 330, <i>Statutes of Nevada 2009</i>)	3 to 20 years	Not more than \$50,000
Obtaining money, property, rent, or labor by false pretenses, value \$250 or more (205.380)	1 to 6 years*	Not more than \$10,000
Obtaining and using another's personal identifying information to harm, impersonate, or access nonpublic records of another or for unlawful purpose (205.463)	1 to 20 years*	Not more than \$100,000
Obtaining and using an older or vulnerable person's personal identifying information to harm or for unlawful purpose (205.463)	3 to 20 years*	Not more than \$100,000
Obtaining and using the personal identifying information of five or more persons to harm or for unlawful purpose (205.463)	3 to 20 years*	Not more than \$100,000
Obtaining and using another's personal identifying information to harm or for unlawful purpose that causes loss of \$3,000 or more (205.463)	3 to 20 years*	Not more than \$100,000
Obtaining and using an older or vulnerable person's personal identifying information to avoid prosecution for a category A or B felony (205.463)	3 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using another's personal identifying information to harm other person or for unlawful purpose (205.464)	5 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using an older or vulnerable person's personal identifying information to harm other person or for unlawful purpose (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using the personal identifying information of five or more persons to harm or for unlawful purpose (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using another's personal identifying information to harm or for unlawful purpose that causes loss of \$3,000 or more (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee obtaining and possessing, selling or transferring an older or vulnerable person's personal identifying information to establish false identity (205.464)	1 to 20 years*	Not more than \$100,000
Public officer or employee obtaining and possessing, selling or transferring the personal identifying information of five or more persons to establish false identity (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee obtaining and possessing, selling or transferring another's personal identifying information to establish false identity that causes loss of \$3,000 or more (205.464)	7 to 20 years*	Not more than \$100,000
Aiding public officer or employee to commit crimes involving an older or vulnerable person's personal identifying information (205.464)	1 to 20 years*	Not more than \$100,000
Aiding public officer or employee to commit crimes involving the personal identifying information of five or more persons (205.464)	1 to 20 years*	Not more than \$100,000
Aiding public officer or employee to commit crimes involving another's personal identifying information that causes loss of \$3,000 or more (205.464)	1 to 20 years*	Not more than \$100,000
False identification crimes involving personal identifying information of an older or vulnerable person (205.465)	1 to 20 years	Not more than \$100,000
False identification crimes involving the personal identifying information of five or more persons (205.465)	1 to 20 years	Not more than \$100,000
False identification crimes involving another's personal identifying information that causes loss of \$3,000 or more (205.465)	1 to 20 years	Not more than \$100,000
Establishing or possessing financial forgery laboratory (205.46513)	1 to 20 years	Not more than \$100,000
Unlawful use of scanning device or reencoder with intent to defraud (205.605)	1 to 20 years*	Not more than \$100,000
Theft of scrap metal, aggregated value of loss within 90-day period of \$2,500 or more (Chapter 205) (A.B. 233, Chapter 290, <i>Statutes of Nevada 2009</i>)	1 to 10 years*	Mandatory fine, not more than \$10,000
Defrauding another, two or more similar transactions within 4-year period, aggregated value of loss more than \$250 (Chapter 205) (A.B. 322, Chapter 49, <i>Statutes of Nevada 2009</i>)	1 to 20 years*	Not more than \$10,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years. Fines are optional unless otherwise noted. Mandatory restitution is included for those sentences noted by an asterisk (*). (NRS 193.130)

CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
False signals endangering cars, physical injury or property damage results (206.300)	1 to 10 years	Not more than \$10,000
Habitual criminal, current conviction for felony, petit larceny, or fraud-based crime plus two prior felonies or three petit larcenies or fraud-based crimes (207.010) (A.B. 239, Chapter 156, <i>Statutes of Nevada 2009</i>)	5 to 20 years; no probation or suspended sentence	No fine
Habitually fraudulent felon, current conviction for felony involving fraud plus two prior felonies that include elements of fraud. Victim of each offense was an older person, a vulnerable person, or a mentally disabled person. (207.014)	5 to 20 years; no probation or suspended sentence; prosecutor must charge	No fine
Coercion, force or threat of force (207.190)	1 to 6 years	Not more than \$5,000
Unlawful contact with child under 16 years of age or with mentally ill person, subsequent offense (207.260)	1 to 6 years	Not more than \$5,000
Racketeering (207.400) Note: Transporting property and use of racketeering proceeds added (A.B. 322, Chapter 49, <i>Statutes of Nevada 2009</i>)	5 to 20 years	Not more than \$25,000
Escape of felony prisoner, use of weapon or substantial bodily harm (212.090)	2 to 20 years	Not more than \$20,000
Escape of felony prisoner, no aggravating factors (212.090)	1 to 10 years	Not more than \$10,000
Escape from prison, gross misdemeanor or misdemeanor prisoner, use of weapon (212.090)	1 to 6 years	Not more than \$5,000
Possession by felony prisoner of escape tools (212.093)	1 to 6 years	Not more than \$5,000
Unauthorized absences from prison (212.095)	Penalty under NRS 212.090	
Aiding escape of felony prisoner (212.100)	1 to 10 years	Not more than \$10,000
Aid in escape of gross misdemeanor or misdemeanor prisoner, use of weapon (212.100)	1 to 6 years	Not more than \$5,000
Custodian allowing escape of felon (212.110)	1 to 6 years	Not more than \$10,000
Ministerial officer allowing escape (212.120)	1 to 6 years	Not more than \$10,000
Furnishing weapons or drugs to prisoner (212.160)	1 to 6 years	Not more than \$5,000
Possession of weapon or facsimile by prisoner (212.185)	1 to 6 years	No fine
Gassing by prisoner in lawful confinement (212.189) (A.B. 384, Chapter 52, <i>Statutes of Nevada 2009</i>)	2 to 10 years; consecutive after current sentence, no probation or suspended sentence	Not more than \$10,000
Major violation of lifetime supervision (213.1243)	1 to 6 years	Not more than \$5,000
Abuse or neglect of patient by mental health provider, <i>either</i> for first violation that results in substantial bodily harm <i>or</i> for subsequent violation (433.554)	1 to 6 years	Not more than \$5,000
Abuse of child receiving mental health treatment; substantial bodily harm (433B.340)	1 to 6 years	Not more than \$5,000
Willful use of aversive intervention on person with a disability or improper use of restraint; <i>either</i> first violation with substantial bodily harm <i>or</i> subsequent violation (449.783)	1 to 6 years	Not more than \$5,000
Maintaining drug house, first offense (453.316)	1 to 6 years	Not more than \$10,000
Maintaining drug house, subsequent offense (453.316)	2 to 10 years; no probation or suspended sentence	Not more than \$20,000
Import, sell, et cetera, Schedule I or II drugs, first offense (453.321)	1 to 6 years	Not more than \$20,000
Import, sell, et cetera, Schedule I or II drugs, second offense (453.321)	2 to 10 years; no probation or suspended sentence	Not more than \$20,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Import, sell, et cetera, Schedule I or II drugs, third or subsequent offense (453.321)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Import, sell, et cetera, Schedule III, IV, or V drugs, second offense (453.321)	2 to 10 years; no probation or suspended sentence	Not more than \$15,000
Import, sell, et cetera, Schedule III, IV, or V drugs, third or subsequent offense (453.321)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Unlawful acts relating to manufacture or compounding of certain controlled substances (453.322)	3 to 15 years; no probation	Not more than \$100,000
Allowing child to be present where controlled substances are being used, substantial bodily harm results (453.3325)	6 to 20 years; no probation or suspended sentence	Not more than \$20,000
Allowing child to be present where controlled substances are unlawfully sold, exchanged, given away or administered, no substantial bodily harm or death (453.3325)	3 to 15 years; no probation or suspended sentence	Not more than \$10,000
Allowing child to be present where controlled substances are unlawfully sold, exchanged, given away or administered, substantial bodily harm results (453.3325)	6 to 20 years; no probation or suspended sentence	Not more than \$20,000
Allowing child to be present where controlled substances are unlawfully manufactured, no substantial bodily harm or death (453.3325)	5 to 20 years; no probation or suspended sentence	Not more than \$15,000
Possession not for sale of flunitrazepam or GHB (453.336)	1 to 6 years	No fine
Possession for purpose of sale, Schedule I or II drugs, flunitrazepam, or GHB: third or subsequent offense (453.337)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Trafficking, Schedule I drugs (except marijuana), flunitrazepam, or GHB: 4 to 14 grams (453.3385)	1 to 6 years; no probation or suspended sentence	Mandatory fine, not more than \$50,000
Trafficking, Schedule I drugs (except marijuana), flunitrazepam, or GHB: 14 to 28 grams (453.3385)	2 to 15 years; no probation or suspended sentence	Mandatory fine, not more than \$100,000
Trafficking marijuana, 2,000 to 10,000 pounds (453.339)	2 to 10 years; no probation or suspended sentence	Mandatory fine, not more than \$50,000
Trafficking, Schedule II drugs, 200 to 400 grams (453.3395)	2 to 10 years; no probation or suspended sentence	Mandatory fine, not more than \$100,000
Filling or delivering of prescriptions by illegal Internet pharmacy; Schedule I drug involved or drug causes substantial bodily harm or death (453.3638)	3 to 15 years; no probation or suspended sentence	Not more than \$100,000
Unlawful acts relating to filling prescriptions via the Internet; Schedule I drug involved or drug causes substantial bodily harm or death (453.3639)	3 to 15 years; no probation or suspended sentence	Not more than \$100,000
Unlawful acts relating to prescribing of drugs with knowledge of involvement of illegal Internet pharmacy; Schedule I drug involved or drug causes substantial bodily harm or death (453.3643)	3 to 15 years; no probation or suspended sentence	Not more than \$100,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

