

The Nevada Sentencing Commission 2019-2020



Nicolas C. Anthony, Senior Principal
Deputy Legislative Counsel, LCB

History Of The Sentencing Commission

- The Criminal Justice System has long been recognized as a means to promote a safe and orderly society.
- Advisory Commission on Sentencing (1995 Truth in Sentencing)
- Advisory Commission on the Administration of Justice created by AB 508 (2007)
- Nevada Sentencing Commission created by SB 451 (2017), the Legislature declared it to be the public policy of this State that:
 1. Sentencing/corrections should embody fairness, consistency, proportionality and opportunity.
 2. The laws should convey a clear and purposeful rationale for sentencing and corrections.
 3. A continuum of sentencing and corrections options should be available,
with imprisonment reserved for the most serious offenders.
 4. Sentencing and corrections policies should be resource sensitive (Cost/Benefit).
 5. Criminal justice should be based on data-driven sentencing and corrections policies.
 6. Sentencing and corrections policies should reflect current circumstances and needs.
 7. Strategies to reduce crime and victimization should involve prevention, treatment, health
and labor. . .
- Department of Sentencing Policy Created, Membership and Duties of Commission Revised by AB 80 and AB 236 (2019)

Sentencing Commission

24 Members

(NRS 176.0133)

Appointing Authority	Appointment
Governor	One Member
Chief Justice	Justice or Retired Justice of Supreme Court
Chief Justice	Judge
Chief Justice	Judge
Chief Justice	Representative of Administrative Office of the Courts
NRS 176.0133(1)(e)	Director of Department of Corrections
Attorney General	Representative of Attorney General's Office
District Attorneys' Association	One District Attorney
Clark County Public Defender	Representative of Clark County Public Defender's Office
Washoe County Public Defender	Representative of Washoe County Public Defender's Office
State Bar of Nevada	Criminal Defense Attorney
Governor	Victim of Crime or Rep of an Organization
Parole Commissioners	Member of Board of Parole Commissioners
Governor	Representative of Parole and Probation
Sheriffs' and Chiefs' Association	Representative of Sheriffs' and Chiefs' Association
Sheriff of Clark County	Representative of Las Vegas METRO
DHHS Public/Behavioral Health	Representative of Public and Behavioral Health
Governor	Representative of Organization that Advocates for Inmates
Majority Leader of Senate	Senator
Minority Leader of Senate	Senator
Speaker of Assembly	Assemblyperson
Minority Leader of Assembly	Assemblyperson
NRS 176.0133(1)(t)	Director of Dept. of Employment, Training and Rehabilitation
Chair of Legislative Commission	Representative of Organization that Works with Offenders, Reentry

Sentencing Commission

Terms and Meetings (NRS 176.0133)

- Each appointed member serves for a term of 2 years (interim period between legislative sessions)
- Elect a Chair at the first meeting of each odd-numbered year
- Hold its first meeting on or before September 1 of each odd-numbered year (AB 80)
- Meet at least once every 3 months
- A member may designate a nonvoting alternate to attend a meeting in his or her place
- A majority of the members (including nonvoting alternates) of the Sentencing Commission constitutes a quorum
- A majority of those members present at any meeting is sufficient for any action

Statutory Duties (NRS 176.0134)

Pursuant to NRS 176.0134, the Sentencing Commission is advisory and statutorily required to:

1. Advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to 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, without limitation, 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, 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, without limitation – Proportionality, Safety of the Public, Similar Sentencing Practices and Certainty.
4. Facilitate the development and maintenance of a statewide sentencing database in collaboration with state and local agencies, using existing databases or resources where appropriate.

Statutory Duties per NRS 176.0134 Cont.

5. Provide training regarding sentencing and related issues, policies and practices, and act as a sentencing policy resource for this State.
6. Evaluate the impact of pretrial, sentencing diversion, incarceration and post-release supervision programs.
7. Identify potential areas of sentencing disparity related to race, gender and economic status.
8. Propose and recommend statutory sentencing guidelines.
9. Evaluate whether sentencing guidelines recommended pursuant to subsection 8 should be mandatory and if judicial findings should be required for any departures from the sentencing guidelines.
10. Provide recommendations and advice to the Executive Director (AB 80).
11. For each regular session of the Legislature, with the assistance of the Department, prepare a comprehensive report including:
 - (a) The Sentencing Commission's recommended changes pertaining to sentencing; and
 - (b) The Sentencing Commission's findings and any recommendations for proposed legislation.

