

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Judiciary

This measure may be considered for action during today's work session.

ASSEMBLY BILL 32**Makes various changes relating to criminal justice. (BDR 14-263)**

Sponsored By: Assembly Committee on Judiciary (On Behalf of the Department of Sentencing Policy)
Date Heard: February 15, 2023
Fiscal Notes: Effect on Local Government: No.
Effect on the State: No.

This bill revises the qualifications of the Executive Director of the Department of Sentencing Policy and the membership of the Sentencing Commission. This bill requires that the system of graduated sanctions used by parole and probation officers when responding to a technical violation of the conditions of probation must include guidance on the use of confinement in a jail or detention facility and electronic monitoring. Lastly, the bill revises provisions relating to the temporary and full revocation of probation, and the suspension of sentence or parole supervision for technical violations of the conditions of probation or parole.

Amendments: There are two proposed amendments to this measure:

1. Victoria Gonzalez, Executive Director, Department of Sentencing Policy, proposed the following amendment:
 - Amend Sections 4 and 7 of the bill to make the violation of certain supervision conditions for sex offenders a technical violation (probation and parole);
 - Amend Section 5 to leave 30-day temporary revocation for probationers;
 - Amend Sections 5 and 8 to require the application of credit for time served when ordering a temporary revocation;
 - Amend Sections 5 and 8 to require a finding that the graduated sanctions have been exhausted;
 - Amend Section 3 to require the assessment be evidence-based;
 - Amend Sections 5 and 8 to authorize the judge or parole board to revoke a probationer or parolee (as applicable) upon request of the probationer or parolee;
 - Delete subsections 3 and 5 of Section 6;
 - Add a new section to provide that data collected, housed, and analyzed by the Department of Sentencing Policy is not a public record is not subject to subpoena;
 - Authorize the Nevada Local Justice Reinvestment Coordinating Council to accept gifts and grants; and
 - Require the Department of Sentencing Policy to further study temporary revocations and submit a report for the 2025 Legislative Session.
2. Catrina Grigsby-Thedford, Executive Director, Nevada Homeless Alliance proposed amending NRS 176.01343 to require the Department of Sentencing Policy to include "housing status" as a data point to be collected at prison entry and exit. This implements one of the recommendations of the Nevada Homeless Alliance regarding the "prison-to-homelessness" problem. Collection of this data will inform future practices and allow policy makers to see if a correlation exists between homelessness and recidivism.

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Proposed Amendments

Note: These amendments were prepared by the Nevada Department of Sentencing Policy in collaboration with the stakeholders.

1. AMEND SECTION 4 and 7 OF THE BILL (NRS 176A.510) TO MAKE THE VIOLATION OF CERTAIN SUPERVISION CONDITIONS FOR SEX OFFENDERS A TECHNICAL VIOLATION (PROBATION and PAROLE)

- a. Intent
 - i. Only two conditions will be considered non-technical:
 - 1. Not having communication with victim or witness
 - 2. Not having contact with a person under 18 in a secluded environment
- b. See attached for table of technical conditions v. non-technical conditions

2. AMEND SECTION 5 (NRS 176A.530) TO LEAVE 30 DAY TEMPORARY REVOCATION FOR PROBATIONERS

- a. Intent
 - i. Distinguish probationers from parolees by providing that responses to technical violations will include a 30, 90, or 180 day temporary revocation
- b. Proposed language
 - (1) **Thirty days for the first temporary revocation;**
 - (2) **Ninety days for the second [first] temporary revocation;**
 - (3) ~~[(2)]~~ **One hundred and eighty days for the third [second] temporary**revocation; or
 - (d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a **fourth [third]** or subsequent revocation.

3. AMEND SECTIONS 5 (NRS 176A.630) AND 8 (NRS 213.1519) TO REQUIRE THE APPLICATION OF CREDIT FOR TIME SERVED WHEN ORDERING A TEMPORARY REVOCATION

- a. Intent
 - i. Require the temporary revocation ordered to include time that a probationer or parolee served while awaiting a hearing (this would include time spent in jail and/or prison as applicable to parole or probation violation). The time served awaiting for a hearing and the time served for a temporary revocation should also be counted towards the underlying sentence.

4. AMEND SECTIONS 5 (NRS 176A.630) AND 8 (NRS 213.1519) TO REQUIRE A FINDING THAT THE GRADUATED SANCTIONS HAVE BEEN EXHAUSTED

- a. Intent
 - i. Ensure the graduated sanctions have been exhausted
- b. Proposed language

Probationers

2. If the court finds that the probationer committed one or more technical violations of the conditions of probation **and the Division has determined the graduated sanctions have been exhausted pursuant to NRS 176A.510**, the court may

Parolees

4. If the Board finds that the parolee committed one or more technical violations of the conditions of parole **and the Division has determined the graduated sanctions have been exhausted pursuant to NRS 213.15101**, the Board may

5. AMEND SECTION 3 TO REQUIRE THE ASSESSMENT BE EVIDENCE-BASED

- a. Proposed language

Except as otherwise provided in subsection 3, on a schedule determined by the ~~Nevada Risk Assessment System, or its successor~~ *appropriate* risk **and needs** assessment tool

6. AMEND SECTIONS 5 (NRS 176A.630) AND 8 (NRS 213.1519) TO AUTHORIZE THE JUDGE OR PAROLE BOARD TO REVOKE A PROBATIONER OR PAROLEE (AS APPLICABLE) UPON REQUEST OF THE PROBATIONER OR PAROLEE

a. Proposed language

Probationers

At the request of the probationer, the judge may revoke probation based on a technical violation. If a probationer is revoked pursuant to this subsection, the probationer must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of the original sentence as may be determined by the judge.