Revised: November 2009

CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Conspiracy to violate the Uniform Controlled Substances Act, second offense (453.401)	2 to 10 years; no probation or suspended sentence	Not more than \$10,000
Conspiracy to violate the Uniform Controlled Substances Act, third or subsequent offense (453.401)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Using minor as an agent or furnishing drugs to minor (454.306)	5 to 20 years	Not more than \$20,000
Gaming without a license (463.360)	1 to 10 years	Not more than \$50,000
Gaming crimes, first offense (includes attempts and conspiracy to commit crimes) (465.088)	1 to 6 years	Not more than \$10,000
Gaming crimes, second or subsequent violation (includes attempts and conspiracy to commit crimes) (465.088)	1 to 6 years; no probation or suspended sentence	Not more than \$10,000
Unlawful dissemination of certain wire information (465.090)	1 to 6 years	Not more than \$5,000
Theft of fire prevention device, value of \$250 or more (475.105 - Punished as grand larceny. See 205.222.)	1 to 10 years*	Mandatory fine, not more than \$10,000
Endangering property using explosives (476.050) Repealed, effective April 22, 2009 (A.B. 182, Chapter 11, <i>Statutes of Nevada 2009</i>)	2 to 10 years	No fine
Unlawful purchase, sale, disposal, or transfer of a motor vehicle or part knowing the identification number has been falsely attached, removed, destroyed, or altered (482.551)	1 to 10 years	Not more than \$60,000
Failure to stop at accident involving death or personal injury (484.219) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	2 to 15 years	Mandatory fine, \$2,000 to \$5,000
Failure to obey signal by officer and: (1) causes property damage; or (2) operates a vehicle in dangerous manner (484.348) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Failure to obey signal by officer, resulting in death or bodily harm (484.348) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	2 to 20 years	Not more than \$50,000
Failure to obey roadblock, resulting in death, substantial bodily harm, or property damage over \$1,000 (484.3595) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Reckless driving, willful conduct resulting in death or substantial bodily harm (484.377) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Mandatory fine, \$2,000 to \$5,000
DUI, third offense in 7 years (484.3792) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years; no probation or suspended sentence except in certain circumstances	Mandatory fine, \$2,000 to \$5,000
DUI and previous conviction of felony DUI; DUI causing substantial bodily harm or death or homicide resulting from driving under the influence (484.3792) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	2 to 15 years; no probation or suspended sentence except in certain circumstances	Mandatory fine, \$2,000 to \$5,000
DUI causing substantial bodily harm or death (484.3795) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	2 to 20 years; no probation or suspended sentence	Mandatory fine, \$2,000 to \$5,000
Knowingly selling a motor vehicle whose odometer has been fraudulently altered (484.6067) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$10,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)

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CATEGORY B FELONIES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Watercraft DUI causing substantial bodily harm or death (488.420)	2 to 20 years; no probation or suspended sentence	Mandatory fine, \$2,000 to \$5,000
Watercraft DUI, and previous conviction of watercraft DUI causing substantial bodily harm or death (488.427)	2 to 15 years	Mandatory fine, \$2,000 to \$5,000
Staging fights between dogs, third offense (574.070)	1 to 6 years	Not more than \$5,000 (A fine of not more than \$10,000 is mandatory if the violation is by an entity other than a natural person.)
Representing or aiding unauthorized insurer in violation of Unauthorized Insurers Act (685B.083)	<u>No penalty specified</u>	<u>No penalty specified</u>
Transacting unauthorized insurance business (685B.087)	<u>No penalty specified</u>	<u>No penalty specified</u>

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

Revised: April 2010

CATEGORY B FELONIES (With a Penalty of 1-6 Years)

A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years. Fines are optional unless otherwise noted. Mandatory restitution is included for those sentences noted by an asterisk (*). (NRS 193.130)

CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Aid or conceal child escaped from a state detention facility (63.610)	1 to 6 years	Not more than \$5,000
Rescuing gross misdemeanor or misdemeanor prisoner, use of weapon (199.100)	1 to 6 years	Not more than \$5,000
Conspiracy to commit robbery; sexual assault; kidnapping in first or second degrees; arson in the first or second degrees; or using personal identifying information unlawfully (199.480)	1 to 6 years	Not more than \$5,000
Challenges to fight or acting for another in challenge to fight; use of deadly weapon (200.450)	1 to 6 years	Not more than \$5,000
False imprisonment either by prisoner without deadly weapon or by other person with deadly weapon (200.460)	1 to 6 years	No fine
Assault with deadly weapon (200.471) Note: Definition of assault expanded (A.B. 93, Chapter 37, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Assault with a deadly weapon upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official (200.471) Note: Definition of assault expanded (A.B. 93, Chapter 37, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Assault with a deadly weapon upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official by a probationer, prisoner, or parolee (200.471) Note: Definition of assault expanded (A.B. 93, Chapter 37, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Battery by prisoner, probationer, or parolee without a weapon (200.481)	1 to 6 years	No fine
Criminal neglect of patient, resulting in substantial bodily harm (200.495)	1 to 6 years	Not more than \$5,000
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering, no substantial bodily or mental harm (200.508)	1 to 6 years	No fine
Entering property with intent to conceal self and peer through opening of dwelling; possession of deadly weapon (200.603)	1 to 6 years	Not more than \$5,000
Intentionally viewing pornography depicting child less than 16 years of age controlled through the Internet, subsequent offense (Chapter 200) (A.B. 88, Chapter 471, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Possession of child pornography, first offense (201.730)	1 to 6 years	Not more than \$5,000
Unlawful sexual conduct between school employee or volunteer and pupil who is 14 or 15 years old (201.540)	1 to 6 years	Not more than \$5,000
Luring a child, person believed to be a child, or mentally ill person to provide material harmful to minors (201.560)	1 to 6 years	Not more than \$10,000
Setting spring gun and causing injury (202.255)	1 to 6 years	Not more than \$5,000
Possession, manufacture, or disposition of bomb (202.260)	1 to 6 years	Not more than \$5,000
Possession of components of explosive or incendiary device (202.261)	1 to 6 years	Not more than \$5,000
Discharging firearm into occupied structure (202.285)	1 to 6 years	Not more than \$5,000
Permitting minor to unlawfully handle firearm; subsequent offense (202.300)	1 to 6 years	Not more than \$5,000
Unlawful sale of firearm to minor (202.310)	1 to 6 years	Not more than \$5,000
Unlawful use of stun gun (202.357)	1 to 6 years	Not more than \$5,000
Possession of stun gun by person convicted of a felony or a fugitive from justice (202.357) Note: Fugitive from justice defined (A.B. 481, Chapter 135, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Possession of firearm by ex-felon, fugitive from justice, or user of controlled substance (202.360) Note: Fugitive from justice defined (A.B. 481, Chapter 135, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Ex-felon, possession of tear gas (202.380)	1 to 6 years	Not more than \$5,000
Bomb threats (202.840)	1 to 6 years	Not more than \$5,000
Criminal anarchy (203.115)	1 to 6 years	Not more than \$10,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Criminal syndicalism (203.117)	1 to 6 years	Not more than \$5,000
Arson, aiding and abetting, with the intent to defraud (205.030)	1 to 6 years*	Not more than \$5,000
Extortion for a debt (205.322)	1 to 6 years*	Not more than \$10,000
Obtaining money, property, rent, or labor by false pretenses, value \$250 or more (205.380)	1 to 6 years*	Not more than \$10,000
Coercion, force or threat of force (207.190)	1 to 6 years	Not more than \$5,000
Unlawful contact with child under 16 years of age or with mentally ill person, subsequent offense (207.260)	1 to 6 years	Not more than \$5,000
Escape from prison, gross misdemeanor or misdemeanor prisoner, use of weapon (212.090)	1 to 6 years	Not more than \$5,000
Possession by felony prisoner of escape tools (212.093)	1 to 6 years	Not more than \$5,000
Aid in escape of gross misdemeanor or misdemeanor prisoner, use of weapon (212.100)	1 to 6 years	Not more than \$5,000
Custodian allowing escape of felon (212.110)	1 to 6 years	Not more than \$10,000
Ministerial officer allowing escape (212.120)	1 to 6 years	Not more than \$10,000
Furnishing weapons or drugs to prisoner (212.160)	1 to 6 years	Not more than \$5,000
Possession of weapon or facsimile by prisoner (212.185)	1 to 6 years	No fine
Major violation of lifetime supervision (213.1243)	1 to 6 years	Not more than \$5,000
Abuse or neglect of patient by mental health provider, <i>either</i> for first violation that results in substantial bodily harm <i>or</i> for subsequent violation (433.554)	1 to 6 years	Not more than \$5,000
Abuse of child receiving mental health treatment; substantial bodily harm (433B.340)	1 to 6 years	Not more than \$5,000
Willful use of aversive intervention on person with a disability or improper use of restraint; <i>either</i> first violation with substantial bodily harm <i>or</i> subsequent violation (449.783)	1 to 6 years	Not more than \$5,000
Maintaining drug house, first offense (453.316)	1 to 6 years	Not more than \$10,000
Import, sell, et cetera, Schedule I or II drugs, first offense (453.321)	1 to 6 years	Not more than \$20,000
Possession not for sale of flunitrazepam or GHB (453.336)	1 to 6 years	No fine
Trafficking, Schedule I drugs (except marijuana), flunitrazepam, or GHB: 4 to 14 grams (453.3385)	1 to 6 years; no probation or suspended sentence	Mandatory fine, not more than \$50,000
Gaming crimes, first offense (includes attempts and conspiracy to commit crimes) (465.088)	1 to 6 years	Not more than \$10,000
Gaming crimes, second or subsequent violation (includes attempts and conspiracy to commit crimes) (465.088)	1 to 6 years; no probation or suspended sentence	Not more than \$10,000
Unlawful dissemination of certain wire information (465.090)	1 to 6 years	Not more than \$5,000
Failure to obey signal by officer and: (1) causes property damage; or (2) operates a vehicle in dangerous manner (484.348) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Failure to obey roadblock, resulting in death, substantial bodily harm, or property damage over \$1,000 (484.3595) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$5,000
Reckless driving, willful conduct resulting in death or substantial bodily harm (484.377) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Mandatory fine, \$2,000 to \$5,000
DUI, third offense in 7 years (484.3792) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years; no probation or suspended sentence except in certain circumstances	Mandatory fine, \$2,000 to \$5,000