Assembly Bill No. 80 (2019)

- Creates the Department of Sentencing Policy within the Executive Branch
- Provides for the establishment of the Executive Director and staff (within the limits of money available) of the Department of Sentencing Policy
- Requires the Executive Director to be appointed by the Governor from a list of three persons recommended by the Sentencing Commission
- Provides for the duties of the Executive Director – including serving as the Executive Secretary of the Sentencing Commission
- Revises the membership of the Nevada Sentencing Commission to remove the Attorney General and the State Public Defender, to add a representative of the Clark County Public Defender and specifically providing for a representative of the Washoe County Public Defender – thereby making the Commission 24 Members
- Requires the Sentencing Commission to hold its first meeting on or before September 1 of each odd-numbered year
- Moves the Sentencing Commission and the staffing to the Department of Sentencing Policy
- Removes the authority of the Sentencing Commission to request a bill draft
- Effective on P&A for purposes of membership, holding its first meeting and selecting the Executive Director, and October 1, 2019 for all other purposes

Assembly Bill No. 236 (2019)

(Duties in addition to NRS 176.0134)

- Sec. 6 of AB 236 requires the Sentencing Commission to: (1) track and assess outcomes resulting from the enactment of the justice reinvestment reforms pursuant to AB 236 (such as statistics on prison admissions and parole and probation supervision); and (2) submit a biennial report to the Governor, the Legislature and the Chief Justice of the Supreme Court regarding such outcomes and performance measures. The report is due not later than the second week of each regular session of the Legislature.
- Sec. 7 of AB 236 requires the Sentencing Commission to: (1) calculate for each fiscal year the amount of the costs avoided because of the enactment of AB 236; and (2) submit to the Governor and the Legislature a report concerning the amount of such avoided costs and recommendations for the reinvestment of the amount of those avoided costs. The report is due by August 1 of each even-number year.
- Sec. 8 of AB 236 creates the Nevada Local Justice Reinvestment Coordinating Council, which: (1) consists of one member from each county in the State whose population is less than 100,000 and two members from each larger county in the State; and (2) is required to advise the Sentencing Commission on matters concerning the provisions of AB 236 as they relate to local governments and nonprofit organizations. The Sentencing Commission, to the extent of legislative appropriation, is required to provide the Council with staff.
- The provisions of AB 236 relating to the Sentencing Commission become effective July 1, 2020.

2017-2018 Meetings and Overview of Topics Considered

- The 2017-2018 Sentencing Commission held three substantive meetings, a joint meeting with the Advisory Commission on the Administration of Justice and a work session from November 2017 through August 2018.
- Meetings addressed each of the statutory duties and included assisting in securing the Justice Reinvestment Initiative through the Crime and Justice Institute.
- Discussion topics included: (1) an overview from the Robina Institute of Criminal Law and Justice concerning state sentencing commissions and the use of criminal history in other states; (2) a review of Nevada's felony sentencing structure; (3) a presentation on inmate status and population by the Nevada Department of Corrections; (4) presentations by the Virginia Criminal Sentencing Commission, North Carolina Sentencing and Policy Advisory Commission, Oregon Criminal Justice Commission, Connecticut Sentencing Commission and Utah Sentencing Commission; (5) a report on specialty court funding; (6) a review of the accounting and application of sentencing credits; and (7) a presentation on the presentencing investigation report process from the Division of Parole and Probation. At the joint meeting with the Advisory Commission on the Administration of Justice, the Sentencing Commission also received testimony regarding: (1) criminal procedure in Nevada; (2) the Central Repository for Nevada Records of Criminal History; and (3) an overview and timeline of the Justice Reinvestment Initiative.

2017-2018 Final Report

- Work Session meeting held on August 29, 2018
- The Sentencing Commission considered 7 total recommendations:
 - Approved one (1) recommendation for the drafting of legislation (Assembly Bill 80)
 - Approved three (3) recommendations to draft letters to the Governor and the Legislature to support increased criminal justice funding

Recommendation to Draft Legislation

- Recommendation to draft legislation creating an independent Sentencing Commission housed in the Executive Branch (Assembly Bill No. 80 (2019))

Recommendations to Draft a Letter

- **Recommendation on Central Repository for Nevada Records of Criminal History**
 - Draft a letter to the Governor and the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance, urging the Governor and the Legislature to provide budgetary funding for staffing and technology for the Central Repository.
- **Recommendation on Criminal Justice Agencies**
 - Draft a letter to the Governor and the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance, urging the Governor and the Legislature to consider additional budgetary funding for criminal justice agencies throughout the State, including: the Division of Parole and Probation of the Department of Public Safety, the Department of Corrections and the State Board of Parole Commissioners.
- **Recommendation on Specialty Court Programs**
 - Draft a letter to the Governor and the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance, urging the Governor and the Legislature to provide dedicated budgetary funding of \$6 million to the specialty court program. Past budgets have included \$3 million in specialty court funding, and this request would increase that amount to \$6 million total, as there is currently a \$15 million need for the specialty court program.

Concluding Remarks

Questions Regarding the Nevada Sentencing Commission