

**ADVISORY COMMISSION
on the
ADMINISTRATION of JUSTICE**

WORK SESSION



Wednesday, June 23, 2010, 9:30 A.M.

**Legislative Building
401 South Carson Street, Room 3137
Carson City, Nevada**

With video-conference to

**Grant Sawyer State Office Building
555 East Washington Street, Room 4412
Las Vegas, Nevada**



WORK SESSION DOCUMENT

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

June 23, 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). The document contains a compilation of recommendations within the scope of the Advisory Commission that were presented during hearings or submitted in writing during the course of the 2009-2010 interim.

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.

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).

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.

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 Masto])

Background Information for Recommendation No. 2

Tab B – 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.

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 C – 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.

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 D – 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 and driving under the influence.

RECOMMENDATION NO. 5 — Draft legislation to revise provisions relating to the requirements to be certified by a panel before release on parole pursuant to NRS 213.1214. (Commissioner Bisbee)

Background Information for Recommendation No. 5

Tab E – Memorandum from Commissioner Bisbee regarding psychological review panel bill draft suggestions.

During the Advisory Commission meeting held on June 9, 2010, Commissioner Bisbee submitted a memorandum outlining potential legislative suggestions for revising the current psychological review panel under NRS 213.1214 (**Tab E**). Commissioner Bisbee's proposed bill draft would: (1) revise the panel to make it an advisory function in lieu of certification; (2) allow the Parole Board to request a panel on any sex offender if the information would assist the Board in determining whether parole should be granted; (3) revise the current language pertaining to liability and delete the statutory language pertaining to the revocation of a panel certification; (4) require the panel to adopt regulations regarding the evaluation of prisoners and review their assessments and procedures at least once every 3 years and make a determination on the validity of their risk tools; (5) clarify that only convictions for child abuse or neglect that are deemed sexual in nature are required to be evaluated by the panel, and add the crime of kidnapping with intent to commit sexual assault to the list of offenses subject to the panel; (6) specify that the Parole Board may adopt regulations pertaining to the manner in which the sex offender risk assessment is to be used in conjunction with the parole standards; and (7) define certain terms such as "current term of imprisonment" and "custody of the Department of Corrections."

Additionally, Commissioner Hardesty suggested that the proposed legislation should include clarification that panels under NRS 213.1214 are not subject to the Open Meeting Law. Language to exempt the panels from the Open Meeting Law has been included in the revised submitted bill draft language from Commissioner Bisbee (**Tab E**).

RECOMMENDATION NO. 6 — Draft legislation to authorize the aggregation of minimum prison sentences. (Commissioner Bisbee)

Background Information for Recommendation No. 6

Tab F – Memorandum from Commissioner Bisbee regarding aggregated sentences; Memorandum from Commissioner Bisbee relating to cost analysis for parole denials.

During the Advisory Commission meetings held on January 27 and June 9, 2010, Commissioner Bisbee recommended aggregating the minimum terms of imprisonment ordered to be served consecutively into one sentence. Commissioner Bisbee provided several examples in which a minimum sentence, such as a person serving 4 consecutive terms with a minimum term of 4 years and a maximum term of 10 years, could be combined into one longer 16 year minimum term. Ms. Bisbee stated that when a person is placed on parole from one sentence and still has additional sentences to serve, it is confusing and requires additional parole hearings by the Parole Board. She also indicated that aggregating the sentences would require fewer parole hearings because the Parole Board would not consider the prisoner for parole until he or she had completed the entire minimum sentence. She indicated that this would be less confusing for victims and for the family of the prisoner.

During the meeting held on June 9, 2010, Commissioner Bisbee suggested that there are still several areas which would need to be addressed to carry out an aggregated sentencing scheme when the sentence is determinate: (1) application of credits (AB510) which are applied to reduce a minimum sentence; (2) establishing limits to aggregated sentences when the offense is not one that would result in a life sentence; (3) prospective and retroactive application of aggregated sentences including new convictions which may be imposed while on parole; (4) the manner in which the Department of Corrections, the Board of Parole Commissioners and the Division of Parole and Probation would consider the offenses for the purposes of classification, parole guidelines and community supervision; and (5) costs related to database programming changes and implementation concerns. Additionally, Commissioner Bisbee submitted a memorandum outlining the potential cost savings, which she estimates a marginal cost savings of \$900,000 if 10 percent of the inmates are paroled at their initial hearing, under aggregated sentencing (**Tab F**).

RECOMMENDATION NO. 7 — Draft legislation to require DNA testing for all persons arrested for a felony. (Bring Bri Justice Foundation)

Background Information for Recommendation No. 7

Tab G – 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 G**) 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 G**); 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.

RECOMMENDATION NO. 8 — Draft legislation to amend NRS 180.010 to move the Office of the State Public Defender to the Office of the Governor or elsewhere in the Executive Branch. (Commissioners Parks and Hardesty)

Background Information for Recommendation No. 8

Tab H – NRS 180.010.

During the Advisory Commission meeting held on January 27, 2010, several Commissioners questioned the efficiency of having the Office of the State Public Defender located within the Department of Health and Human Services. Commissioners Parks and Hardesty suggested that it would be more appropriate and efficient to place the Office of the State Public Defender within the Office of the Governor.

RECOMMENDATION NO. 9 — Draft legislation to establish an oversight committee for the Department of Corrections. (Tonja Brown, Advocate for the Innocent)

Background Information for Recommendation No. 9

Tab I – NRS 176.0125.

During the Advisory Commission meeting held on June 9, 2010, Tonja Brown recommended that the Advisory Commission establish an oversight or advisory board for the Department of Corrections. Pursuant to subsection 4 of NRS 176.0125 (**Tab I**), the oversight or advisory board would perform various functions and make recommendations concerning policies for the operation of the Department of Corrections, budgetary issues and other related matters regarding the Department of Corrections.

RECOMMENDATION NO. 10 — Draft legislation to amend NRS 217.260 to provide that any remaining money in the Fund for the Compensation of Victims of Crime at the end of a fiscal year remain in the Fund and not revert to the State General Fund. (Commissioner Hardesty)

Background Information for Recommendation No. 10

Tab J – Assembly Bill No. 114 (2009), as introduced.

Assembly Bill No. 114 was requested on behalf of the Advisory Commission on the Administration of Justice during the 2009 Legislative Session. Section 2 of Assembly Bill No. 114 (**Tab J**), as introduced, sought to provide that any remaining money in the Fund for the Compensation of Victims of Crime at the end of the fiscal year must remain within the Fund and must not be reverted to the State General Fund. This recommendation for legislation proposes to re-draft section 2 of Assembly Bill No. 114 (2009).

RECOMMENDATION NO. 11 — Draft legislation to amend the *Nevada Revised Statutes* to prohibit a person under 21 years of age from working in a licensed brothel. (Commissioner Farley)

Background Information for Recommendation No. 11

State law is generally silent on the subject of brothels, except in Clark County (Las Vegas and vicinity) where they are prohibited by state statute. With the exception of Clark County, local governments have the option to either prohibit or permit the operation of brothels. Additionally, individual counties may impose age restrictions on licensees for employment in legal brothels. For instance, Churchill and Nye Counties require employees to be at least 21 years of age. This proposed bill draft would mandate in state law that all employees of a brothel must be at least 21 years of age.

Tab K - After the Advisory Commission meeting held on June 9, 2010, testimony opposing any change in state law from age 18 to 21 was submitted by UNLV Professors Crystal Jackson, Dr. Barbara Brents and Dr. Kate Korgan.

RECOMMENDATION NO. 12 — Draft legislation to waive certain fees relating to the issuance of certified copies of birth certificates and duplicate drivers' licenses and identification cards to persons released from prison. (Commissioner Siegel on behalf of the Religious Alliance of Nevada)

Background Information for Recommendation No. 12

Tab L – Assembly Bill No. 252 (2009), as introduced.

Existing law provides for the waiver of certain fees relating to the issuance of certified copies of birth certificates and duplicate drivers' licenses and identification cards to homeless persons. This recommendation is to re-draft Assembly Bill No. 252 (2009), which would provide for a similar waiver of such fees for persons who are released from prison.

RECOMMENDATION NO. 13 — Draft legislation to revise the laws governing compassionate release for seriously ill offenders. (Commissioner Siegel)

Background Information for Recommendation No. 13

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

This recommendation, based on the State of Washington’s recently passed legislation (**Tab M**) 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.

RECOMMENDATION NO. 14 — Draft legislation to adjust the threshold amount for property offenses to current amounts using the Consumer Price Index. (Commissioner Siegel)

Background Information for Recommendation No. 14

Tab N – NRS 205.08345, 205.0835, 205.220, 205.222, 205.228 and 205.240.

Nevada law defines petit larceny as intentionally stealing or taking anything with a value of less than \$250 and grand larceny as intentionally stealing or taking anything with a value of \$250 or more. Grand larceny is a category C felony if the value of the property involved in the grand larceny is less than \$2,500 and it is a category B felony if the value of the property involved in the grand larceny is \$2,500 or more. The penalties for theft under any violation of NRS 205.0821 through 205.0835 also mirror those same dollar thresholds. It appears that the petit larceny/theft threshold amount was last revised in 1989, and the grand larceny/theft amount was set in 1997.

This recommendation seeks to increase the threshold amounts for larceny and theft offenses to 2010 levels adjusted for inflation based on the Consumer Price Index, as published by the Bureau of Labor Statistics. According to the CPI calculator, the 2010 inflationary value for \$250 is \$439.53, and the 2010 value for \$2,500 is \$3,395.78.

RECOMMENDATION NO. 15 — Draft legislation to award different amounts of credit to reduce terms of imprisonment based on the category of the offense. (Commissioner Siegel)

Background Information for Recommendation No. 15

During the Advisory Commission meeting held on June 9, 2010, Commissioner Siegel indicated that the report issued by the Sentencing Project, which outlined legislation from 19 states, had identified states (including Texas) that awarded credits to reduce sentences based on the category of the crime committed by the offender. This recommendation would authorize a varying amount of credit to be awarded to an offender for each level of felony (for example, a person convicted of a D felony may receive more credits than a person convicted of a C felony).

RECOMMENDATION NO. 16 — 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. 16

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.

RECOMMENDATION NO. 17 — Include a statement in the final report encouraging the State of Nevada to fully fund all indigent defense as raised in Assembly Bill No. 45 (2009). (Commissioner Siegel)

Background Information for Recommendation No. 17

Tab O – Assembly Bill No. 45 (2009), as introduced.

Testimony at the Advisory Commission meeting held on January 14, 2010, indicated that Nevada currently operates under a bifurcated system where Clark and Washoe Counties provide for indigent defense, with the State Public Defender providing such defense in all other counties. Commissioner Siegel suggested that this recommendation would include a statement encouraging the State of Nevada to fully fund indigent defense.

In addition, Chairman Horne suggested that additional fiscal research must be completed in terms of the actual cost of providing indigent defense, as the fiscal note for the State to assume all indigent defense under Assembly Bill No. 45 (2009) was approximately \$62 million per year.

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(Reprinted with amendments adopted on April 16, 2009)
FIRST REPRINT **A.B. 271**

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



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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 ~~{H}~~ 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,***



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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.



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



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



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 was 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

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).

C

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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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

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
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		
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
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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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

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
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

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
Pattern of mortgage lending fraud (205.372) Note: Loan modification consultant added (A.B. 152, Chapter 330, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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		
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
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

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
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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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
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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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

Revised: April 2010

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

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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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	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, Statutes of Nevada 2009)	1 to 6 years; no probation or suspended sentence except in certain circumstances	Mandatory fine, \$2,000 to \$5,000

PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

Revised: April 2010

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

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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.)