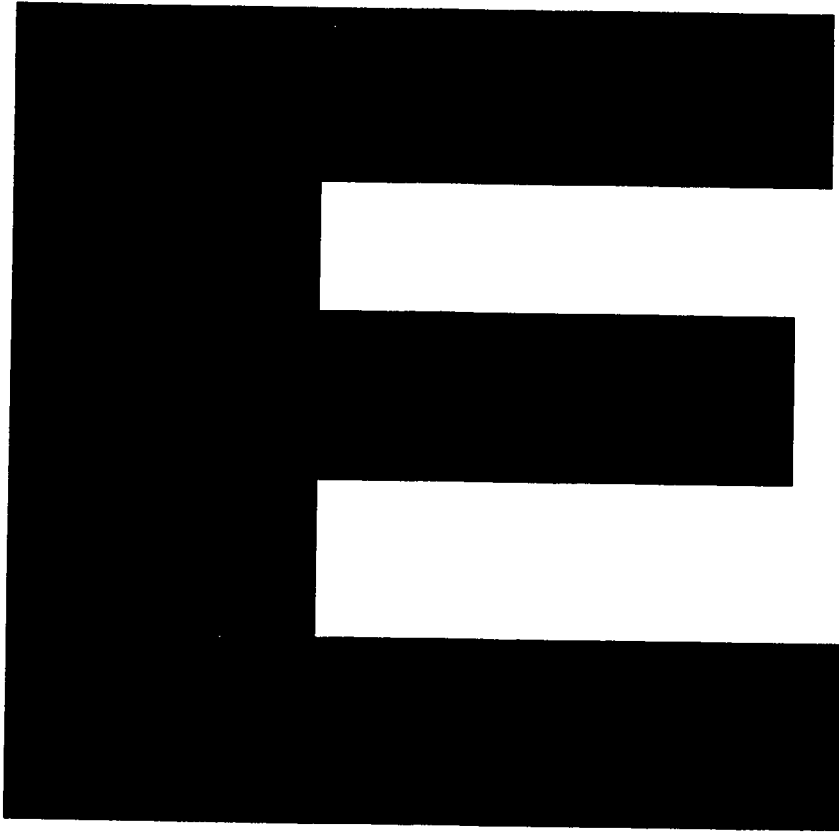
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Revised: April 2010

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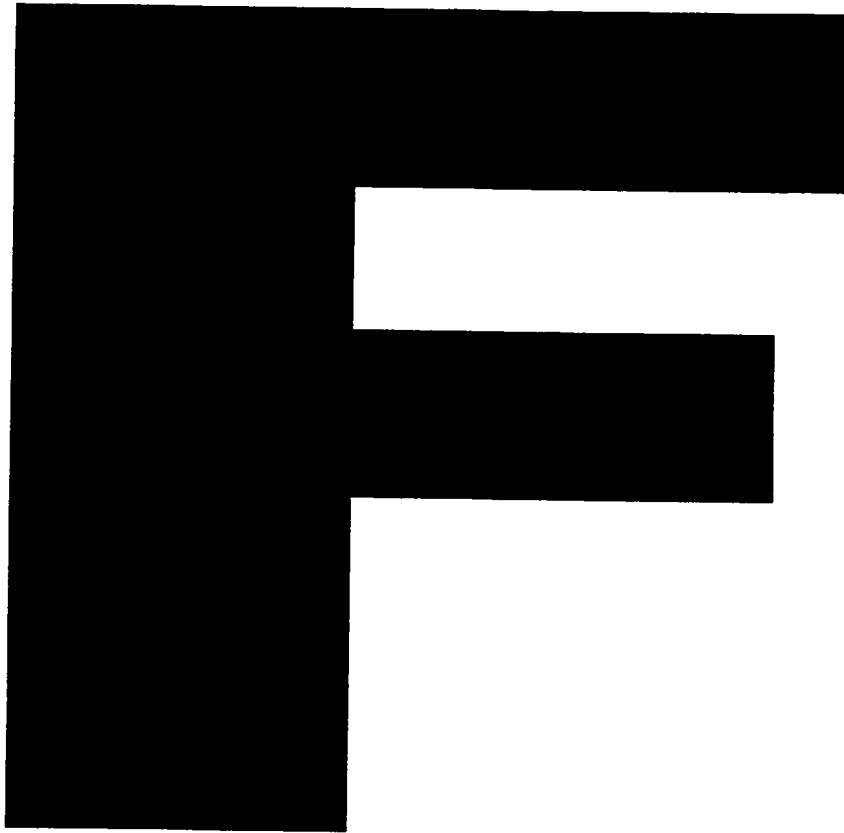
CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Knowingly selling a motor vehicle whose odometer has been fraudulently altered (484.6067) Note: NRS Chapter 484 reorganization (A.B. 475, Chapter 134, <i>Statutes of Nevada 2009</i>)	1 to 6 years	Not more than \$10,000
Staging fights between dogs, third offense (574.070)	1 to 6 years	Not more than \$5,000 (A fine of not more than \$10,000 is mandatory if the violation is by an entity other than a natural person.)



Bill Draft Proposal by Commissioner Kohn

NRS 209.4465 Credits for offender sentenced for crime committed on or after July 17, 1997.

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:
 - (a) For the period the offender is actually incarcerated pursuant to his or her sentence;
 - (b) For the period the offender is in residential confinement; and
 - (c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,
 - ↳ a deduction of 20 days from his or her sentence for each month the offender serves.
2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:
 - (a) For earning a general educational development certificate, 60 days.
 - (b) For earning a high school diploma, 90 days.
 - (c) For earning his or her first associate degree, 120 days.
3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.
4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.
5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.
6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.
7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:
 - (a) Must be deducted from the maximum term imposed by the sentence; and
 - (b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.
8. Credits earned pursuant to this section by an offender who has not been convicted of:
 - (a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;
 - (b) A sexual offense that is punishable as a felony;
 - (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; or
 - (d) A category A ~~or B~~ felony,
 - ↳ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.



Bring Bri Justice Foundation – About us



Mission statement and focus-

The Bring Bri Justice Foundation will use all available resources about violent crimes, personal safety, and ensuring justice is served.

