

**ADOPTED REGULATION OF THE
CHIEF PAROLE AND PROBATION OFFICER**

LCB File No. R225-05

Effective September 18, 2006

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

AUTHORITY: §§1 and 2, NRS 213.10988.

A REGULATION relating to the Division of Parole and Probation of the Department of Public Safety; revising the provisions governing presentence investigations and reports to reflect statutory changes which allow an employee of the Division, rather than only a parole and probation officer, to make a presentence investigation and report and which provide that the Division must make a presentence investigation and report on a person convicted of a gross misdemeanor only upon the request of the court; and providing other matters properly relating thereto.

Section 1. NAC 213.580 is hereby amended to read as follows:

213.580 Except as otherwise provided by statute or directed by the court, ~~[a parole and probation officer]~~ *the Division* will evaluate every person who is convicted of a felony . ~~[or gross misdemeanor.]~~ The purpose of the evaluation is to enable the Chief Parole and Probation Officer to make a recommendation to the court concerning sentencing.

Sec. 2. NAC 213.590 is hereby amended to read as follows:

213.590 1. Each convicted person will first be evaluated using the Probation Success Probability form adopted by the Division. The form generates a numeric score based upon consideration of the following factors:

- (a) The number of prior criminal convictions sustained by the convicted person;
- (b) The number of other criminal prosecutions pending against the person;
- (c) The number of occasions on which the person has been incarcerated;

- (d) If the person is 23 years of age or younger, the number of occasions on which he has been committed to a correctional facility for juveniles;
- (e) The number of years that have elapsed since the person's most recent previous conviction, whether the conviction was sustained by him as a juvenile or as an adult;
- (f) The number of occasions on which the person has been supervised as an adult or juvenile probationer;
- (g) The tendency of the person to have engaged in crimes of increasing or decreasing severity, or in crimes involving violence;
- (h) The circumstances of the person's arrest for the present offense;
- (i) The nature of the present offense and the number of persons victimized;
- (j) The degree of psychological, physical and financial harm caused to the victim of the present offense;
- (k) If the present offense involved controlled substances, the nature of the conduct involved in the offense;
- (l) The sophistication of the present offense and the degree of premeditation involved in the offense;
- (m) The benefits received by the person as the result of any plea negotiation in the present proceeding;
- (n) The use of any weapon in connection with the present offense;
- (o) The involvement in the present offense of any other offender;
- (p) The existence and nature of any motive for the present offense;
- (q) The age and education of the person;
- (r) The support provided to the person by his immediate family;

- (s) The person's history of employment and record of military service;
- (t) The employability of the person;
- (u) The person's financial self-sufficiency;
- (v) The ties or connections between the person and the community in which he lives;
- (w) The person's history of substance abuse;
- (x) The availability to the person of rehabilitative or other programs in the community;
- (y) Participation by the person in a mental health or substance abuse program, if such a program is warranted by the nature of the case;
- (z) The person's honesty and cooperation in dealing with ~~the investigating parole and probation officer;~~ *an employee of the Division who is performing the evaluation;* and
- (aa) The attitude of the person concerning the present offense and toward supervision on probation.

2. The numeric score derived from the use of the Probation Success Probability form may be used by the Chief Parole and Probation Officer in making a recommendation concerning:

- (a) The granting or denial of probation; and
- (b) The length of any term of confinement to be served by the convicted person, as provided in NAC 213.600.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R225-05

The Chief Parole and Probation Officer adopted regulations assigned LCB File No. R225-05 which pertain to chapter 213 of the Nevada Administrative Code on August 21, 2006.

Notice date: 7/12/2006; 7/26/2006
Hearing date: 7/24/2006; 8/21/2006

Date of adoption by agency: 8/21/2006
Filing date: 9/18/2006

INFORMATIONAL STATEMENT

(a) A description of how public comment was solicited, a summary of the public response, and an explanation how other interested persons may obtain a copy of the summary.

The attached notices were sent to the following organizations in accordance with Open Meeting Law rules:

The State of Nevada Legislature
401 South Carson Street
Carson City, NV 89701

Carson City Courthouse
885 E. Musser St. Suite 2007
Carson City, NV 89701

Division Of Parole and Probation Headquarters
1445 Old Hot Springs Rd. Ste 104
Carson City, NV 89706

Grant Sawyer Building
555 E. Washington Ave.
Las Vegas, NV 89101

State Library
100 Stewart Street
Carson City, NV 89701

Las Vegas Public Library
833 Las Vegas, Blvd. N.
Las Vegas, NV 89101

Washoe County Public Library
Sierra View
Old Town Mall - 4001 S. Virginia
Reno, NV 89502

Nevada Board of Parole Commissioners
1677 Old Hot Springs Rd., Ste A
Carson City, NV 89706

Printed handouts with information concerning R225-05 were available at both the Carson City and Las Vegas meetings. This information was also available on the Parole and Probation website: <http://dps.nv.gov/pandp>.

(b) The number of persons who:

(1) Attended each hearing;

1st Hearing - 0 in Carson City, 0 in Las Vegas

2nd Hearing - 0 in Carson City, 0 in Las Vegas

(2) Testified at each hearing; and

1st Hearing - 0 in Carson City, 0 in Las Vegas

2nd Hearing - 0 in Carson City, 0 in Las Vegas

(3) Submitted to the agency written statements.

No written statements were submitted at either hearing.

(c) A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

No businesses will be effected by this regulation, therefore, no comment was solicited or received.

(d) If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation simply changes the wording of NAC 213.580 from “a parole and probation officer” to “the Division will evaluate every person who is convicted of a felony.” As the statute states: “The purpose of the evaluation is to enable the Chief Parole and Probation Officer to make a recommendation to the court concerning sentencing.”

The change in wording allows Division Specialists, in addition to sworn officers, to author these investigations. Therefore, with the change from “parole and probation officer” to “the Division”, no other changes were necessary.

(e) The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

(1) Both adverse and beneficial effects; and

There would be no adverse nor beneficial economic effects on any businesses.

(2) Both immediate and long-term effects.

There would be no immediate nor long-term effects on any businesses

(f) The estimated cost to the agency for enforcement of the proposed regulation.

The regulation would actually lower agency personnel costs associated with the preparation of these investigation reports by allowing non-sworn personnel to author these reports.

(g) A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no overlapping regulations.

(h) If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation does not contain any provisions which are more stringent than any federal regulation.

(i) If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

There are no fees associated with this regulation.