D

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:

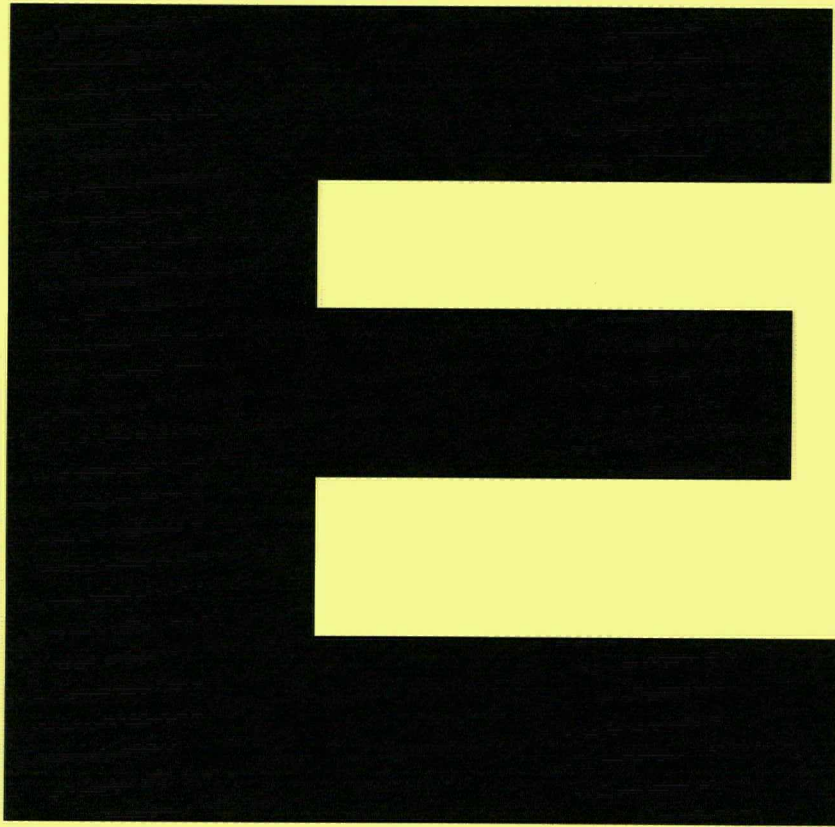
(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(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.



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NEVADA BOARD OF PAROLE COMMISSIONERS

June 7, 2010

To: William Horne, Chairman
Advisory Commission on the Administration of Justice

Members of the Advisory Commission on the Administration of Justice

From: Connie S. Bisbee, Chairman *CSB*

Subject: Psychological Review Panel ("Psych Panel") Evaluations Bill Draft Suggestion

After my presentation to the Advisory Commission earlier this year, we polled other State Parole Boards who we are affiliated with through the Association of Paroling Authorities International, and asked them to share with us their processes regarding the evaluation of sex offenders for release on parole.

I also met with staff of the Attorney General's Office and Department of Corrections to discuss recommended changes to the current Psych Panel law.

I discovered that the issues I previously presented to the Advisory Commission were not all inclusive, as there is a substantial amount of litigation that is generated as a result of the way the psych panel law is currently worded, and the manner in which the psych panel hearings are conducted.

In an effort to limit the amount of litigation regarding the operation of the Psych Panel and have meaningful information provided to the Parole Board, I have drafted proposed changes for your review.

The following summarizes the changes and reasons for the suggested changes. Attachment 1 is a copy of the suggested BDR language and Attachment 2 is a copy of the results of the survey we conducted.

1. Revise the Psych Panel law to make it an advisory function instead of a certification.

The current law requires the Psych Panel to “certify” that the prisoner is not a high risk to re-offend sexually if released on parole. If the Psych Panel determines the prisoner is a high risk to re-offend, the Parole Board is prohibited from granting parole.

As a result of a recent Supreme Court case, a Psych Panel review may only be performed when an inmate is serving the last sexual offense in his sentence structure. If the inmate has a non-sexual sentence to serve consecutively to a sex offense, parole release on the sexual offense can only be performed institutionally (to the consecutive sentence). When an inmate has a consecutive sentence to serve, the risk to re-offend sexually is minimized and the inmate may be certified as not being a high risk to re-offend. When the last sentence in a sex offenders sentence structure is a non-sexual offense, the Parole Board is left without adequate information relative to the risk of the sex offender once he is being considered for release to the community.

The following is an example of the above cited scenario:

Level	Case	Count	Offense	Min	Max	Ped	Exp
1	123	I	Sexual Assault	5	Life	1/1/2010	LIFE
2	123	II	Burglary	2	10	Pending	Pending

The recommended changes to subsection 1 of NRS 213.1214 are as follows:

1. Eliminate the “certification” requirement and make the psych panel an advisory function in which they would be required to conduct evaluations on certain inmates prior to a parole hearing. This change would help eliminate legal arguments that are currently being made including ex post facto claims. It also allows the decision making to reside with the Parole Board, who is charged with making parole decisions.

2. Require a psych panel evaluation to be conducted on an inmate who has a conviction for a sexual offense anywhere in his current sentence structure, and prior to each parole hearing, regardless of the sentence the inmate is actually serving (this was the manner in which the psych panel hearings were conducted prior to the various Supreme Court opinions on the psych panel language).

3. Require the psych panel to rate each inmate who is evaluated as a low, moderate or high risk to re-offend, and provide the results to the Parole Board prior to a parole hearing (at this time the psych panel only indicates if an inmate is a high-risk or not. An inmate may be a moderate, or a split high/moderate or low, but the results the Parole Board is provided state only “certified as not being a high-risk” or “high risk to re-offend”).

2. Allow the Parole Board to request a psych panel on any sex offender if the information would assist the Board in determining whether parole should be granted.

Currently, subsection 2 of NRS 213.1214 requires the psych panel to re-certify an inmate if he is returned to NDOC for any reason. The re-certification requirement would be deleted, but the psych panel would still be required to conduct an evaluation on parole violators as part of other wording in this BDR.

Subsection 2 would be replaced with language that allows the Parole Board to obtain an evaluation from the psych panel on any sex offender who is being considered for parole, if that risk information would be helpful in determining whether parole should be granted. The reference to NRS 179D.095 includes any person who would have to register as a sex offender when released from prison. This includes certain sexual offenses not listed in subsection 5, and includes prior convictions, and convictions that have occurred in another jurisdiction.

3. Revise the current language pertaining to liability, and delete the statutory language pertaining to the revocation of a psych panel certification.

Subsection 3 of NRS 213.1214 currently allows the psych panel to revoke the certification of a prisoner previously certified. If the language is changed to an advisory function instead of a certification process, the language in this subsection would become moot. Currently, the psych panel does not have any procedures or regulations in place regarding the revocation of a certification, which is another concern related to the current process.

The indemnity language would be changed to reflect “evaluated” instead of “certified” and also provide that the panel is not restricted in its ability to evaluate an inmate. The current indemnity language states that only a prisoner may not bring a cause of action against the State, it doesn’t prevent others from bringing a cause of action against the State. The change would broaden the indemnity portion of the law to apply to any person who might bring a cause of action against the state for evaluating, not evaluating, considering or relying on a psych panel evaluation.

4. Require the Psych Panel to adopt regulations regarding the evaluation of prisoners and review their assessments and procedures at least once every three years and make a determination on the validity of their risk tools.

Subsection 4 of NRS 213.1214 (which currently provides indemnity information that will be revised in subsection 3) would create the requirement for the psych panel to adopt regulations pertaining to the manner in which they will evaluate sex offenders for risk. The purpose of this subsection is to allow the processes and procedures that will be used in the evaluation process to be adopted in a public manner with the hope that in doing so, the assessments will be objective measures and not as subjective as the process currently is.

This new subsection would also require the psych panel to review the assessments and procedures at least once every three years in an effort to ensure the assessments, and manner in which sex offenders are evaluated for risk, remain up to date.

5. Clarify that only convictions for child abuse or neglect that are deemed sexual in nature are required to be evaluated by the psych panel, and add the crime of Kidnaping with Intent to Commit Sexual Assault to the required list of offenses.

Subsection 5 of NRS 213.1214 currently requires sexual or non-sexual child abuse or neglect to be evaluated by the psych panel. This change would clarify that only child abuse or neglect that was sexually motivated would require the psych panel review.

The crime of Kidnaping with Intent to Commit Sexual Assault would be added to the list of offenses for which a psych panel evaluation would be required as item “(p).”

6. Specify that the Parole Board may adopt regulations pertaining to the manner in which the sex offender risk assessment will be used in conjunction with the parole standards.

This would be a new subsection of NRS 213.1214 which would specify that the Parole Board may use the risk assessment provided by the psych panel as part of its parole guidelines.

7. Define certain terms that could be interpreted differently.

The new subsection 7 of NRS 213.1214 would define the term “current term of imprisonment” to mean the group of sentences that are relative to each other by the status of concurrent or consecutive relationship.

The new subsection 8 clarifies the term “custody of the Department of Corrections” as used in subsection 7 means inmates who are physically housed in the NDOC, are housed by NDOC because they are a parole violator, and those inmates who are housed in out-of-state facilities.

cc: Adriana G. Fralick, General Counsel to Governor Gibbons
Parole Board Members

NRS 213.1214 Prisoners required to be certified evaluated by panel before release on parole; recertification reevaluation required if prisoner returns to custody; revocation of certification standards for consideration for parole; immunity.

1. The Board shall not ~~release or~~ grant or continue the parole of a prisoner who has served, is serving or has yet to serve a sentence on his current term of imprisonment for having been convicted of an offense listed in subsection 5 unless a panel consisting of:

(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee;