The current focus of the Foundation is on the following:

DNA Legislation-

- Assist in finding funding for the currently un-funded DNA laws in Nevada.
- Aid in broadening the sampling of DNA to include all felony arrests.
- Assist in funding backlog of samples already taken in the state of Nevada.
- Change and broaden DNA legislation nationally in order to create a consistent database, aiding law enforcement.

Brianna Guide – kits designed to aid those with missing loved ones.

Creating a package of material and teams of volunteers that are available in the event there is a missing person that includes the following:

- Directions for setting up a recovery center
- Media guide
- Law enforcement communication
- Community contacts for both volunteers and aid

Bring Bri Justice Search Team – in conjunction with the Brianna Guide, the Foundation is prepared to step in as liaisons between families of missing persons, law enforcement, and the public.

- Coordinate volunteer citizen search teams
- Report to law enforcement any findings
- Coordinate with local media

Community Personal Safety-

- Safety awareness kits
- Community safety events
- ASUN Campus Escort Service - UNR student courtesy vans

The Bring Bri Justice Foundation Board Members:

- Bridgette Zunino, president
- Valarie Van Antwerp, vice president
- Teri Boland, treasurer
- Amy Waddell, secretary
- Lauren Denison, center coordinator
- Richard Campbell, legal counsel
- Mary-Ann Brown, board advisor

DNA: The Science and its role in the judicial system

What is DNA?

Deoxyribonucleic acid, or DNA, is the chemical form in which all living forms (and some viruses not considered to be alive) store their genetic blueprint.

Why do we test it?

Genetic marker testing is more accurate than fingerprints as far as providing a link between a sample found at a crime scene with a control sample from a known suspect. Not only does this mean swifter and more definitive justice, but also absolution of the innocent and reduced cost of investigations.

How does it work?

Currently DNA, when examined as a piece of evidence in the justice system, is not tested for every marker available (which would be an exhausting process). Instead, the loci (genetic location) of 13 to 15 key markers is all that is necessary to provide a statistically unique sample and effectively eliminate other suspects in question. A sample of unknown origin is entered into the CODIS system and compared against a database of markers from those already tested.

What is CODIS?

Currently CODIS is the national database that local and national authorities use to compare an unknown sample against a database of known markers. The CODIS database includes only a very small amount of identifying information for each individual, referred to as a DNA profile or DNA fingerprint. CODIS DNA profiles include only 13 “short tandem repeat” (“STR”) regions found on nuclear DNA. See DNA Initiative, Research (www.dna.gov/research). The likelihood that any two individuals (except identical twins) will have the same 13-loci DNA profile can be as low as one in one billion, or lower. See DNA Initiative, STR Analysis (www.dna.gov/basics/analysis/str). DNA profiles included in CODIS include only non-coding DNA (sometimes referred to as “junk” DNA). The 13 chosen STR loci identify an individual uniquely, but do not disclose traits, disorders, or dispositions. These STR loci are non-genetic stretches of DNA not presently recognized as being responsible for trait coding, and were purposely selected for DNA analysis because they are not associated with any known physical or medical characteristics. Reflecting Congress’s intent to maintain CODIS strictly as an identification tool, no change may be made to the core genetic markers used in CODIS unless the Department of Justice notifies Congress at least 180 days beforehand and explains the reasons for such change.

Presently, no individual prediction of future disease status can be made from an STR profile in a law enforcement DNA database. CODIS operates much like an old-fashioned fingerprint database. Profiles are entered into CODIS from laboratories at the local, state, and national levels. The database includes forensic profiles, including those from cases where the perpetrator is not known, often called “cold” cases. It also includes profiles from convicted felons. And as in

this case, the federal government and 21 states have passed laws to allow for collection of arrestee profiles. See DNA Resource

(www.dnaresource.com/documents/statequalifyingoffenses2009.pdf). With the passage of the DNA Fingerprint Act, state arrestee profiles can be uploaded into CODIS. The CODIS software permits the more than 170 law enforcement laboratories throughout the country that use it to share and compare DNA identification data by providing a central database of the DNA profiles from all user laboratories, known as the National DNA Index System (NDIS). See FBI, CODIS Combined DNA Index System (www.fbi.gov/hq/lab/html/codisbrochure_text.htm). A match made between forensic profiles can link crime scenes to each other, possibly identifying serial offenders. Identification matches between forensic and offender profiles can provide investigators with the identity of a suspect. When a hit is made, a new DNA sample is typically obtained from that suspect so the match can be confirmed by a crime laboratory before a new arrest is made.

What states DNA test after arrest?

21 states: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Kansas, Louisiana, Maryland, Michigan, Minnesota, Missouri, New Mexico, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, the Federal Government.

Brianna's Law – Preliminary

Adapted from Assembly Bill 234 of the 2009 Nevada Legislature and SB09-241 of the Colorado State Legislature:

This law would require that a biological specimen be obtained if a person is arrested for a felony. It would provide that if the person is convicted of the felony, the specimen must be kept. If it is determined that this person already has a specimen on file with the central repository for Nevada Records of Criminal History, another specimen does not need to be obtained. If the person is acquitted or the criminal charges against him are dismissed, the forensic laboratory testing the biological specimen, the law enforcement agency collecting the specimen and the central repository for Nevada Records of Criminal History shall destroy the specimen and all records related thereto, including those held with the federal combined DNA index system, only upon the specific written request of the person the specimen was taken from.

Funding for this law will come from several, as of yet undetermined, mechanism that may include: additional fees for violation of public safety laws, increases in "sin" taxes or other applicable taxes, federal grants and private donations. Once a secure and recurring funding source has been identified, said funds will be deposited in the "Genetic Marker testing fund" and specifically used to counteract the funding needs of this law.

ASSEMBLY BILL NO. 234—ASSEMBLYWOMAN GANSERT

MARCH 4, 2009

Referred to Committee on Judiciary

SUMMARY—Requires the collection of biological specimens for genetic marker analysis from persons arrested for a felony. (BDR 14-993)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~(omitted material)~~ is material to be omitted.

AN ACT relating to genetic marker analysis; requiring that a biological specimen be obtained from a person arrested for a felony; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, if a defendant is convicted of a felony or certain other
2 specified offenses, the court, as part of the defendant's sentence, must order that a
3 biological specimen be obtained from the defendant and that the specimen be used
4 for an analysis to determine the genetic markers of the specimen. (NRS 176.0911-
5 176.0917)
6 **Section 1** of this bill requires that a biological specimen be obtained if a person
7 is arrested for a felony. This section also provides that if the person is convicted of
8 the felony, the specimen must be kept, but if the person is acquitted or the criminal
9 charges against him are dismissed, the forensic laboratory testing the biological
10 specimen, the law enforcement agency collecting the specimen and the Central
11 Repository for Nevada Records of Criminal History shall destroy the specimen and
12 all records related thereto.



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

1 **Section 1.** Chapter 176 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1.** *If a person is arrested for a felony, and a court or*
4 *magistrate makes a determination that probable cause exists for*
5 *the person's arrest, the law enforcement agency making the arrest*
6 *shall:*

7 **(a)** *Submit the name, social security number, date of birth and*
8 *any other information identifying the person to the Central*
9 *Repository for Nevada Records of Criminal History; and*

10 **(b)** *Before the person is released from custody, obtain a*
11 *biological specimen from the person pursuant to the provisions of*
12 *this section so that the specimen can be used for an analysis to*
13 *determine the genetic markers of the specimen.*

14 **2.** *The law enforcement agency obtaining the biological*
15 *specimen shall provide the specimen to the forensic laboratory*
16 *that has been designated by the county in which the person was*
17 *arrested to conduct or oversee genetic marker testing for the*
18 *county pursuant to NRS 176.0917.*

19 **3.** *Any cost that is incurred to obtain a biological specimen*
20 *from a person pursuant to this section is a charge against the*
21 *county in which the person was arrested and must be paid as*
22 *provided in NRS 176.0915.*

23 **4.** *A law enforcement agency shall not obtain a biological*
24 *specimen from a person who has previously submitted such a*
25 *specimen for an arrest and conviction of a prior offense unless the*
26 *law enforcement agency, court or magistrate determines that an*
27 *additional specimen is necessary.*

28 **5.** *If the criminal charge against the person for which a*
29 *biological specimen was obtained pursuant to this section is*
30 *dismissed or the person is acquitted at trial, the clerk of the court*
31 *shall notify the appropriate law enforcement agency, the*
32 *appropriate forensic laboratory and the Central Repository for*
33 *Nevada Records of Criminal History of the final disposition of the*
34 *criminal proceedings. The law enforcement agency, forensic*
35 *laboratory and Central Repository for Nevada Records of*
36 *Criminal History shall, upon notification of the dismissal or*
37 *acquittal, destroy the specimen and all records thereof, unless the*
38 *person was convicted of a prior offense for which the specimen*
39 *must be maintained. If the person is convicted of the offense for*
40 *which the specimen was obtained, the law enforcement agency,*
41 *forensic laboratory and Central Repository for Nevada Records of*



1 *Criminal History shall keep the specimen or result of the genetic*
2 *marker analysis and all records thereof.*

3 6. *Except as otherwise authorized by federal law or specific*
4 *statute, a biological specimen obtained pursuant to this section,*
5 *the results of a genetic marker analysis and any information*
6 *identifying or matching a biological specimen with a person must*
7 *not be shared with or disclosed to any person other than the*
8 *authorized personnel who have possession and control of the*
9 *biological specimen, results of a genetic marker analysis or*
10 *information identifying or matching a biological specimen with a*
11 *person, except pursuant to:*

- 12 (a) *A court order; or*
13 (b) *A request from a law enforcement agency during the*
14 *course of an investigation.*

15 7. *A person who violates any provision of subsection 6 is*
16 *guilty of a misdemeanor.*

17 **Sec. 2.** NRS 176.0911 is hereby amended to read as follows:
18 176.0911 As used in NRS 176.0911 to 176.0917, inclusive,
19 *and section 1 of this act*, unless the context otherwise requires,
20 "CODIS" means the Combined DNA Indexing System operated by
21 the Federal Bureau of Investigation.