(b) The Director of the Department of Corrections or his or her designee; and

(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State,

~~~ certifies that the prisoner was under observation while confined in an institution of the Department of Corrections and does not represent a high risk to reoffend based upon a currently accepted standard of assessment~~ Evaluates the prisoner within 120 days of a parole hearing using a currently accepted standard of assessment to determine the risk of a person to re-offend in a sexual manner. The panel shall rate each offender appearing before it as a low, moderate or high risk to re-offend, and provide its findings to the Board prior to the scheduled hearing.

2. ~~A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the Department of Corrections may not be paroled unless a panel recertifies the prisoner in the manner set forth in subsection 1.~~ In addition to the required offenses listed in subsection 5, the Board may require the panel to conduct an evaluation on a prisoner who is a sex offender as defined by NRS 179D.095 when the results of an evaluation may assist the Board in determining whether parole should be granted.

3. ~~The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.~~ This section does not create a right to any person to be evaluated or reevaluated under a current or prior assessment tool, and does not restrict the panel from conducting an evaluation on a prisoner when it may assist the Board in determining whether parole should be granted or continued. A cause of action cannot be brought against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for evaluating, not evaluating, considering or relying on an evaluation of a prisoner conducted pursuant to this section.

4. ~~This section does not create a right in any prisoner to be certified or to continue to be certified. No prisoner may bring a cause of action against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for not certifying a prisoner pursuant to this section or for refusing to place a prisoner before a panel for certification pursuant to this section.~~ Pursuant to NRS 233B, the panel shall adopt regulations pertaining to the evaluation of prisoners who are sex offenders to determine their risk to re-offend sexually if they are released or continued on parole.

(a) The regulations must require that:

(i) the evaluation of a sex offender is based on currently accepted standards of assessment designed to determine the risk of an offender to re-offend in a sexual manner;

(ii) the evaluation must contain a statement by the panel as to the validity of the assessment based on other information known about the sex offender that may mitigate or aggravate the assessment result; and

(iii) the result of the evaluation stating the level of risk to re-offend sexually and a statement by the panel must be provided to the Board prior to the hearing to consider the prisoner for parole.

(b) The panel shall review the assessments and procedures adopted by regulation at least once every three years and make a finding regarding the validity of the use of the assessments and procedures. If the panel finds that an assessment tool is ineffective, or another tool is more effective in predicting whether a sex offender may re-offend in a sexual manner, the panel may discontinue the use of the assessment or procedure and adopt a new assessment or procedure that is determined to be more effective.

5. The provisions of this section apply to a prisoner convicted of 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 or neglect of a child pursuant to [NRS 200.508](#), *if the abuse involved sexual abuse or sexual exploitation and is punished as a felony*.
  - (e) An offense involving pornography and a minor pursuant to [NRS 200.710](#) to [200.730](#), inclusive.
  - (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 201.195](#).
  - (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 pursuant to [NRS 201.450](#).
  - (l) Luring a child or a person with mental illness pursuant to [NRS 201.560](#), if punished as a felony.
  - (m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive.
  - (n) An offense that is determined to be sexually motivated pursuant to [NRS 175.547](#).
  - (o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to [NRS 207.193](#).
  - (p) *Kidnaping with Intent to Commit Sexual Assault pursuant to NRS 200.310.*

6. *The Board may adopt by regulation the manner in which it will consider an evaluation prepared pursuant to this section with regard to the standards adopted by the Board pursuant to NRS 213.10885.*

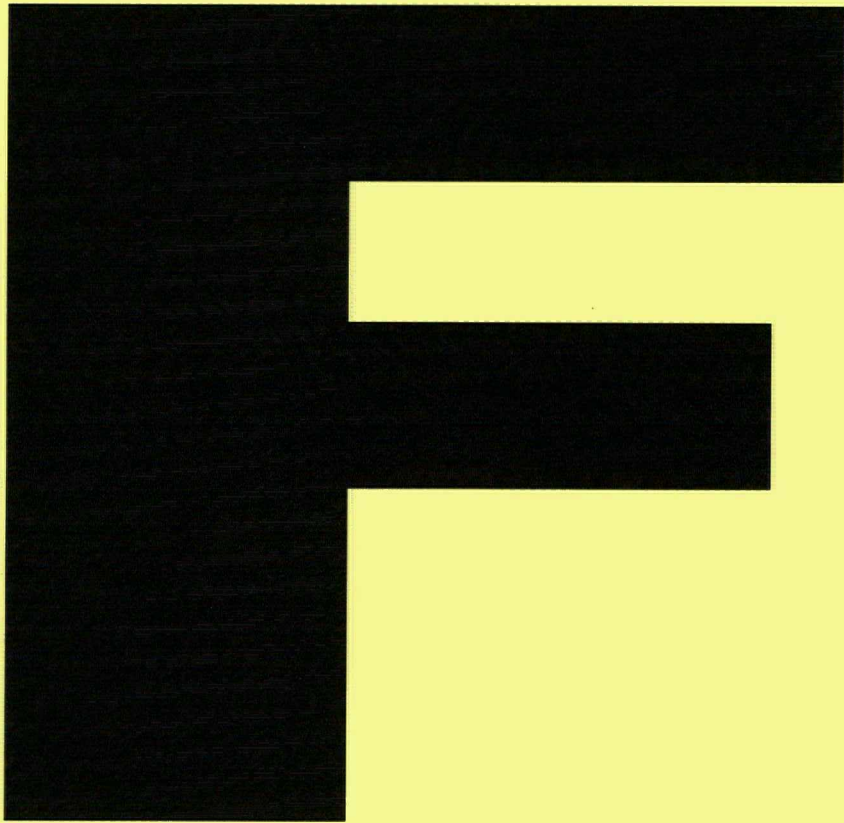
7. *The term "current term of imprisonment" means one or more sentences being served concurrently or consecutively in relationship to one another while the inmate is in the custody of the Department of Corrections.*

8. *For the purposes of subsection 7, the term "custody of the Department of Corrections" means a prisoner who is confined within an institution or facility of the Department of Corrections, a parolee charged with a violation of parole who is confined within an institution or facility of the Department of Corrections, or a prisoner serving his Nevada sentence or sentences in another jurisdiction in accordance with an agreement established with the Nevada Department of Corrections.*

9. *Meetings by a panel to evaluate a prisoner pursuant to this section are not subject to the provisions of NRS 241. Meetings by a panel to consider matters other than to evaluate a prisoner pursuant to this section are subject to the provisions of NRS 241.*

Consideration of Sex Offenders for Release

|                                                                                                                                                                                                                                          | Nevada                                          | Connecticut                                                                       | Kansas                                                                                                                                                                 | Maryland                                                                                                          | Montana                                                                                                                                  | North Dakota                                                                   | Pennsylvania                                                                                                                                                                        | South Dakota                                                             | Tennessee                                                 | Washington                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 1) Does your state prepare a risk instrument specifically designed for use on sex offenders when a sex offender is being considered for parole (this question assumes the person is being considered for parole on a current sex crime)? | Yes                                             | Yes                                                                               | Yes                                                                                                                                                                    | Yes                                                                                                               | No                                                                                                                                       | Yes                                                                            | Yes                                                                                                                                                                                 | Yes                                                                      | No                                                        | Yes                                                                                                                 |
| a) Which assessment is used (is it one designed in-house or is it some other nationally recognized evaluation)                                                                                                                           | STATIC-99, MNSOST-r                             | SFS-07, SOSP-IV, STATIC 99                                                        | STATIC 99, MnSOST, STABLE 2007, ACUTE 2007. To determine if sexually violent predator commitment, completed by PhD, psychologist using Axis I & II, PCL-R* and VRAG**. | STATIC-99                                                                                                         | We do require a sex offender report and sex offenders in Montana are all placed in a tier level based on risk at the time of sentencing. | MnSOST-R, Static 99, Stable-2000                                               | Static 99                                                                                                                                                                           | Static 99, RRAsor, MN-SOST, history polygraph & psychosexual evaluation. | Psychological Evaluation (unknown type)                   | Static 99, MnSOST-R                                                                                                 |
| b) Who prepares the documents (i.e., psychologist employed by the board; psychologist employed by the prison; commissioner assigned to the case; or hearings examiner employed by the board, etc).                                       | Psychiatrist & 2 psychologists employed by NDOC | Contracted therapist w/ Master's Degree then signed off by licensed Psychologist. | DOC Clinicians. If Sexually Violent then completed by a PhD Psychologist                                                                                               | Parole Board Hearing Examiner, unless victim at hearing attendance then a Parole Board Commissioner will prepare. | Unknown                                                                                                                                  | Prepared by Sex Offender Counselors, reviewed by psychologist employed by DOCR | Licensed psychologist at DOC & parole agent of the Board                                                                                                                            | DOC Sex Offender Management Program                                      | Psychiatrists or licensed clinical psychologists from DOC | Staff of the DOC Sex Offender Treatment Program and the End of Sentence Review Committee.                           |
| c) Does the preparer have any specialized training to evaluate sex                                                                                                                                                                       | Yes                                             | Unknown                                                                           | Unkonwn                                                                                                                                                                | unknown                                                                                                           | Unknown                                                                                                                                  | Yes                                                                            | Unknown                                                                                                                                                                             | Yes                                                                      | Unknown                                                   | Yes                                                                                                                 |
| 2) Does your state prepare a risk instrument designed for use on sex offenders when a person with a prior sex offense is being considered for parole?                                                                                    | No                                              | Yes                                                                               | Yes                                                                                                                                                                    | No                                                                                                                | We do require a sex offender report and sex offenders in Montana are all placed in a tier level based on risk at the time of sentencing. | Yes                                                                            | Yes ("It is recommended that if the offender does not have any sex offenses for ten years and then returns to prison for a non-sexual offense, the instrument is not recommended.") | Yes                                                                      | No                                                        | Not for Washington State Offenders                                                                                  |
| a) If yes, does it matter whether the conviction for the sex offense was obtained within your State's jurisdiction or in another State                                                                                                   | n/a                                             | No                                                                                | Unknown                                                                                                                                                                | n/a                                                                                                               | We do require a sex offender report and sex offenders in Montana are all placed in a tier level based on risk at the time of sentencing. | No                                                                             | No                                                                                                                                                                                  | No                                                                       | n/a                                                       | DOC uses the sex offender risk tools on parolees coming from other States who have been convicted of a sex offense. |
| 3) Does your State have any specialized language with regard to the manner in which sex offenders must be evaluated before consideration for release on parole?                                                                          | Yes                                             | No                                                                                | Yes                                                                                                                                                                    | No                                                                                                                | Yes                                                                                                                                      | No                                                                             | Yes                                                                                                                                                                                 | Yes                                                                      | Unknown                                                   | Yes                                                                                                                 |



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## NEVADA BOARD OF PAROLE COMMISSIONERS

June 7, 2010

To: William Horne, Chairman  
Advisory Commission on the Administration of Justice  
Members of the Advisory Commission on the Administration of Justice

From: Connie S. Bisbee, Chairman *CMB*

Subject: Specific Information Related to the Concept of Aggregated Sentences

This memo is in response to the request for additional information concerning changing Nevada's sentencing structure to one that aggregates the minimum and maximum terms of sentences ordered to be served consecutively into one sentence to be served.

There are several areas of existing law and practice that must be considered regarding the implementation of an aggregated sentencing scheme that involves determinate sentences. These areas include:

- 1) Application of credits (AB510) which are applied to reduce a minimum sentence;
- 2) Establish limits to aggregated sentences when the offense is not one that would result in a life sentence;
- 3) Prospective and retroactive application of aggregated sentences including new convictions which may be imposed while on parole;
- 4) The manner in which the Department of Corrections (NDOC), the Board of Parole Commissioners (Parole Board) and the Division of Parole and Probation (P&P) should consider the offenses for the purposes of classification, parole guidelines and community supervision; and
- 5) Costs related to database programing changes, and implementation concerns.

**1. Application of credits which are applied to reduce the minimum sentence of Category C, D & E felony convictions.**

The major issue regarding aggregating the minimum terms of sentences in Nevada is that an inmate may be sentenced to serve consecutive sentences, of which some may allow credit reductions toward a minimum term with others that do not allow for a credit reduction toward the minimum term.

For example, under the current credit scheme, an inmate may be sentenced to serve one 12-36 month term for a Category C crime with a consecutive 12-48 month term for a Category B crime. The inmate would receive credits toward reducing the 12 month minimum sentence for the Category C crime. Depending on the amount of county jail credits the inmate may receive and whether the inmate would qualify and could be moved to minimum custody quickly, the 12 month minimum sentence would be reduced to a range from 5 - 7 months minimum (see attachment 1 for a graphical explanation of how the timing of certain factors affect credits that may reduce the minimum sentence of a qualifying sentence).

Once paroled or expired, the inmate would begin serving the 12 month minimum on the consecutive sentence.

The consecutive sentence structure can be viewed as:

| Level | Case | Count | Offense       | Min | Max | sent start | PED      | EXP      |
|-------|------|-------|---------------|-----|-----|------------|----------|----------|
| 1     | 123  | I     | Poss Ctrl Sub | 12  | 36  | 7/1/2009   | 1/1/2010 | 1/1/2011 |
| 2     | 123  | II    | Burglary      | 12  | 48  | Pending    | Pending  | Pending  |

If these sentences were aggregated, the sentence would be come a 24-84 month sentence displayed as follows:

| Level | Case | Count | Offense    | Min | Max | sent start | PED  | EXP      |
|-------|------|-------|------------|-----|-----|------------|------|----------|
| 1     | 123  | I/II  | Burg & PCS | 24  | 84  | 7/1/2009   | ???? | 1/1/2013 |

Since one of the aggregated minimum sentences is allowed to be reduced by credits (and credit earnings vary based on custody and assignments), the problem becomes trying to determine how to apply credits to only one of the two aggregated sentences if the inmate receives country jail credits or is housed in more than one custody location during the period in which the inmates serves the minimum sentence.

In order to reasonably accommodate aggregating consecutive sentences comprising of a mixture of minimum sentences that may and may not be reduced by credits, the minimum sentences of qualifying Category C, D and E felonies must be fixed and not affected by fluctuating credits. There are at least two ways to accomplish this:

- #1 Require that the NDOC reduce the minimum sentences of qualifying Category C, D and E felonies by 50% for the purposes of determining parole eligibility; or

- #2 Change the minimum sentence that may be imposed by a Court for a qualifying Category C, D or E felony conviction to a total period of not less than 6 months to not more than 20% of the maximum sentence (and eliminate the allowance of credit earnings on minimum sentences). Currently, statutes require a minimum sentence of 12 months to not more than 40% of the maximum sentence.

Example # 1 is basically what is occurring at this time, but may have a slight benefit to inmates who spend more time in a county jail who don't qualify for work credits until they reach the NDOC (see attachment 1). It would have a slight detriment to those inmates who arrive at the NDOC with minimal county jail credits who are classified and moved quickly to camp.

Example #2 would establish fixed minimum sentences of less than 12 months, set by the Court without further reduction by credits. This provides a more "truth in sentencing" approach in that the fixed minimums are clearly set by the Court, and eligibility can be determined by aggregating all the minimum consecutive sentences imposed. Examples of sentences where the greatest minimum sentence that could be imposed under the 20% rule (for Category C, D & E sentences) are as follows:

48 month maximum = 9.6 months minimum.  
36 month maximum = 7.2 months minimum.  
30 month maximum = 6 months minimum.

In order to consider aggregating the minimum and maximum terms of determinant sentences, a resolution for allowing credits on the minimum terms of imprisonment must be found.

**2. Consider establishing maximum limits to aggregated sentences when the offense is not one that would result in a life sentence.**

One aspect that should be considered with regard to aggregating sentences is to consider limiting the maximum number of years a person may be sentenced to, when the underlying offense is not one that could result in the equivalent of a sentence of life or life without the possibility of parole.

I have seen many examples of inmates who have been sentenced to so many consecutive sentences for non-life offenses that they will serve more time than some inmates sentenced to prison for having committed Murder. Many of these types of cases end up being commuted by the Pardons Board at some point because they are exceptionally long in comparison to the nature of the crime.

The following is an example of an actual case:

An offender committed five robberies over the course of ten days to obtain money to support a gambling addiction. No one was injured during the robberies, and the offender had no prior criminal history.

He was sentenced to serve five consecutive 8-year sentences, each with a consecutive 8-year enhancement for the use of a deadly weapon, or a total of ten consecutive 8-year sentences. The minimum parole eligibility was approximately 2 years per sentence. When aggregating these sentences, the inmate would have to serve 20 years before eligibility with a maximum sentence of 80 years (less credits off the maximum sentence, which today would result in a 50% reduction, or 40 years maximum).

Had this inmate's sentence not been commuted by the Pardon's Board, he would have served more time on the minimum sentences than an offender sentenced today for 2<sup>nd</sup> Degree Murder (10-Life with a maximum weapons enhancement of 8-20 years, or an aggregated 18-Life sentence).

I do not suggest limiting the minimum sentences for those inmates who have within their sentence structure a maximum sentence of Life (with the possibility of parole). For these inmates, the sum of the minimum sentences ordered to be served consecutively would become the aggregated minimum with a maximum sentence of Life.

For the purposes of this review, I suggest the Advisory Commission consider a limit to the aggregated minimum and maximum sentences of a sentence structure comprised of strictly determinant sentences to no greater than 20 years minimum and no greater than 60 years maximum.

The following are examples of sentences applied under this provision:

Case # 1 - Inmate sentenced to ten 3-15 year consecutive sentences for five counts of Robbery with the Use of a Deadly Weapon Enhancement. When aggregated, the sentence would end up being 30 years minimum to 150 years maximum. After applying the sentence cap, the sentence would be 20 years minimum to 60 years maximum.

Case # 2 - Inmate sentenced to one 4-12 year sentence for Robbery with a consecutive 4-12 year sentence for Use of a Deadly Weapon Enhancement, consecutive to one 20-life term for 1<sup>st</sup> Degree Murder with a consecutive 8-20 year sentence for the use of a deadly weapon enhancement.

Under the current scheme, the sentence in example #2 would look like the following (the sum of the minimum sentences equals 36 years):

| Level | Case | Count | Offense                | Min | Max  | sent start | PED      | EXP      |
|-------|------|-------|------------------------|-----|------|------------|----------|----------|
| 1     | 123  | I     | Robbery                | 48  | 144  | 7/1/2009   | 7/1/2013 | 7/1/2015 |
| 2     | 123  | I     | UDWto Rbry             | 48  | 144  | Pending    | Pending  | Pending  |
| 3     | 123  | II    | Murder 1 <sup>st</sup> | 240 | Life | Pending    | Pending  | Pending  |
| 4     | 123  | II    | UDW to Mur             | 96  | 240  | Pending    | Pending  | Pending  |

Under an aggregated scheme, the sentence would look like this (note: the minimum sentences would not be capped, because the inmate has a maximum sentence of Life - the sum of the minimum sentences equals 36 years, but all served at once, and then eligible for parole):

| Level | Case | Count | Offense    | Min | Max  | sent start | PED      | EXP  |
|-------|------|-------|------------|-----|------|------------|----------|------|
| 1     | 123  | I/II  | Murder 1st | 432 | Life | 7/1/2009   | 7/1/2045 | Life |

**3. Prospective and retroactive application of aggregated sentences including new convictions which may be imposed while on parole.**

The most efficient way to implement the change to aggregate minimum and maximum sentences would be to apply it prospectively, however, there may be some benefit to allowing sentences already imposed to be aggregated retroactively.

There are numerous aspects that must be considered in order to facilitate allowing sentences to be aggregated retroactively. In all cases, the affected inmate should agree to the change in the sentence structure that is retroactively changed, and that it be an irrevocable acceptance. The following situations must be addressed:

- 1) Inmates with sentences that have had no parole board action on any sentence at the time the sentence is converted to an aggregated structure;
- 2) Inmates with sentences that have had parole action on one or more of the sentences when it is converted to an aggregated structure;
- 3) Inmates with a mixture of Category C, D & E sentences with Category A and/or B sentences;
- 4) Applying a cap on the minimum and maximum sentences retroactively when applicable; and
- 5) Parole violators who receive new felony convictions while serving aggregated and non-aggregated sentences on parole.

Since there are different ways each of these situations could be addressed, I suggest that the Advisory Commission first indicate its desire with regard to the credits on minimum sentences and the potential capping of aggregated determinate sentences. Once there is direction on those points, I recommend staff from the Parole Board and the NDOC meet and draft a proposal related to these four areas, and any others related to retroactive application that may arise.

**4. The manner in which the NDOC, the Parole Board and P&P should consider aggregated offenses for the purposes of classification, parole guidelines and community supervision.**

For the most part, each of these agencies considers the most serious offense and prior offenses when classifying inmates or considering inmates for release on parole. For example, an inmate with a prior felony sex offense would not be permitted to be housed in minimum custody, or an inmate who is serving a sentence of possession of controlled substance consecutive to a Murder conviction would not be housed in a minimum camp.