22 **Sec. 3.** NRS 176.0913 is hereby amended to read as follows:
23 176.0913 1. If a defendant is convicted of an offense listed in
24 subsection 4, the court, at sentencing, shall order that:

25 (a) The name, social security number, date of birth and any other
26 information identifying the defendant be submitted to the Central
27 Repository for Nevada Records of Criminal History; and

28 (b) A biological specimen be obtained from the defendant
29 pursuant to the provisions of this section and that the specimen be
30 used for an analysis to determine the genetic markers of the
31 specimen.

32 2. If the defendant is committed to the custody of the
33 Department of Corrections, the Department of Corrections shall
34 arrange for the biological specimen to be obtained from the
35 defendant. The Department of Corrections shall provide
36 the specimen to the forensic laboratory that has been designated by
37 the county in which the defendant was convicted to conduct or
38 oversee genetic marker testing for the county pursuant to
39 NRS 176.0917.

40 3. If the defendant is not committed to the custody of the
41 Department of Corrections, the Division shall arrange for the
42 biological specimen to be obtained from the defendant. The
43 Division shall provide the specimen to the forensic laboratory that
44 has been designated by the county in which the defendant was
45 convicted to conduct or oversee genetic marker testing for the



1 county pursuant to NRS 176.0917. Any cost that is incurred to
2 obtain a biological specimen from a defendant pursuant to this
3 subsection is a charge against the county in which the defendant was
4 convicted and must be paid as provided in NRS 176.0915.

5 4. Except as otherwise provided in subsection 5, the provisions
6 of subsection 1 apply to a defendant who is convicted of:

- 7 (a) A felony;
- 8 (b) A crime against a child as defined in NRS 179D.0357;
- 9 (c) A sexual offense as defined in NRS 179D.097;
- 10 (d) Abuse or neglect of an older person or a vulnerable person
11 pursuant to NRS 200.5099;

12 (e) A second or subsequent offense for stalking pursuant to
13 NRS 200.575;

14 (f) An attempt or conspiracy to commit an offense listed in
15 paragraphs (a) to (e), inclusive;

16 (g) Failing to register with a local law enforcement agency as a
17 convicted person as required pursuant to NRS 179C.100, if the
18 defendant previously was:

19 (1) Convicted in this State of committing an offense listed in
20 paragraph (a), (d), (e) or (f); or

21 (2) Convicted in another jurisdiction of committing an
22 offense that would constitute an offense listed in paragraph (a), (d),
23 (e) or (f) if committed in this State;

24 (h) Failing to register with a local law enforcement agency after
25 being convicted of a crime against a child as required pursuant to
26 NRS 179D.450; or

27 (i) Failing to register with a local law enforcement agency after
28 being convicted of a sexual offense as required pursuant to
29 NRS 179D.450.

30 5. A court shall not order a biological specimen to be obtained
31 from a defendant who has previously submitted such a specimen
32 pursuant to section 1 of this act or for conviction of a prior offense
33 unless the court determines that an additional sample is necessary.

34 6. Except as otherwise authorized by federal law or by specific
35 statute, a biological specimen obtained pursuant to this section, the
36 results of a genetic marker analysis and any information identifying
37 or matching a biological specimen with a person must not be shared
38 with or disclosed to any person other than the authorized personnel
39 who have possession and control of the biological specimen, results
40 of a genetic marker analysis or information identifying or matching
41 a biological specimen with a person, except pursuant to:

- 42 (a) A court order; or
- 43 (b) A request from a law enforcement agency during the course
44 of an investigation.



1 7. A person who violates any provision of subsection 6 is
2 guilty of a misdemeanor.

3 **Sec. 4.** NRS 176.0915 is hereby amended to read as follows:

4 176.0915 1. If ~~the court orders that~~ a biological specimen
5 ~~be~~ is obtained from a ~~defendant~~ *person* pursuant to NRS
6 176.0913 ~~[-]~~ *or section 1 of this act, and the person is convicted of*
7 *the offense for which the biological specimen was obtained,* the
8 court, in addition to any other penalty, shall order the ~~defendant,~~
9 *person,* to the extent of his financial ability, to pay the sum of \$150
10 as a fee for obtaining the specimen and for conducting the analysis
11 to determine the genetic markers of the specimen. The fee:

12 (a) Must be stated separately in the judgment of the court or on
13 the docket of the court;

14 (b) Must be collected from the ~~defendant~~ *person* before or at
15 the same time that any fine imposed by the court is collected from
16 the ~~defendant;~~ *person;* and

17 (c) Must not be deducted from any fine imposed by the court.

18 2. All money that is collected pursuant to subsection 1 must be
19 paid by the clerk of the court to the county treasurer on or before the
20 fifth day of each month for the preceding month.

21 3. The board of county commissioners of each county shall by
22 ordinance create in the county treasury a fund to be designated as
23 the fund for genetic marker testing. The county treasurer shall
24 deposit money that is collected pursuant to subsection 2 in the fund
25 for genetic marker testing. The money must be accounted for
26 separately within the fund.

27 4. Each month, the county treasurer shall use the money
28 deposited in the fund for genetic marker testing to pay for the actual
29 amount charged to the county for obtaining a biological specimen
30 from a ~~defendant~~ *person* pursuant to NRS 176.0913 ~~[-]~~ *or section*
31 *1 of this act.*

32 5. If money remains in the fund after the county treasurer
33 makes the payments required by subsection 4, the county treasurer
34 shall pay the remaining money each month to the forensic
35 laboratory that is designated by the county pursuant to NRS
36 176.0917 to conduct or oversee genetic marker testing for the
37 county. A forensic laboratory that receives money pursuant to this
38 subsection shall use the money to:

39 (a) Maintain and purchase equipment and supplies relating to
40 genetic marker testing, including, but not limited to, equipment and
41 supplies required by the Federal Bureau of Investigation for
42 participation in CODIS; and

43 (b) Pay for the training and continuing education, including, but
44 not limited to, the reasonable travel expenses, of employees of the
45 forensic laboratory who conduct or oversee genetic marker testing.



1 **Sec. 5.** NRS 176.0917 is hereby amended to read as follows:
2 176.0917 1. The board of county commissioners of each
3 county shall designate a forensic laboratory to conduct or oversee
4 for the county any genetic marker testing that is ~~ordered or~~
5 ~~arranged~~ **required** pursuant to NRS 176.0913 or 176.0916 ~~[-]~~ **or**
6 **section 1 of this act.**

7 2. The forensic laboratory designated by the board of county
8 commissioners pursuant to subsection 1:

9 (a) Must be operated by this State or one of its political
10 subdivisions; and

11 (b) Must satisfy or exceed the standards for quality assurance
12 that are established by the Federal Bureau of Investigation for
13 participation in CODIS.

14 **Sec. 6.** NRS 179A.075 is hereby amended to read as follows:

15 179A.075 1. The Central Repository for Nevada Records of
16 Criminal History is hereby created within the Records and
17 Technology Division of the Department.

18 2. Each agency of criminal justice and any other agency
19 dealing with crime or delinquency of children shall:

20 (a) Collect and maintain records, reports and compilations of
21 statistical data required by the Department; and

22 (b) Submit the information collected to the Central Repository
23 in the manner approved by the Director of the Department.