However, because of the consecutive relationship of various sentences, once a person convicted of Murder is paroled to a consecutive drug offense, the inmate would then be grouped statistically into the "drug" offense category within the active inmate population.

Once sentences become aggregated, a blending of different offense groups and types will occur in many instances. Because of this, I recommend the NDOC, P&P and Parole Board classify each offender according to the most serious offense the inmate was sentenced to on the current term of incarceration, regardless of the length or characteristics of the various sentences. This would provide a more realistic statistical description of the offender population when it is compared to classification, parole actions and parole supervision.

#### **5. Costs related to database programming changes and implementation concerns.**

There will be costs related to changing the sentence management module within the NDOC's information management system (NOTIS) to handle both the current consecutive sentence relationship structure, and an aggregated sentence structure. When the Legislature changed the amount of credits inmates could earn during the 2007 session, the programming cost to make this singular change was approximately \$65,000.00.

As a result of trying to implement those changes, the subject matter experts determined that the manner in which the sentence management module was programmed is not adequately flexible enough to handle changes that may occur over time with regard to credits or sentence structures.

As a result of the review after the AB510 programming change was made, the subject matter experts consulted with SYSCON on how to change the sentence management module to one that would be flexible over time, and allow for changes to be made without major costs to the NDOC. The result was a recommendation to change the current sentencing module to a table-driven system that will allow enhancement changes to occur with relative ease and at a minimal cost.

The estimated cost to change the sentence management module to a table driven system is approximately \$300,000.00. It is expected that a feature to allow for a combination of both the current system of consecutive sentencing and an aggregated sentencing system would be included within this amount. The amount of time it could take to accomplish programming and implement such a system could be 8-12 months.

If the Advisory Commission determines that it will recommend legislative changes to provide for aggregated sentences, I suggest that the Commission recommend to the Interim Finance Committee that the funds be allocated to NDOC now, instead of waiting until FY2012. A delay in funding this change would delay the ability to implement an aggregated sentencing system until approximately FY 2013. Additionally, a fiscal note attached to a BDR could result in the measure not passing.

Lastly, there are an estimated 3,000 current inmates who have sentence structures that still have consecutive sentences to be served. If a retroactive provision is authorized, it will likely take several months to coordinate the conversion of sentences once inmates have been notified and request such a change.

Advisory Commissioner on the Administration of Justice

June 7, 2010

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It is likely that only those inmates who would benefit from retroactively aggregating their sentences would request the change, and with that benefit, those inmates would be anxious to have their sentence structure changed. Because of the number of cases that would need to be reviewed, and the time it will take to review all the anticipated requests, some inmates may initiate litigation against the State or Director for not acting fast enough, or acting on other cases before theirs.

I recommend that there be specific language authorizing the Director of the NDOC to establish a time line to coordinate the retroactive conversion of consecutive sentences and that inmates may not bring a cause of action against the State or NDOC with regard to the timing of reviewing and implementing any consecutive sentences that may qualify for retroactive aggregation.

**Attachment 1 - Examples of credit reductions off a 12 month minimum sentence.**

**Flat Time:** The day for day time an inmate serves in prison. For example, the month of January has 31 days. If an inmate spends the entire month of January in prison, he will be given 31 days of "flat time" toward satisfying a sentence.

**Stat Time:** Good time credits authorized by statute to reduce a sentence. Inmates earn 20 stat credits each month (prorated for partial months) in a medium or maximum security setting. Inmates earn 30 stat credits each month if housed in a minimum security work camp, residential confinement or restitution center.

**Work Credit:** Work or program credits authorized by statute to reduce a sentence. Qualifying inmates are entitled to earn 10 work credits each month.

**Jail Credits:** Day for day time an inmate is housed in a county jail if specified by the Judge on the Judgement of Conviction. Stat credits are applied to county jail credits, but work credits are not.

Sentences for non-violent Category C, D or E felony convictions can receive Stat and Work credits to reduce both the minimum and maximum sentence. The following are examples of how different situations will affect the earning of credits off a minimum and maximum sentence.

12 months = 365 days

Medium Custody Inmate, No County Jail Credits

|                         | Jan | Feb | Mar | Apr | May | Jun        |
|-------------------------|-----|-----|-----|-----|-----|------------|
| Flat Credits            | 31  | 28  | 31  | 30  | 31  | 30         |
| Stat Credits            | 20  | 20  | 20  | 20  | 20  | 20         |
| Work Credits            | 10  | 10  | 10  | 10  | 10  | 10         |
| Total Credits           | 61  | 58  | 61  | 60  | 61  | 60         |
| EOM Accumulated Credits | 61  | 119 | 180 | 240 | 301 | <b>361</b> |

This inmate attains parole eligibility on or about July 2, or after approximately 6 months.

Medium Custody Inmate for 1 month, Minimum for 5 months, No County Jail Credits

|                         | Jan | Feb | Mar | Apr | May        | Jun |
|-------------------------|-----|-----|-----|-----|------------|-----|
| Flat Credits            | 31  | 28  | 31  | 30  | 31         | 30  |
| Stat Credits            | 20  | 30  | 30  | 30  | 30         | 30  |
| Work Credits            | 10  | 10  | 10  | 10  | 10         | 10  |
| Total Credits           | 61  | 68  | 71  | 70  | 71         | 70  |
| EOM Accumulated Credits | 61  | 129 | 200 | 270 | <b>341</b> | 411 |

This inmate attains parole eligibility on or about May 10th, or after approximately 5 1/3 months.

Medium Custody Inmate 180 County Jail Credits

|                         | Jan | Feb | Mar | Apr | May | Jun | Jul        |
|-------------------------|-----|-----|-----|-----|-----|-----|------------|
| Flat Credits            | 31  | 28  | 31  | 30  | 31  | 30  | 30         |
| Stat Credits            | 20  | 20  | 20  | 20  | 20  | 20  | 20         |
| Work Credits            | 0   | 0   | 0   | 0   | 0   | 0   | 10         |
| Total Credits           | 51  | 48  | 51  | 50  | 51  | 50  | 60         |
| EOM Accumulated Credits | 51  | 99  | 150 | 200 | 251 | 301 | <b>361</b> |

This inmate does not earn work credits on the first 180 days of his sentence which is credited as county jail credits. He earns 20 stat credits each month. Once he reaches the NDOC at the end of June, he begins earning work credits. He attains parole eligibility on or about August 2, or after approximately 7 months.

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1677 Old Hot Springs Road  
Suite A  
Carson City, Nevada 89706-0677  
<http://parole.nv.gov>  
(775) 687-5049  
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CONNIE S. BISBEE, *Chairman*  
SUSAN L. JACKSON, *Member*  
ADAM ENDEL, *Member*  
TONY CORDA, *Member*

STATE OF NEVADA  
JIM GIBBONS  
*Governor*



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4000 S. Eastern Avenue  
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Las Vegas, Nevada 89119-0840  
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CONNIE S. BISBEE, *Chairman*  
EDDIE GRAY JR., *Member*  
MICHAEL KEELER, *Member*  
MAURICE SILVA, *Member*

KATHI BAKER, *Executive Secretary*

NEVADA BOARD OF PAROLE COMMISSIONERS

June 16, 2010

To: William Horne, Chairman  
Advisory Commission on the Administration of Justice

Members of the Advisory Commission on the Administration of Justice

From: Connie S. Bisbee, Chairman

Handwritten signature of Connie S. Bisbee in blue ink.

Subject: Aggregated Sentences and Cost Analysis of Parole Denials to Consecutive Sentence

During the recent meeting of the Advisory Commission, I was requested to provide information on potential cost savings if Nevada's sentencing structure is converted to an aggregated sentencing scheme.

There are currently approximately 1,171 inmates who are serving a parole denial to a consecutive sentence in the NDOC. Of the 1,171 inmates, 817 inmates are serving strictly determinative sentences. The remaining 354 have a life sentence somewhere within their sentence structure.

A cursory review of the cases indicates that many are serving sentences for the most serious of crimes. There are a number, however, who are serving minor sentences, but because of a variety of reasons they have been denied parole to their consecutive sentences.

One objective of aggregating the minimum and maximum sentences is to allow for the inmate to adjust and program once arriving to prison in the hopes that by doing so, they would be more suitable for release on parole once they have served their minimum sentences.

Of the 817 inmates who are serving determinative consecutive sentences, the combined number of denial years (based on actual number of days served on one or more denial periods from minimum parole eligibility to today's date) equals 1,925.

Of the 354 inmates who are serving life sentences, or a combination of life and determinative sentences, the combined number of denial years equals 2,120.

Advisory Commissioner on the Administration of Justice  
June 16, 2010  
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Using a marginal cost of \$2,400 per inmate per year, the cost of the denials to consecutive sentences for the inmates serving determinate sentences equals approximately \$4,621,518.00 as of today's date. The marginal cost of the denials to consecutive sentence for the inmates serving life sentences equals approximately \$5,111,927.00 as of today's date.

It is important to note that many of these inmates, even if their sentences were aggregated, would be denied parole and never released from prison. If aggregating the sentences results in just 10% of these inmates being paroled at the initial hearing, the marginal cost savings would be approximately \$900,000.00.

Since there are currently over 3,000 inmates serving sentences which include a consecutive sentence within their sentence structure, the savings could be considerably more.

I hope this information is helpful to the committee in its evaluation of this proposal.

**G**

# 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](http://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](http://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](http://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](http://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.

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ASSEMBLY BILL NO. 234—ASSEMBLYWOMAN GANSERT

MARCH 4, 2009

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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.

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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.

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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



\* A B 2 3 4 \*

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:

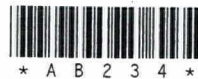
43 179D.150 A record of registration must include, if the  
44 information is available:



- 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 ~~H~~ 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

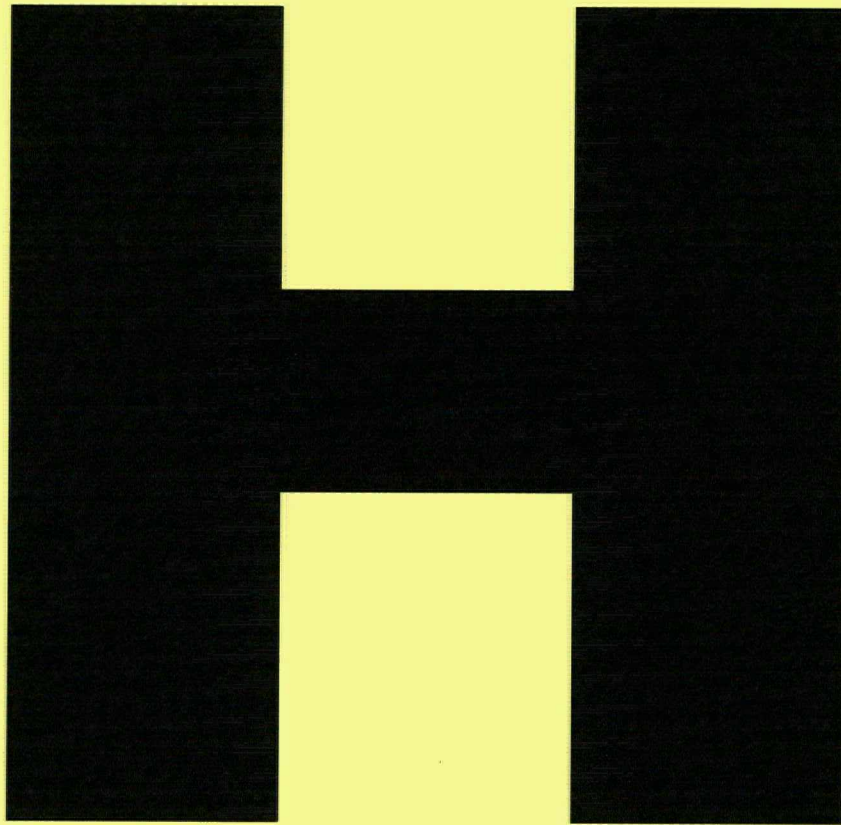
13 (f) Any other information required by federal law.

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.





**NRS 180.010 Office created; term; qualifications; private practice of law prohibited; supervision; assignment of additional duties.**

1. The Office of State Public Defender is hereby created within the Department of Health and Human Services.

2. The Governor shall appoint the State Public Defender for a term of 4 years, and until a successor is appointed and qualified.

3. The State Public Defender:

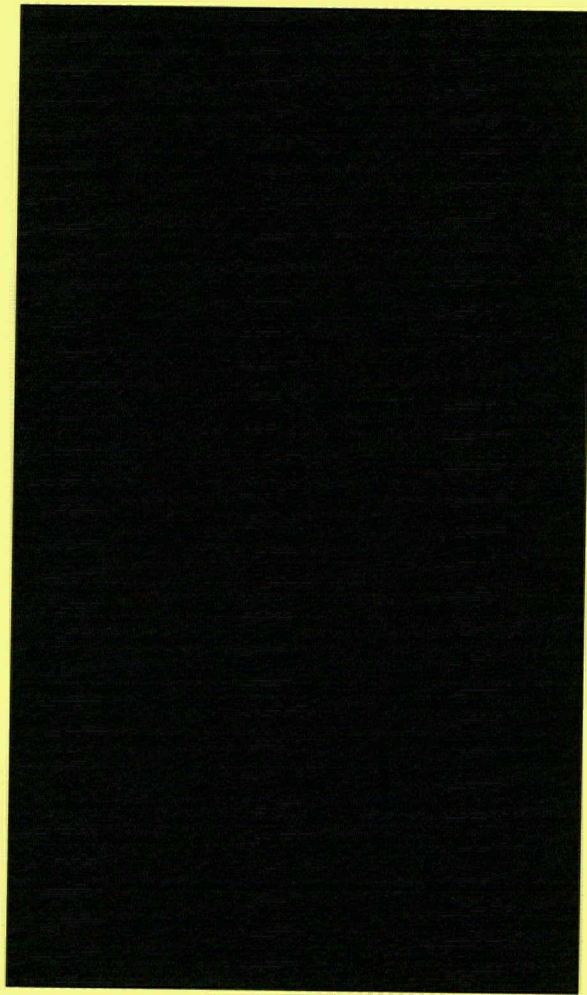
(a) Must be an attorney licensed to practice law in the State of Nevada.

(b) Is in the unclassified service of the State.

(c) Except as otherwise provided in NRS 7.065, shall not engage in the private practice of law.

4. No officer or agency of the State, other than the Governor and the Director of the Department of Health and Human Services, may supervise the State Public Defender. No officer or agency of the State, other than the Governor, may assign the State Public Defender duties in addition to those prescribed by this chapter.

(Added to NRS by 1971, 1410; A 1973, 707; 1977, 1176; 1989, 202; 1993, 1518)



**NRS 176.0125 Duties of Commission.** The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

(a) Policies relating to parole;

(b) Regulatory procedures and policies of the State Board of Parole Commissioners;

(c) Policies for the operation of the Department of Corrections;

(d) Budgetary issues; and

(e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and

(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

(a) State Board of Pardons Commissioners to consider an application for clemency; and

(b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

(Added to NRS by 1995, 1354; A 2007, 2819, 3194)

**J**

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ASSEMBLY BILL NO. 114—COMMITTEE ON JUDICIARY  
(ON BEHALF OF THE ADVISORY COMMISSION ON THE  
ADMINISTRATION OF JUSTICE)

PREFILED JANUARY 23, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning compensation to victims of crime. (BDR 16-624)

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.

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AN ACT relating to victims of crime; extending the time to appeal the denial of a claim for compensation to a victim of crime; providing for balances to remain within the Fund for the Compensation of Victims of Crime; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 **Section 1** of this bill extends the time to appeal a compensation officer's denial  
2 of a claim seeking compensation from the Fund for the Compensation of Victims of  
3 Crime from 15 to 60 days. **Section 2** of this bill provides that any remaining money  
4 in the Fund for the Compensation of Victims of Crime at the end of the fiscal year  
5 must remain within the Fund and must not be reverted to the State General Fund.

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

1 **Section 1.** NRS 217.110 is hereby amended to read as follows:  
2 217.110 1. Upon receipt of an application for compensation,  
3 the compensation officer shall review the application to determine  
4 whether the applicant qualifies for compensation. The compensation  
5 officer shall deny the claim within 5 days after receipt of the  
6 application if the applicant's ineligibility is apparent from the facts  
7 stated in the application. The applicant may appeal the denial to a  
8 hearing officer within ~~15~~ 60 days after the decision. If the hearing



\* A B 1 1 4 \*

1 officer determines that the applicant may be entitled to  
2 compensation, the hearing officer shall order the compensation  
3 officer to complete an investigation and render a decision pursuant  
4 to subsection 2. If the hearing officer denies the appeal, the  
5 applicant may appeal to an appeals officer pursuant to  
6 NRS 217.117.

7 2. If the compensation officer does not deny the application  
8 pursuant to subsection 1, or if he is ordered to proceed by the  
9 hearing officer, he shall conduct an investigation and, except as  
10 otherwise provided in subsection 4, render a decision within 60 days  
11 after his receipt of the application or order. If in conducting his  
12 investigation the compensation officer believes that:

13 (a) Reports on the previous medical history of the victim;

14 (b) An examination of the victim and a report of that  
15 examination;

16 (c) A report on the cause of death of the victim by an impartial  
17 medical expert; or

18 (d) Investigative or police reports,

19 ➔ would aid him in making his decision, the compensation officer  
20 may order the reports.

21 3. Upon the request of a compensation officer pursuant to  
22 subsection 2 for investigative or police reports which concern a  
23 minor who committed a crime against the victim, a juvenile court or  
24 a law enforcement agency shall provide the compensation officer  
25 with a copy of the requested investigative or police reports. Any  
26 reports obtained by a compensation officer pursuant to this  
27 subsection are confidential and must not be disclosed except upon  
28 the lawful order of a court of competent jurisdiction.

29 4. When additional reports are requested pursuant to subsection  
30 2, the compensation officer shall render a decision in the case,  
31 including an order directing the payment of compensation, if  
32 compensation is due, within 15 days after receipt of the reports.

33 **Sec. 2.** NRS 217.260 is hereby amended to read as follows:

34 217.260 1. Money for payment of compensation as ordered  
35 by the Board and for payment of salaries and other expenses  
36 incurred by the Department of Administration pursuant to NRS  
37 217.010 to 217.270, inclusive, must be paid from the Fund for the  
38 Compensation of Victims of Crime, which is hereby created. Money  
39 in the Fund must be disbursed on the order of the Board in the same  
40 manner as other claims against the State are paid. The Board shall  
41 estimate quarterly:

42 (a) The revenue in the Fund which is available for the payment  
43 of compensation; and

44 (b) The anticipated expenses for the next quarter.



- 1   ↳ If the estimated expenses for the quarter exceed the available  
2 revenue, all claims paid in that quarter must be reduced in the same  
3 proportion as the expenses exceeded the revenue.
- 4   2. Money deposited in the Fund which is recovered from a  
5 forfeiture of assets pursuant to NRS 200.760 and the interest and  
6 income earned on that money must be used for the counseling and  
7 medical treatment of victims of crimes committed in violation of  
8 NRS 200.366, 200.710, 200.720, 200.725, 200.730 or 201.230.
- 9   3. The interest and income earned on the money in the Fund  
10 for the Compensation of Victims of Crime, after deducting any  
11 applicable charges, must be credited to the Fund.
- 12   4. *Any money remaining in the Fund for the Compensation*  
13 *of Victims of Crime at the end of each fiscal year does not revert to*  
14 *the State General Fund and must be carried over into the next*  
15 *fiscal year.*
- 16   **Sec. 3.** This act becomes effective upon passage and approval.



**KK**

Testimony prepared for the ACAJ, Nevada Legislature, by Crystal Jackson, M.A., [cajackso@unlv.nevada.edu](mailto:cajackso@unlv.nevada.edu), Dr. Barbara Brents, [barb.brents@unlv.edu](mailto:barb.brents@unlv.edu), & Dr. Kate Hausbeck Korgan, [kate.korgan@unlv.edu](mailto:kate.korgan@unlv.edu). June 14, 2010.

## Nevada's Brothel Industry: Quick Facts

A ten-year sociological study of Nevada's legal brothels (1998-2008) found:

- \*The average age that the women began working in the brothels is 25
- \*Most brothel workers are in their late 20s to late 30s
- \*Women working in the brothels range in age from 19 to 55
- \*Many "older" women (age 40 and above) felt that their age helped—older clients did not want to engage in activity with women 15-25 years younger than them
- \*Around half of the women were married or in a long-term intimate relationship
- \*Over three-fourths of the women have children; the children stay with grandparents, or a friend, boyfriend or husband of the woman when she is working at the brothel
- \*About two-thirds of the women have some education beyond high school
- \*Over three-quarters of women were rotating between sex industry work and non-sexual, service industry labor
- \*Only one-third of the women had ever sold sex illegally

## Recommendations

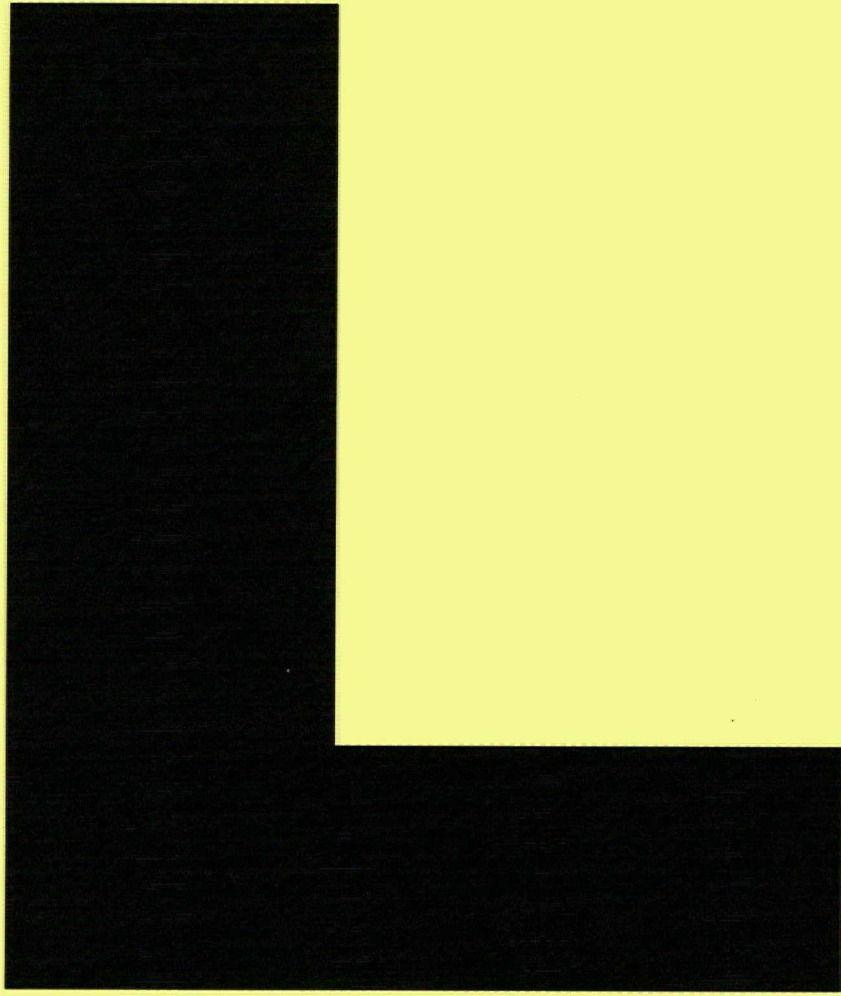
**Our research indicates that there is no need for an age based law at the state level.** Changing the age from 18 to 21 will only limit the job options for the few women between the ages of 18-20 who otherwise may decide to engage in brothel labor. Most women in our study found brothels to be a higher source of income than other jobs available to them. Almost all of the women we spoke with explained their decisions to enter the sex industry as a financial one, to provide for themselves and their families. Many came from the service industry, where wages are low and stagnant.

Further, the majority of brothel regulations are at the county level; some counties have set the age for brothel workers at 18, other counties, at 21. Our research found that the overwhelming majority of brothel workers are already above the age of 21 and did not enter the brothel industry until their mid-twenties or later.

Voting age, age of conscription, typical workforce minimum ages, and age of consent are comparable barometers of legal age limits governing individual rights and actions, and none of them are set at 21. As legal, regulated businesses, brothels should not be treated as a special case distinct from other legal service industry occupations.

In general, restrictions on age for laborers in adult-oriented businesses tend to be based on stereotypes of that labor, and stereotypes of the workers and the clients of that labor. We, as researchers, suggest that current sex worker rights organizations that are run by-and-for sex workers, like the Desiree Alliance ([www.desireealliance.org](http://www.desireealliance.org)), the Sex Workers Outreach Project (there is a Las Vegas chapter, [www.scapa-lv.org](http://www.scapa-lv.org), under the national organization, [www.swopusa.org](http://www.swopusa.org)), or the Best Practices Policy Project ([www.bestpracticespolicy.org](http://www.bestpracticespolicy.org)), may be of interest to the ACAJ, if collaboration to ensure the safety and well-being of sex workers in Nevada's legal brothel industry is desired.

Figures are based on an academic, scientific study, *The State of Sex: Tourism, Sex, & Sin in the New American Heartland*, Routledge, 2010, by UNLV researchers Barbara Brents, Crystal Jackson, and Kate Hausbeck. For full research articles, see <http://faculty.unlv.edu/brents/brents/research.html>



ASSEMBLY BILL NO. 252—ASSEMBLYMEN ANDERSON, HORNE,  
SMITH, HARDY; AIZLEY, BUCKLEY, CARPENTER, CONKLIN,  
GOEDHART, GOICOECHEA, HAMBRICK, KIRKPATRICK,  
MCARTHUR AND SEGERBLOM

MARCH 5, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Provides for the waiver of fees for the issuance of  
certain forms of identifying information for certain  
persons released from prison. (BDR 40-521)

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

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

AN ACT relating to convicted persons; providing for the waiver of  
fees for the issuance of certain forms of identifying  
information for certain persons released from prison; and  
providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law provides for the waiver of certain fees relating to the issuance of  
2 certified copies of birth certificates and duplicate drivers' licenses and  
3 identification cards to homeless persons. (NRS 440.175, 440.700, 483.417,  
4 483.825) **Sections 1-4** of this bill provide for a similar waiver of such fees for  
5 persons who were released from prison within the immediately preceding 6 months.  
6 **Section 5** of this bill requires the Department of Motor Vehicles to encourage  
7 vendors that have entered into an agreement with the Department to produce  
8 photographs for drivers' licenses and identification cards to waive the costs charged  
9 to the Department to produce photographs for duplicate drivers' licenses and  
10 identification cards for such former prisoners.

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

1 **Section 1.** NRS 440.175 is hereby amended to read as follows:  
2 440.175 1. Upon request, the State Registrar may furnish  
3 statistical data to any federal, state, local or other public or private



1 agency, upon such terms or conditions as may be prescribed by the  
2 Board.

3 2. No person may prepare or issue any document which  
4 purports to be an original, certified copy, certified abstract or  
5 official copy of:

6 (a) A certificate of birth, death or fetal death, except as  
7 authorized in this chapter or by the Board.

8 (b) A certificate of marriage, except a county clerk, county  
9 recorder or a person so required pursuant to NRS 122.120.

10 (c) A decree of divorce or annulment of marriage, except a  
11 county clerk or the judge of a court of record.

12 3. A person or governmental organization which issues  
13 certified or official copies pursuant to paragraph (a) of subsection 2  
14 shall:

15 (a) Not charge a fee for issuing a certified or official copy of a  
16 certificate of birth to ~~fa~~:

17 (1) A homeless person who submits a signed affidavit on a  
18 form prescribed by the State Registrar stating that the person is  
19 homeless.

20 (2) A person who submits documentation from the  
21 Department of Corrections verifying that the person was released  
22 from prison within the immediately preceding 6 months.

23 (b) Remit to the State Registrar:  
24 (1) For each registration of a birth or death in its district, \$2.  
25 (2) For each copy issued of a certificate of birth in its district,  
26 other than a copy issued pursuant to paragraph (a), \$7.  
27 (3) For each copy issued of a certificate of death in its  
28 district, \$1.

29 **Sec. 2.** NRS 440.700 is hereby amended to read as follows:  
30 440.700 1. Except as otherwise provided in this section, the  
31 State Registrar shall charge and collect the following fees:

|    |                                                       |
|----|-------------------------------------------------------|
| 32 |                                                       |
| 33 | For searching the files for one name, if no copy is   |
| 34 | made ..... \$8                                        |
| 35 | For verifying a vital record ..... 8                  |
| 36 | For establishing and filing a record of paternity     |
| 37 | (other than a hospital-based paternity), and          |
| 38 | providing a certified copy of the new record ..... 20 |
| 39 | For a certified copy of a record of birth ..... 13    |
| 40 | For a certified copy of a record of death originating |
| 41 | in a county in which the board of county              |
| 42 | commissioners has not created an account for          |
| 43 | the support of the office of the county coroner       |
| 44 | pursuant to NRS 259.025 ..... 10                      |



1 For a certified copy of a record of death originating  
2 in a county in which the board of county  
3 commissioners has created an account for the  
4 support of the office of the county coroner  
5 pursuant to NRS 259.025 ..... \$11  
6 For correcting a record on file with the State  
7 Registrar and providing a certified copy of the  
8 corrected record ..... 20  
9 For replacing a record on file with the State  
10 Registrar and providing a certified copy of the  
11 new record..... 20  
12 For filing a delayed certificate of birth and  
13 providing a certified copy of the certificate ..... 20  
14 For the services of a notary public, provided by the  
15 State Registrar ..... 2  
16 For an index of records of marriage provided on  