24 3. Each agency of criminal justice shall submit the information
25 relating to records of criminal history that it creates or issues, and
26 any information in its possession relating to the genetic markers of a
27 biological specimen of a person ~~who is convicted of an offense~~
28 ~~listed in subsection 4 of~~ **from whom a biological specimen is**
29 **obtained pursuant to NRS 176.0913 [-] or section 1 of this act,** to
30 the Division. The information must be submitted to the Division:

31 (a) Through an electronic network;

32 (b) On a medium of magnetic storage; or

33 (c) In the manner prescribed by the Director of the Department,
34 ↪ within the period prescribed by the Director of the Department. If
35 an agency has submitted a record regarding the arrest of a person
36 who is later determined by the agency not to be the person who
37 committed the particular crime, the agency shall, immediately upon
38 making that determination, so notify the Division. The Division
39 shall delete all references in the Central Repository relating to that
40 particular arrest.

41 4. The Division shall, in the manner prescribed by the Director
42 of the Department:

43 (a) Collect, maintain and arrange all information submitted to it
44 relating to:

45 (1) Records of criminal history; and



1 (2) The genetic markers of a biological specimen of a person
2 ~~{who is convicted of an offense listed in subsection 4 of}~~ *from*
3 *whom a biological specimen is obtained pursuant to* NRS
4 176.0913 ~~{}~~ *or section 1 of this act.*

5 (b) When practicable, use a record of the personal identifying
6 information of a subject as the basis for any records maintained
7 regarding him.

8 (c) Upon request, provide the information that is contained in
9 the Central Repository to the State Disaster Identification Team of
10 the Division of Emergency Management of the Department.

11 5. The Division may:

12 (a) Disseminate any information which is contained in the
13 Central Repository to any other agency of criminal justice;

14 (b) Enter into cooperative agreements with federal and state
15 repositories to facilitate exchanges of information that may be
16 disseminated pursuant to paragraph (a); and

17 (c) Request of and receive from the Federal Bureau of
18 Investigation information on the background and personal history of
19 any person whose record of fingerprints the Central Repository
20 submits to the Federal Bureau of Investigation and:

21 (1) Who has applied to any agency of the State of Nevada or
22 any political subdivision thereof for a license which it has the power
23 to grant or deny;

24 (2) With whom any agency of the State of Nevada or any
25 political subdivision thereof intends to enter into a relationship of
26 employment or a contract for personal services;

27 (3) Who has applied to any agency of the State of Nevada or
28 any political subdivision thereof to attend an academy for training
29 peace officers approved by the Peace Officers' Standards and
30 Training Commission;

31 (4) For whom such information is required to be obtained
32 pursuant to NRS 426.335 and 449.179; or

33 (5) About whom any agency of the State of Nevada or any
34 political subdivision thereof has a legitimate need to have accurate
35 personal information for the protection of the agency or the persons
36 within its jurisdiction.

37 ➔ To request and receive information from the Federal Bureau of
38 Investigation concerning a person pursuant to this subsection, the
39 Central Repository must receive the person's complete set of
40 fingerprints from the agency or political subdivision and submit the
41 fingerprints to the Federal Bureau of Investigation for its report.

42 6. The Central Repository shall:

43 (a) Collect and maintain records, reports and compilations of
44 statistical data submitted by any agency pursuant to subsection 2.



1 (b) Tabulate and analyze all records, reports and compilations of
2 statistical data received pursuant to this section.

3 (c) Disseminate to federal agencies engaged in the collection of
4 statistical data relating to crime information which is contained in
5 the Central Repository.

6 (d) Investigate the criminal history of any person who:

7 (1) Has applied to the Superintendent of Public Instruction
8 for a license;

9 (2) Has applied to a county school district, charter school or
10 private school for employment; or

11 (3) Is employed by a county school district, charter school or
12 private school,

13 and notify the superintendent of each county school district, the
14 governing body of each charter school and the Superintendent of
15 Public Instruction, or the administrator of each private school, as
16 appropriate, if the investigation of the Central Repository indicates
17 that the person has been convicted of a violation of NRS 200.508,
18 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or
19 any offense involving moral turpitude.

20 (e) Upon discovery, notify the superintendent of each county
21 school district, the governing body of each charter school or the
22 administrator of each private school, as appropriate, by providing
23 the superintendent, governing body or administrator with a list of all
24 persons:

25 (1) Investigated pursuant to paragraph (d); or

26 (2) Employed by a county school district, charter school or
27 private school whose fingerprints were sent previously to the
28 Central Repository for investigation,

29 and who the Central Repository's records indicate have been
30 convicted of a violation of NRS 200.508, 201.230, 453.3385,
31 453.339 or 453.3395, or convicted of a felony or any offense
32 involving moral turpitude since the Central Repository's initial
33 investigation. The superintendent of each county school district, the
34 governing body of a charter school or the administrator of each
35 private school, as applicable, shall determine whether further
36 investigation or action by the district, charter school or private
37 school, as applicable, is appropriate.

38 (f) Investigate the criminal history of each person who submits
39 fingerprints or has his fingerprints submitted pursuant to NRS
40 426.335, 449.176 or 449.179.

41 (g) On or before July 1 of each year, prepare and present to the
42 Governor a printed annual report containing the statistical data
43 relating to crime received during the preceding calendar year.
44 Additional reports may be presented to the Governor throughout the



1 year regarding specific areas of crime if they are approved by the
2 Director of the Department.

3 (h) On or before July 1 of each year, prepare and submit to the
4 Director of the Legislative Counsel Bureau for submission to the
5 Legislature, or to the Legislative Commission when the Legislature
6 is not in regular session, a report containing statistical data about
7 domestic violence in this State.

8 (i) Identify and review the collection and processing of
9 statistical data relating to criminal justice and the delinquency of
10 children by any agency identified in subsection 2, and make
11 recommendations for any necessary changes in the manner of
12 collecting and processing statistical data by any such agency.

13 7. The Central Repository may:

14 (a) In the manner prescribed by the Director of the Department,
15 disseminate compilations of statistical data and publish statistical
16 reports relating to crime or the delinquency of children.

17 (b) Charge a reasonable fee for any publication or special report
18 it distributes relating to data collected pursuant to this section. The
19 Central Repository may not collect such a fee from an agency of
20 criminal justice, any other agency dealing with crime or the
21 delinquency of children which is required to submit information
22 pursuant to subsection 2 or the State Disaster Identification Team of
23 the Division of Emergency Management of the Department. All
24 money collected pursuant to this paragraph must be used to pay for
25 the cost of operating the Central Repository.

26 (c) In the manner prescribed by the Director of the Department,
27 use electronic means to receive and disseminate information
28 contained in the Central Repository that it is authorized to
29 disseminate pursuant to the provisions of this chapter.

30 8. As used in this section:

31 (a) "Personal identifying information" means any information
32 designed, commonly used or capable of being used, alone or in
33 conjunction with any other information, to identify a person,
34 including, without limitation:

35 (1) The name, driver's license number, social security
36 number, date of birth and photograph or computer-generated image
37 of a person; and

38 (2) The fingerprints, voiceprint, retina image and iris image
39 of a person.

40 (b) "Private school" has the meaning ascribed to it in
41 NRS 394.103.

42 **Sec. 7.** NRS 179D.150 is hereby amended to read as follows:

43 179D.150 A record of registration must include, if the
44 information is available:



- 1 1. Information identifying the offender or sex offender,
2 including, but not limited to:
 - 3 (a) The name of the offender or sex offender and all aliases that
4 he has used or under which he has been known;
 - 5 (b) A complete physical description of the offender or sex
6 offender, a current photograph of the offender or sex offender and
7 the fingerprints and palm prints of the offender or sex offender;
 - 8 (c) The date of birth and the social security number of the
9 offender or sex offender;
 - 10 (d) The identification number from a driver's license or an
11 identification card issued to the offender or sex offender by this
12 State or any other jurisdiction and a photocopy of such driver's
13 license or identification card;
 - 14 (e) A report of the analysis of the genetic markers of the
15 specimen obtained from the offender or sex offender pursuant to
16 NRS 176.0913 [;] *or section 1 of this act*; and
 - 17 (f) Any other information that identifies the offender or sex
18 offender.
- 19 2. Information concerning the residence of the offender or sex
20 offender, including, but not limited to:
 - 21 (a) The address at which the offender or sex offender resides;
 - 22 (b) The length of time he has resided at that address and the
23 length of time he expects to reside at that address;
 - 24 (c) The address or location of any other place where he expects
25 to reside in the future and the length of time he expects to reside
26 there; and
 - 27 (d) The length of time he expects to remain in the county where
28 he resides and in this State.
- 29 3. Information concerning the offender's or sex offender's
30 occupations, employment or work or expected occupations,
31 employment or work, including, but not limited to, the name,
32 address and type of business of all current and expected future
33 employers of the offender or sex offender.
- 34 4. Information concerning the offender's or sex offender's
35 volunteer service or expected volunteer service in connection with
36 any activity or organization within this State, including, but not
37 limited to, the name, address and type of each such activity or
38 organization.
- 39 5. Information concerning the offender's or sex offender's
40 enrollment or expected enrollment as a student in any public or
41 private educational institution or school within this State, including,
42 but not limited to, the name, address and type of each such
43 educational institution or school.
- 44 6. Information concerning whether:



- 1 (a) The offender or sex offender is, expects to be or becomes
2 enrolled as a student at an institution of higher education or changes
3 the date of commencement or termination of his enrollment at an
4 institution of higher education; or
5 (b) The offender or sex offender is, expects to be or becomes a
6 worker at an institution of higher education or changes the date of
7 commencement or termination of his work at an institution of higher
8 education,
9 ➔ including, but not limited to, the name, address and type of each
10 such institution of higher education.
- 11 7. The license plate number and a description of all motor
12 vehicles registered to or frequently driven by the offender or sex
13 offender.
- 14 8. The level of registration and community notification of the
15 offender or sex offender.
- 16 9. The criminal history of the offender or sex offender,
17 including, without limitation:
- 18 (a) The dates of all arrests and convictions of the offender or sex
19 offender;
- 20 (b) The status of parole, probation or supervised release of the
21 offender or sex offender;
- 22 (c) The status of the registration of the offender or sex offender;
23 and
- 24 (d) The existence of any outstanding arrest warrants for the
25 offender or sex offender.
- 26 10. The following information for each offense for which the
27 offender or sex offender has been convicted:
- 28 (a) The court in which he was convicted;
- 29 (b) The text of the provision of law defining each offense;
- 30 (c) The name under which he was convicted;
- 31 (d) The name and location of each penal institution, school,
32 hospital, mental facility or other institution to which he was
33 committed;
- 34 (e) The specific location where the offense was committed;
- 35 (f) The age, the gender, the race and a general physical
36 description of the victim; and
- 37 (g) The method of operation that was used to commit the
38 offense, including, but not limited to:
- 39 (1) Specific sexual acts committed against the victim;
- 40 (2) The method of obtaining access to the victim, such as the
41 use of enticements, threats, forced entry or violence against the
42 victim;
- 43 (3) The type of injuries inflicted on the victim;
- 44 (4) The types of instruments, weapons or objects used;
- 45 (5) The type of property taken; and



1 (6) Any other distinctive characteristic of the behavior or
2 personality of the offender or sex offender.

3 11. Any other information required by federal law.

4 **Sec. 8.** NRS 179D.443 is hereby amended to read as follows:

5 179D.443 When an offender convicted of a crime against a
6 child or a sex offender registers with a local law enforcement
7 agency as required pursuant to NRS 179D.445, 179D.460 or
8 179D.480, or updates his registration as required pursuant to
9 NRS 179D.447:

10 1. The offender or sex offender shall provide the local law
11 enforcement agency with the following:

12 (a) The name of the offender or sex offender and all aliases that
13 he has used or under which he has been known;

14 (b) The social security number of the offender or sex offender;

15 (c) The address of any residence or location at which the
16 offender or sex offender resides or will reside;

17 (d) The name and address of any place where the offender or sex
18 offender is a worker or will be a worker;

19 (e) The name and address of any place where the offender or sex
20 offender is a student or will be a student;

21 (f) The license plate number and a description of all motor
22 vehicles registered to or frequently driven by the offender or sex
23 offender; and

24 (g) Any other information required by federal law.

25 2. If the offender or sex offender has not previously provided a
26 biological specimen pursuant to NRS 176.0913 or 176.0916, *or*
27 *section 1 of this act*, the offender or sex offender shall provide a
28 biological specimen to the local law enforcement agency. The local
29 law enforcement agency shall provide the specimen to the forensic
30 laboratory that has been designated by the county in which the
31 offender or sex offender resides, is present or is a worker or student
32 to conduct or oversee genetic marker testing for the county pursuant
33 to NRS 176.0917.

34 3. The local law enforcement agency shall ensure that the
35 record of registration of the offender or sex offender includes,
36 without limitation:

37 (a) A complete physical description of the offender or sex
38 offender, a current photograph of the offender or sex offender and
39 the fingerprints and palm prints of the offender or sex offender;

40 (b) The text of the provision of law defining each offense for
41 which the offender or sex offender is required to register;

42 (c) The criminal history of the offender or sex offender,
43 including, without limitation:

44 (1) The dates of all arrests and convictions of the offender or
45 sex offender;



1 (2) The status of parole, probation or supervised release of
2 the offender or sex offender;

3 (3) The status of the registration of the offender or sex
4 offender; and

5 (4) The existence of any outstanding arrest warrants for the
6 offender or sex offender;

7 (d) A report of the analysis of the genetic markers of the
8 specimen obtained from the offender or sex offender;

9 (e) The identification number from a driver's license or an
10 identification card issued to the offender or sex offender by this
11 State or any other jurisdiction and a photocopy of such driver's
12 license or identification card; and

13 (f) Any other information required by federal law.

14 **Sec. 9.** The amendatory provisions of this act apply to a person
15 arrested on or after July 1, 2009.

16 **Sec. 10.** The provisions of NRS 354.599 do not apply to any
17 additional expenses of a local government that are related to the
18 provisions of this act.

19 **Sec. 11.** This act becomes effective on July 1, 2009.



G

ENGROSSED HOUSE BILL 2194

State of Washington

61st Legislature

2009 Regular Session

By Representative Appleton; by request of Department of Corrections

Read first time 02/12/09. Referred to Committee on Human Services.

1 AN ACT Relating to extraordinary medical placement for offenders;
2 amending RCW 9.94A.728; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.94A.728 and 2008 c 231 s 34 are each amended to read
5 as follows:

6 No person serving a sentence imposed pursuant to this chapter and
7 committed to the custody of the department shall leave the confines of
8 the correctional facility or be released prior to the expiration of the
9 sentence except as follows:

10 (1) Except as otherwise provided for in subsection (2) of this
11 section, the term of the sentence of an offender committed to a
12 correctional facility operated by the department may be reduced by
13 earned release time in accordance with procedures that shall be
14 developed and promulgated by the correctional agency having
15 jurisdiction in which the offender is confined. The earned release
16 time shall be for good behavior and good performance, as determined by
17 the correctional agency having jurisdiction. The correctional agency
18 shall not credit the offender with earned release credits in advance of
19 the offender actually earning the credits. Any program established

1 pursuant to this section shall allow an offender to earn early release
2 credits for presentence incarceration. If an offender is transferred
3 from a county jail to the department, the administrator of a county
4 jail facility shall certify to the department the amount of time spent
5 in custody at the facility and the amount of earned release time. An
6 offender who has been convicted of a felony committed after July 23,
7 1995, that involves any applicable deadly weapon enhancements under RCW
8 9.94A.533 (3) or (4), or both, shall not receive any good time credits
9 or earned release time for that portion of his or her sentence that
10 results from any deadly weapon enhancements.

11 (a) In the case of an offender convicted of a serious violent
12 offense, or a sex offense that is a class A felony, committed on or
13 after July 1, 1990, and before July 1, 2003, the aggregate earned
14 release time may not exceed fifteen percent of the sentence. In the
15 case of an offender convicted of a serious violent offense, or a sex
16 offense that is a class A felony, committed on or after July 1, 2003,
17 the aggregate earned release time may not exceed ten percent of the
18 sentence.

19 (b) (i) In the case of an offender who qualifies under (b) (ii) of
20 this subsection, the aggregate earned release time may not exceed fifty
21 percent of the sentence.

22 (ii) An offender is qualified to earn up to fifty percent of
23 aggregate earned release time under this subsection (1) (b) if he or
24 she:

25 (A) Is classified in one of the two lowest risk categories under
26 (b) (iii) of this subsection;

27 (B) Is not confined pursuant to a sentence for:

28 (I) A sex offense;

29 (II) A violent offense;

30 (III) A crime against persons as defined in RCW 9.94A.411;

31 (IV) A felony that is domestic violence as defined in RCW
32 10.99.020;

33 (V) A violation of RCW 9A.52.025 (residential burglary);

34 (VI) A violation of, or an attempt, solicitation, or conspiracy to
35 violate, RCW 69.50.401 by manufacture or delivery or possession with
36 intent to deliver methamphetamine; or

37 (VII) A violation of, or an attempt, solicitation, or conspiracy to

1 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

2 (C) Has no prior conviction for:

3 (I) A sex offense;

4 (II) A violent offense;

5 (III) A crime against persons as defined in RCW 9.94A.411;

6 (IV) A felony that is domestic violence as defined in RCW
7 10.99.020;

8 (V) A violation of RCW 9A.52.025 (residential burglary);

9 (VI) A violation of, or an attempt, solicitation, or conspiracy to
10 violate, RCW 69.50.401 by manufacture or delivery or possession with
11 intent to deliver methamphetamine; or

12 (VII) A violation of, or an attempt, solicitation, or conspiracy to
13 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

14 (D) Participates in programming or activities as directed by the
15 offender's individual reentry plan as provided under RCW 72.09.270 to
16 the extent that such programming or activities are made available by
17 the department; and

18 (E) Has not committed a new felony after July 22, 2007, while under
19 community custody.