17 microfiche to a person other than a county clerk  
18 or a county recorder of a county of this State ..... 200  
19 For an index of records of divorce provided on  
20 microfiche to a person other than a county clerk  
21 or a county recorder of a county in this State ..... 100  
22 For compiling data files which require specific  
23 changes in computer programming ..... 200  
24

25 2. The fee collected for furnishing a copy of a certificate of  
26 birth or death includes the sum of \$3 for credit to the Children's  
27 Trust Account created by NRS 432.131.

28 3. The fee collected for furnishing a copy of a certificate of  
29 death includes the sum of \$1 for credit to the Review of Death of  
30 Children Account created by NRS 432B.409.

31 4. The State Registrar shall not charge a fee for furnishing a  
32 certified copy of a record of birth to ~~ta~~:

33 (a) A homeless person who submits a signed affidavit on a form  
34 prescribed by the State Registrar stating that the person is homeless.

35 (b) *A person who submits documentation from the Department*  
36 *of Corrections verifying that the person was released from prison*  
37 *within the immediately preceding 6 months.*

38 5. The fee collected for furnishing a copy of a certificate of  
39 death originating in a county in which the board of county  
40 commissioners has created an account for the support of the office  
41 of the county coroner pursuant to NRS 259.025 includes the sum of  
42 \$1 for credit to the account for the support of the office of the  
43 county coroner of the county in which the certificate originates.

44 6. Upon the request of any parent or guardian, the State  
45 Registrar shall supply, without the payment of a fee, a certificate



1 limited to a statement as to the date of birth of any child as disclosed  
2 by the record of such birth when the certificate is necessary for  
3 admission to school or for securing employment.

4 7. The United States Bureau of the Census may obtain, without  
5 expense to the State, transcripts or certified copies of births and  
6 deaths without payment of a fee.

7 **Sec. 3.** NRS 483.417 is hereby amended to read as follows:

8 483.417 1. The Department shall waive the fee prescribed by  
9 NRS 483.410 and the increase in the fee required by NRS 483.347  
10 not more than one time for furnishing a duplicate driver's license to  
11 ~~[a]~~ :

12 (a) A homeless person who submits a signed affidavit on a form  
13 prescribed by the Department stating that the person is homeless.

14 (b) *A person who submits documentation from the Department  
15 of Corrections verifying that the person was released from prison  
16 within the immediately preceding 6 months.*

17 2. A vendor that has entered into an agreement with the  
18 Department to produce photographs for drivers' licenses pursuant to  
19 NRS 483.347 may waive the cost it charges the Department to  
20 produce the photograph of a homeless person *or person released  
21 from prison* for a duplicate driver's license.

22 3. If the vendor does not waive pursuant to subsection 2 the  
23 cost it charges the Department and the Department has waived the  
24 increase in the fee required by NRS 483.347 for a duplicate driver's  
25 license furnished to a ~~[homeless]~~ person pursuant to subsection 1,  
26 the ~~[homeless]~~ person shall reimburse the Department in an amount  
27 equal to the increase in the fee required by NRS 483.347 if the  
28 ~~[homeless]~~ person:

29 (a) Applies to the Department for the renewal of his driver's  
30 license; and

31 (b) Is employed at the time of such application.

32 4. The Department may accept gifts, grants and donations of  
33 money to fund the provision of duplicate drivers' licenses without a  
34 fee to ~~[homeless persons.]~~ *persons pursuant to subsection 1.*

35 **Sec. 4.** NRS 483.825 is hereby amended to read as follows:

36 483.825 1. The Department shall waive the fee prescribed by  
37 NRS 483.820 and the increase in the fee required by NRS 483.347  
38 not more than one time for furnishing a duplicate identification card  
39 to ~~[a]~~ :

40 (a) A homeless person who submits a signed affidavit on a form  
41 prescribed by the Department stating that the person is homeless.

42 (b) *A person who submits documentation from the Department  
43 of Corrections verifying that the person was released from prison  
44 within the immediately preceding 6 months.*



1 2. A vendor that has entered into an agreement with the  
2 Department to produce photographs for identification cards pursuant  
3 to NRS 483.347 may waive the cost it charges the Department to  
4 produce the photograph of a homeless person *or person released*  
5 *from prison* for a duplicate identification card.

6 3. If the vendor does not waive pursuant to subsection 2 the  
7 cost it charges the Department and the Department has waived the  
8 increase in the fee required by NRS 483.347 for a duplicate  
9 identification card furnished to a ~~homeless~~ person pursuant to  
10 subsection 1, the ~~homeless~~ person shall reimburse the Department  
11 in an amount equal to the increase in the fee required by NRS  
12 483.347 if the ~~homeless~~ person:

13 (a) Applies to the Department for the renewal of his  
14 identification card; and

15 (b) Is employed at the time of such application.

16 4. The Department may accept gifts, grants and donations of  
17 money to fund the provision of duplicate identification  
18 cards without a fee to ~~homeless persons.~~ *persons pursuant to*  
19 *subsection 1.*

20 5. As used in this section, "photograph" has the meaning  
21 ascribed to it in NRS 483.125.

22 **Sec. 5.** The Department of Motor Vehicles shall encourage  
23 each vendor that has entered into an agreement with the Department  
24 to produce photographs for drivers' licenses and identification cards  
25 pursuant to NRS 483.347 to waive the cost it charges the  
26 Department to produce photographs for duplicate drivers' licenses  
27 or identification cards furnished to persons released from prison  
28 within the immediately preceding 6 months pursuant to subsection 2  
29 of NRS 483.417, as amended by section 3 of this act, and subsection  
30 2 of NRS 483.825, as amended by section 4 of this act.

31 **Sec. 6.** This act becomes effective on July 1, 2009.



**M**

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ENGROSSED HOUSE BILL 2194

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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

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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.

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*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.

Ê 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)

**N**

**NRS 205.08345 Participation in organized retail theft ring; penalties; determination of amount involved in thefts committed by organized retail theft ring; venue.**

1. A person who participates in an organized retail theft ring is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring in this State during a period of 90 days is at least \$2,500 but less than \$10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

(b) If the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring in this State during a period of 90 days is \$10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than \$20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property or services involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property or services which are obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) "Merchant" has the meaning ascribed to it in NRS 597.850.

(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

(Added to NRS by 2007, 682)

**NRS 205.0835 Penalties.**

1. Unless a greater penalty is imposed by a specific statute and unless the provisions of NRS 205.08345 apply under the circumstances, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft is less than \$250, the person who committed the theft is guilty of a misdemeanor.

3. If the value of the property or services involved in the theft is \$250 or more but less than \$2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. If the value of the property or services involved in the theft is \$2,500 or more, the person who committed the theft is guilty of a category B felony and shall be punished

by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

(Added to NRS by 1989, 1205; A 1995, 1216; 1997, 340; 2007, 683)

**NRS 205.220 Grand larceny: Definition.** Except as otherwise provided in NRS 205.226 and 205.228, a person commits grand larceny if the person:

1. Intentionally steals, takes and carries away, leads away or drives away:

(a) Personal goods or property, with a value of \$250 or more, owned by another person;

(b) Bedding, furniture or other property, with a value of \$250 or more, which the person, as a lodger, is to use in or with his or her lodging and which is owned by another person; or

(c) Real property, with a value of \$250 or more, that the person has converted into personal property by severing it from real property owned by another person.

2. Uses a card or other device for automatically withdrawing or transferring money in a financial institution to obtain intentionally money to which the person knows he or she is not entitled.

3. Intentionally steals, takes and carries away, leads away, drives away or entices away:

(a) One or more head of livestock owned by another person; or

(b) One or more domesticated animals or domesticated birds, with an aggregate value of \$250 or more, owned by another person.

4. With the intent to defraud, steal, appropriate or prevent identification:

(a) Marks or brands, causes to be marked or branded, alters or defaces a mark or brand, or causes to be altered or defaced a mark or brand upon one or more head of livestock owned by another person;

(b) Sells or purchases the hide or carcass of one or more head of livestock owned by another person that has had a mark or brand cut out or obliterated;

(c) Kills one or more head of livestock owned by another person but running at large, whether or not the livestock is marked or branded; or

(d) Kills one or more domesticated animals or domesticated birds, with an aggregate value of \$250 or more, owned by another person but running at large, whether or not the animals or birds are marked or branded.

[1911 C&P § 373; A 1915, 119; 1947, 85; 1949, 127; 1943 NCL § 10323]—  
(NRS A 1965, 1007; 1967, 499; 1969, 531; 1979, 155, 1444; 1983, 546; 1989, 71, 1433; 1995, 13, 1221, 1323; 1997, 341)

**NRS 205.222 Grand larceny: Penalties.**

1. Unless a greater penalty is imposed by a specific statute, a person who commits grand larceny in violation of NRS 205.220 shall be punished pursuant to the provisions of this section.

2. If the value of the property involved in the grand larceny is less than \$2,500, the person who committed the grand larceny is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. If the value of the property involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny to pay restitution.

5. If the grand larceny involved a sale in violation of subsection 3 or 4 of NRS 205.220, all proceeds from the sale are subject to forfeiture.

(Added to NRS by 1997, 339)

**NRS 205.226 Grand larceny of firearm; penalty.**

**NRS 205.226 Grand larceny of firearm; penalty.**

1. A person who intentionally steals, takes and carries away a firearm owned by another person commits grand larceny of a firearm.

2. A person who commits grand larceny of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

3. In addition to any other penalty, the court shall order the person who committed the grand larceny of the firearm to pay restitution.

(Added to NRS by 1997, 340)

**NRS 205.228 Grand larceny of motor vehicle; penalty.**

1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. Except as otherwise provided in subsection 3, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle to pay restitution.

(Added to NRS by 1997, 340)

**NRS 205.240 Petit larceny; penalty.**

1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105, a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than \$250, owned by another person;

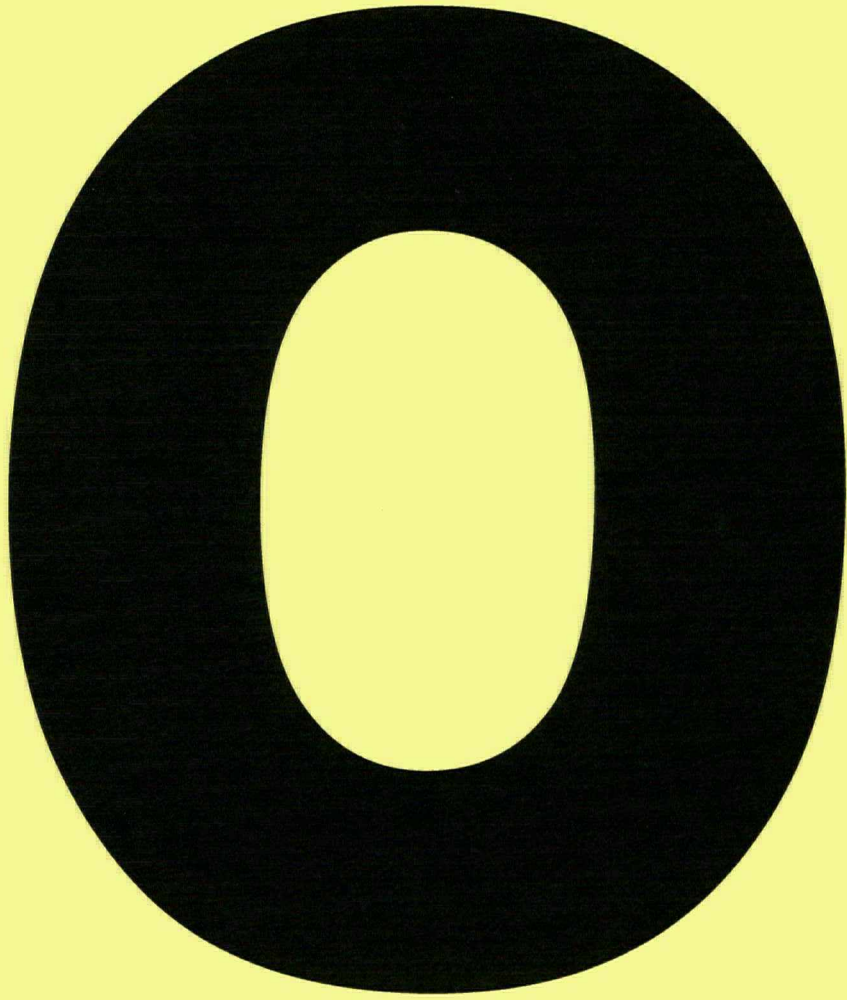
(2) Bedding, furniture or other property, with a value of less than \$250, which the person, as a lodger, is to use in or with his or her lodging and which is owned by another person; or

(3) Real property, with a value of less than \$250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than \$250, owned by another person.

2. Unless a greater penalty is provided pursuant to NRS 205.267, a person who commits petit larceny is guilty of a misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

[1911 C&P § 374; A 1947, 85; 1949, 127; 1943 NCL § 10324]—(NRS A 1965, 300, 1007; 1967, 500; 1969, 531; 1983, 547; 1985, 751; 1989, 1434; 1995, 13; 1997, 342, 1114; 1999, 3109; 2009, 1243)



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**A.B. 45**

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ASSEMBLY BILL NO. 45—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

PREFILED DECEMBER 6, 2008

Referred to Committee on Judiciary

**SUMMARY**—Requires the State Public Defender to provide defense services to indigent persons in counties without county public defender offices and to fully fund such services. (BDR 20-457)

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

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

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AN ACT relating to public defenders; authorizing the creation and discontinuation of county public defender offices; requiring the State to reimburse counties for expenditures made in providing defense services to indigent persons; requiring the State Public Defender to establish branch offices in counties that do not have a county public defender office; requiring, under certain circumstances, that the State Public Defender provide defense services to indigent persons in counties with a county public defender office; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Under existing law, any county whose population is 100,000 or more (currently  
2 Washoe and Clark Counties) must create an office of public defender to provide  
3 defense services to indigent persons, and any county whose population is less than  
4 100,000 may, but is not required to, create such an office. (NRS 260.010) The State  
5 Public Defender provides defense services to indigent persons in counties that do  
6 not have a county public defender and may charge those counties, in amounts not to  
7 exceed limits previously set by the Legislature, for providing those services. (NRS  
8 180.110) The State Public Defender and any county with a county public defender  
9 may contract with each other for the State Public Defender to provide defense  
10 services to indigent persons in that county if a court, for cause, has disqualified the  
11 county public defender or if the county public defender is otherwise unable to  
12 provide representation. (NRS 180.060, 260.065)



13 This bill repeals the requirement that counties whose population is 100,000 or  
14 more must create an office of public defender and repeals the authority of the State  
15 Public Defender to charge counties for expenses related to the defense of indigent  
16 persons in counties that do not have a county public defender. Instead, this bill  
17 authorizes, but does not require, each county to create an office of county public  
18 defender and requires the State Public Defender to establish at least one branch  
19 office in each county that does not have a county public defender. Each county  
20 must notify the State Public Defender by October 1, 2009, whether it will have an  
21 office of county public defender, and the State Public Defender must create a  
22 branch office in each county without a county public defender by July 1, 2010.  
23 After July 1, 2010, a county may only create or discontinue an office of county  
24 public defender if the county notifies the State Public Defender by March 1 of an  
25 odd-numbered year of its intent to do so. If an office of county public defender is  
26 being created, it must then be created as of July 1 of the same year that notice of  
27 intent is given; if an office of county public defender is being discontinued, the  
28 State Public Defender must establish a branch office in that county by July 1 of that  
29 year.

30 This bill also requires the State to reimburse counties for expenditures made in  
31 providing defense services to indigent persons and requires the State Public  
32 Defender to provide such services to any county if a court, for cause, has  
33 disqualified the county public defender or if the county public defender is otherwise  
34 unable to provide representation.

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

1 **Section 1.** Chapter 260 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 **1. A county whose board of county commissioners has:**

4 **(a) Created an office of county public defender pursuant to**  
5 **NRS 260.010; or**

6 **(b) Joined with one or more other counties pursuant to NRS**  
7 **260.020 to establish one office of county public defender to serve**  
8 **those counties,**

9 **↪ may submit a claim for reimbursement to the State Public**  
10 **Defender for the costs associated with operating the office of**  
11 **county public defender.**

12 **2. A claim for reimbursement submitted pursuant to**  
13 **subsection 1 must be made in the form and at such times as**  
14 **prescribed by the State Public Defender pursuant to section 4 of**  
15 **this act.**

16 **Sec. 2.** NRS 260.010 is hereby amended to read as follows:

17 260.010 1. ~~In counties whose population is 100,000 or more,~~  
18 ~~the boards of county commissioners shall create by ordinance the~~  
19 ~~office of public defender.~~

20 ~~2. Except as otherwise provided by subsection 4, in counties~~  
21 ~~whose population is less than 100,000, boards] A board of county~~  
22 ~~commissioners may [in their respective counties create] :~~



1 (a) *Create*, by ordinance, at the beginning of a fiscal year, the  
2 office of *county* public defender.

3 ~~{3. Except as otherwise provided in subsection 4, if}~~

4 (b) *If the county has an office of county public defender,*  
5 *discontinue, by ordinance, at the beginning of a fiscal year, the*  
6 *office of county public defender.*

7 2. *If* a board of county commissioners intends to create the  
8 office of county public defender, the board shall notify the State  
9 Public Defender in writing on or before March 1 of any odd-  
10 numbered year and the office may not be created before July 1 of  
11 the same year in which the notice was given.

12 ~~{4. If the county contribution approved by the Legislature~~  
13 ~~exceeds the estimate provided to the county on December 1 by more~~  
14 ~~than 10 percent for either year of the biennium, the}~~

15 3. A board of county commissioners ~~{may create}~~ *that has*  
16 *created* the office of county public defender ~~{on July 1 of the next~~  
17 ~~even numbered year if}~~ *pursuant to this section or NRS 260.020*  
18 *shall not discontinue the office of county public defender:*

19 (a) *Unless* the board notifies the State Public Defender on or  
20 before March 1 ~~{of the same year in which the office is to be~~  
21 ~~created.~~

22 ~~—5.} of an odd-numbered year that the board intends to~~  
23 ~~discontinue the office of county public defender; and~~

24 (b) *Before July 1 of the same year in which the notice is given.*

25 4. The office of *county* public defender when created must be  
26 filled by appointment by the board of county commissioners.

27 ~~{6.} 5.~~ The *county* public defender serves at the pleasure of the  
28 board of county commissioners.

29 **Sec. 3.** NRS 260.065 is hereby amended to read as follows:

30 260.065 Any county in which the office of *county* public  
31 defender has been created may ~~{contract for}~~ *use* the services of the  
32 State Public Defender in providing representation for indigent  
33 persons when the court, for cause, disqualifies the county public  
34 defender or when the county public defender is otherwise unable to  
35 provide representation.

36 **Sec. 4.** Chapter 180 of NRS is hereby amended by adding  
37 thereto a new section to read as follows:

38 1. *The State Public Defender shall prescribe the form and*  
39 *time of filing for counties to submit claims for reimbursement for*  
40 *the costs associated with operating an office of county public*  
41 *defender established pursuant to NRS 260.010 or 260.020.*

42 2. *At least once every 3 months, and upon verification of a*  
43 *claim for reimbursement submitted by a county to the State Public*  
44 *Defender pursuant to section 1 of this act, the State Public*



\* A B 4 5 \*

1 *Defender shall authorize reimbursement to the county by the State*  
2 *from money appropriated for that purpose.*

3 **Sec. 5.** NRS 180.040 is hereby amended to read as follows:

4 180.040 1. The Office of the State Public Defender shall be  
5 in Carson City, Nevada, and the Buildings and Grounds Division of  
6 the Department of Administration shall provide necessary office  
7 space.

8 2. ~~The~~ *Subject to the provisions of subsection 3, the State*  
9 *Public Defender* ~~may establish branch offices necessary to perform~~  
10 ~~his duties. He shall designate~~ *shall establish at least one branch*  
11 *office in each county that:*

12 (a) *Has not established an office of county public defender.*

13 (b) *Has established an office of county public defender but the*  
14 *board of county commissioners in such county has notified the*  
15 *State Public Defender pursuant to subsection 3 of NRS 260.010*  
16 *that the board will discontinue the office of county public*  
17 *defender.*

18 3. *A branch office established pursuant to paragraph (b) of*  
19 *subsection 2 must be established as of July 1 of the same year that*  
20 *the State Public Defender is notified that the board of county*  
21 *commissioners intends to discontinue the office of county public*  
22 *defender.*

23 4. *Except as otherwise provided in subsection 5, the State*  
24 *Public Defender shall maintain each branch office established*  
25 *pursuant to this section.*

26 5. *If the State Public Defender is notified pursuant to*  
27 *subsection 2 of NRS 260.010 that a board of county*  
28 *commissioners intends to create an office of county public*  
29 *defender, the State Public Defender shall discontinue each branch*  
30 *office in that county on June 30 of the same year in which it is*  
31 *notified.*

32 6. *The State Public Defender shall designate a deputy state*  
33 *public defender to supervise each* ~~such office~~ *branch office*  
34 *established and maintained pursuant to this section.*

35 **Sec. 6.** NRS 180.060 is hereby amended to read as follows:

36 180.060 1. The State Public Defender may, before being  
37 designated as counsel for that person pursuant to NRS 171.188,  
38 interview an indigent person when he has been arrested and  
39 confined for a public offense or for questioning on suspicion of  
40 having committed a public offense.

41 2. The State Public Defender shall, when designated pursuant  
42 to NRS 62D.030, 62D.100, 171.188 or 432B.420, and within the  
43 limits of available money, represent without charge each indigent  
44 person for whom he is appointed.



1 3. When representing an indigent person, the State Public  
2 Defender shall:

3 (a) Counsel and defend him at every stage of the proceedings,  
4 including revocation of probation or parole; and

5 (b) Prosecute any appeals or other remedies before or after  
6 conviction that he considers to be in the interests of justice.

7 4. In cases of postconviction proceedings and appeals arising in  
8 counties in which the office of *county* public defender has been  
9 created pursuant to the provisions of chapter 260 of NRS, where the  
10 matter is to be presented to the Supreme Court, the State Public  
11 Defender shall prepare and present the case and the public defender  
12 of the county shall assist and cooperate with the State Public  
13 Defender.

14 5. The State Public Defender ~~[may contract with]~~ *shall provide*  
15 *to* any county in which the office of *county* public defender has  
16 been created ~~[to provide]~~ representation for indigent persons when  
17 the court, for cause, disqualifies the county public defender or when  
18 the county public defender is otherwise unable to provide  
19 representation.

20 **Sec. 7.** NRS 180.090 is hereby amended to read as follows:  
21 180.090 Except as *otherwise* provided in *NRS 180.040*,  
22 subsections 4 and 5 of NRS 180.060 ~~[ ]~~ *and section 4 of this act*, the  
23 provisions of this chapter apply only to counties in which the office  
24 of public defender has not been created pursuant to the provisions of  
25 chapter 260 of NRS.

26 **Sec. 8.** NRS 180.110 is hereby repealed.

27 **Sec. 9.** 1. Subject to the provisions of subsections 2 and 3  
28 and chapter 260 of NRS, a board of county commissioners for a  
29 county that does not have an office of county public defender on  
30 July 1, 2009, may create, by ordinance, the office of county public  
31 defender.

32 2. Except as otherwise provided in NRS 260.010, a board of  
33 county commissioners may not create an office of county public  
34 defender unless it notifies the State Public Defender in writing on or  
35 before October 1, 2009, that it intends to create such an office.

36 3. A board of county commissioners that notifies the State  
37 Public Defender pursuant to subsection 2:

38 (a) Shall create the office as of July 1, 2010; and

39 (b) May not discontinue the office except pursuant to the  
40 provisions of NRS 260.010.

41 4. Subject to the provisions of subsections 5 and 6, a board of  
42 county commissioners for a county that has an office of county  
43 public defender on July 1, 2009, may, by ordinance, discontinue that  
44 office.



1 5. Except as otherwise provided in NRS 260.010, a board of  
2 county commissioners may not discontinue an office of county  
3 public defender unless it notifies the State Public Defender, in  
4 writing, on or before October 1, 2009, that it intends to discontinue  
5 the office.

6 6. A board of county commissioners that notifies the State  
7 Public Defender pursuant to subsection 5 shall discontinue the office  
8 as of July 1, 2010.

9 7. On July 1, 2010, the State Public Defender shall establish at  
10 least one branch office in each county that:

11 (a) Does not have an office of county public defender on July 1,  
12 2009, and whose board of county commissioners does not notify the  
13 State Public Defender pursuant to subsection 2 that it intends to  
14 create the office; and

15 (b) Has an office of county public defender on July 1, 2009, and  
16 whose board of county commissioners notifies the State Public  
17 Defender pursuant to subsection 5 that it intends to discontinue the  
18 office.

19 **Sec. 10.** This act becomes effective on July 1, 2009.

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**TEXT OF REPEALED SECTION**

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**180.110 Collection of charges to counties for services.**

1. Each fiscal year the State Public Defender may collect from the counties amounts which do not exceed those authorized by the Legislature for use of his services during that year.

2. The State Public Defender shall submit to the county an estimate on or before the first day of May and that estimate becomes the final bill unless the county is notified of a change within 2 weeks after the date on which the county contribution is approved by the Legislature. The county shall pay the bill:

(a) In full within 30 days after the estimate becomes the final bill or the county receives the revised estimate; or

(b) In equal quarterly installments on or before the 1st day of July, October, January and April, respectively.

➤ The counties shall pay their respective amounts to the State Public Defender who shall deposit the amounts with the Treasurer of the State of Nevada and shall expend the money in accordance with his approved budget.