20 (iii) For purposes of determining an offender's eligibility under
21 this subsection (1)(b), the department shall perform a risk assessment
22 of every offender committed to a correctional facility operated by the
23 department who has no current or prior conviction for a sex offense, a
24 violent offense, a crime against persons as defined in RCW 9.94A.411,
25 a felony that is domestic violence as defined in RCW 10.99.020, a
26 violation of RCW 9A.52.025 (residential burglary), a violation of, or
27 an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by
28 manufacture or delivery or possession with intent to deliver
29 methamphetamine, or a violation of, or an attempt, solicitation, or
30 conspiracy to violate, RCW 69.50.406 (delivery of a controlled
31 substance to a minor). The department must classify each assessed
32 offender in one of four risk categories between highest and lowest
33 risk.

34 (iv) The department shall recalculate the earned release time and
35 reschedule the expected release dates for each qualified offender under
36 this subsection (1)(b).

37 (v) This subsection (1)(b) applies retroactively to eligible

1 offenders serving terms of total confinement in a state correctional
2 facility as of July 1, 2003.

3 (vi) This subsection (1)(b) does not apply to offenders convicted
4 after July 1, 2010.

5 (c) In no other case shall the aggregate earned release time exceed
6 one-third of the total sentence;

7 (2)(a) A person convicted of a sex offense, a violent offense, any
8 crime against persons under RCW 9.94A.411(2), or a felony offense under
9 chapter 69.50 or 69.52 RCW, may become eligible, in accordance with a
10 program developed by the department, for transfer to community custody
11 in lieu of earned release time pursuant to subsection (1) of this
12 section;

13 (b) The department shall, as a part of its program for release to
14 the community in lieu of earned release, require the offender to
15 propose a release plan that includes an approved residence and living
16 arrangement. All offenders with community custody terms eligible for
17 release to community custody in lieu of earned release shall provide an
18 approved residence and living arrangement prior to release to the
19 community;

20 (c) The department may deny transfer to community custody in lieu
21 of earned release time pursuant to subsection (1) of this section if
22 the department determines an offender's release plan, including
23 proposed residence location and living arrangements, may violate the
24 conditions of the sentence or conditions of supervision, place the
25 offender at risk to violate the conditions of the sentence, place the
26 offender at risk to reoffend, or present a risk to victim safety or
27 community safety. The department's authority under this section is
28 independent of any court-ordered condition of sentence or statutory
29 provision regarding conditions for community custody;

30 (d) If the department denies transfer to community custody in lieu
31 of earned early release pursuant to (c) of this subsection, the
32 department may transfer an offender to partial confinement in lieu of
33 earned early release up to three months. The three months in partial
34 confinement is in addition to that portion of the offender's term of
35 confinement that may be served in partial confinement as provided in
36 this section;

37 (e) An offender serving a term of confinement imposed under RCW

1 9.94A.670(5) (a) is not eligible for earned release credits under this
2 section;

3 (3) An offender may leave a correctional facility pursuant to an
4 authorized furlough or leave of absence. In addition, offenders may
5 leave a correctional facility when in the custody of a corrections
6 officer or officers;

7 (4) (a) The secretary may authorize an extraordinary medical
8 placement for an offender when all of the following conditions exist:

9 (i) The offender has a medical condition that is serious (~~enough~~)
10 and is expected to require costly care or treatment;

11 (ii) The offender poses a low risk to the community (~~because he or~~
12 ~~she is physically incapacitated due to age or the medical condition~~);
13 and

14 (iii) It is expected that granting the extraordinary medical
15 placement will result in a cost savings to the state.

16 (b) An offender sentenced to death or to life imprisonment without
17 the possibility of release or parole is not eligible for an
18 extraordinary medical placement.

19 (c) The secretary shall require electronic monitoring for all
20 offenders in extraordinary medical placement unless the electronic
21 monitoring equipment interferes with the function of the offender's
22 medical equipment or results in the loss of funding for the offender's
23 medical care, in which case, an alternative type of monitoring shall be
24 utilized. The secretary shall specify who shall provide the monitoring
25 services and the terms under which the monitoring shall be performed.

26 (d) The secretary may revoke an extraordinary medical placement
27 under this subsection at any time;

28 (5) The governor, upon recommendation from the clemency and pardons
29 board, may grant an extraordinary release for reasons of serious health
30 problems, senility, advanced age, extraordinary meritorious acts, or
31 other extraordinary circumstances;

32 (6) No more than the final six months of the offender's term of
33 confinement may be served in partial confinement designed to aid the
34 offender in finding work and reestablishing himself or herself in the
35 community. This is in addition to that period of earned early release
36 time that may be exchanged for partial confinement pursuant to
37 subsection (2) (d) of this section;

38 (7) The governor may pardon any offender;

1 (8) The department may release an offender from confinement any
2 time within ten days before a release date calculated under this
3 section;

4 (9) An offender may leave a correctional facility prior to
5 completion of his or her sentence if the sentence has been reduced as
6 provided in RCW 9.94A.870; and

7 (10) Notwithstanding any other provisions of this section, an
8 offender sentenced for a felony crime listed in RCW 9.94A.540 as
9 subject to a mandatory minimum sentence of total confinement shall not
10 be released from total confinement before the completion of the listed
11 mandatory minimum sentence for that felony crime of conviction unless
12 allowed under RCW 9.94A.540, however persistent offenders are not
13 eligible for extraordinary medical placement.

14 NEW SECTION. **Sec. 2.** This act takes effect August 1, 2009.

--- END ---

FINAL BILL REPORT

EHB 2194

C 441 L 09
Synopsis as Enacted

Brief Description: Modifying provisions relating to extraordinary medical placement for offenders.

Sponsors: Representative Appleton; by request of Department of Corrections.

House Committee on Human Services
House Committee on Ways & Means
Senate Committee on Ways & Means

Background:

Extraordinary Medical Placement.

The Sentencing Reform Act sets forth the conditions under which an offender may leave the confines of the Department of Corrections (DOC) before the expiration of his or her sentence. An offender may leave before the expiration of his or her sentence as a result of earned early release, an authorized release or a leave of absence, or a transfer to community custody in lieu of earned early release.

In addition, an offender may leave if the DOC authorizes an extraordinary medical placement. An offender must meet the following conditions to become eligible for such a release:

- the offender has a medical condition that is serious enough to require costly care treatment;
- the offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and
- granting the extraordinary medical placement will result in a cost savings to the state.

Offenders sentenced to death or to life imprisonment without the possibility of release or parole are not eligible for an extraordinary medical placement. Also, the Secretary of the DOC must require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. Extraordinary medical placement may be revoked at any time.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary:

The eligibility conditions for extraordinary medical placement are modified. An offender is eligible if:

- the offender has a medical condition that is serious and is expected to require costly care or treatment;
- the offender poses a low risk to the community because the offender is currently physically incapacitated due to age or a medical condition or is expected to be so at the time of release; and
- it is expected that granting the extraordinary medical placement will result in a cost savings to the state.

If electronic monitoring interferes with the function of an offender's medical equipment or results in the loss of funding of the offender's medical care, an alternative type of monitoring must be used.

Votes on Final Passage:

House	51	46	
Senate	27	16	(Senate amended)
House	52	41	(House concurred)

Effective: August 1, 2009

NRS 209.3925 Residential confinement or other appropriate supervision of offenders who are physically incapacitated or in ill health: Eligibility; duration; notice; effect of violation of terms or conditions; status of offenders.

1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his or her sentence, if:

(a) The Director has reason to believe that the offender is:

(1) Physically incapacitated or in ill health to such a degree that the offender does not presently, and likely will not in the future, pose a threat to the safety of the public; or

(2) In ill health and expected to die within 12 months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and

(b) At least two physicians licensed pursuant to chapter 630 or 633 of NRS, one of whom is not employed by the Department, verify, in writing, that the offender is:

(1) Physically incapacitated or in ill health; or

(2) In ill health and expected to die within 12 months.

2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:

(a) If the offender will reside within this State after the offender is released from the custody of the Department, the board of county commissioners of the county in which the offender will reside; and

(b) The Division of Parole and Probation.

3. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:

(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and

(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.

È If a current address has not been provided by a victim as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his or her residential confinement or other appropriate supervision as determined by the Division of Parole and Probation:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may

provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

- (a) A continuation of the offender's imprisonment and not a release on parole; and
- (b) For the purposes of NRS 209.341, an assignment to a facility of the

Department,

Ê except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. The Director may not assign an offender to the custody of the Division of Parole and Probation pursuant to this section if the offender is sentenced to death or imprisonment for life without the possibility of parole.

7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

(Added to NRS by 1997, 2410; A 1999, 130, 661, 1278; 2001, 2585; 2003, 1176, 2575)