Parolee

At the request of the parolee, the Board may revoke parole based on a technical violation. If a parolee is revoked pursuant to this subsection, the parolee must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of the original sentence as may be determined by the Board with rehearing dates scheduled pursuant to NRS 213.142.

7. DELETE SUBSECTIONS 3 AND 5 OF SECTION 6 (NRS 213.1078)

a. Intent

- i. This is essentially clean-up. The risk level of the parolee is set by the risk and needs assessment tool. The Board defers to the risk level set by the tool and does not set the risk level.
- ii. The request for this clean-up came from the Parole Board.

8. ADD A NEW SECTION TO PROVIDE THAT DATA COLLECTED, HOUSED, AND ANALYZED BY THE NEVADA DEPARTMENT OF SENTENCING POLICY (NDSP) IS NOT A PUBLIC RECORD IS NOT SUBJECT TO SUBPOENA

- a. Intent
 - i. The NDSP collects information from databases, interviews, and other sources for the purpose of analyzing and understanding the criminal justice system. Raw data collected and housed must be protected. Adding this section will ensure this data is confidential by law and will protect NDSP from being compelled to share raw data.

9. AUTHORIZE THE NEVADA LOCAL JUSTICE REINVESTMENT COORDINATING COUNCIL (NLJRC) TO ACCEPT GIFTS AND GRANTS

- a. Intent
 - i. Currently, the NLJRC can only be funded by the General Fund. This will allow the NLJRC to obtain funding from other sources.

10. REQUIRE THE NEVADA DEPARTMENT OF SENTENCING POLICY TO FURTHER STUDY TEMPORARY REVOCATIONS AND SUBMIT A REPORT FOR THE 2025 LEGISLATIVE SESSION

- a. Intent
 - i. More data is needed to understand the impact of temporary revocations on probationers and a more in-depth evaluation is needed to determine if the intended policy is being realized
- b. Proposed language
 - i. Add a transitory provision that requires the Nevada Department of Sentencing Policy to collect and analyze jail data, and any other relevant data, to measure the length of stay for each temporary revocation and the recidivism rate for those who serve temporary or full revocations, and submit a report for the 2025 Legislative Session

Technical Violations v. Non-Technical Violations for Sex Offenders

Amendment for AB 32

Technical	Non-Technical
Submit to search and seizure <ul style="list-style-type: none"> • (a) in NRS 176A.410 	Not have contact or communicate with victim or witness who testified against supervised person <ul style="list-style-type: none"> • (i) in NRS 176A.410 • (h) in NRS 213.1245
Reside at a location based on certain requirements <ul style="list-style-type: none"> • (b) in NRS 176A.410 • (a) in NRS 213.1245 	Not have contact with a person under 18 in a secluded environment <ul style="list-style-type: none"> • (l) in NRS 176A.410 • (k) in NRS 213.1245
Accept an unapproved position of employment/volunteer position <ul style="list-style-type: none"> • (c) in NRS 176A.410 • (b) in NRS 213.1245 	
Abide by curfew <ul style="list-style-type: none"> • (d) in NRS 176A.410 • (c) in NRS 213.1245 	
Participate in and complete a program of professional counseling <ul style="list-style-type: none"> • (e) in NRS 176A.410 • (d) in NRS 213.1245 	
Submit to periodic tests to determine whether the defendant is using a controlled substance <ul style="list-style-type: none"> • (f) in NRS 176A.410 • (e) in NRS 213.1245 	
Submit to periodic polygraph examinations <ul style="list-style-type: none"> • (g) in NRS 176A.410 • (f) in NRS 213.1245 	
Abstain from consuming, possessing or having alcohol <ul style="list-style-type: none"> • (h) in NRS 176A.410 • (g) in NRS 213.1245 	
Not use alias <ul style="list-style-type: none"> • (j) in NRS 176A.410 • (i) in NRS 213.1245 	
Not obtain a post office box <ul style="list-style-type: none"> • (k) in NRS 176A.410 • (j) in NRS 213.1245 	
Not knowingly be within 500 feet of certain places designed for children <ul style="list-style-type: none"> • (m) in NRS 176A.410 • (l) in NRS 213.1245 	
Comply with protocol for medications <ul style="list-style-type: none"> • (n) in NRS 176A.410 • (m) in NRS 213.1245 	
Not possess sexually explicit material <ul style="list-style-type: none"> • (o) in NRS 176A.410 • (n) in NRS 213.1245 	
Not patronize a business which offers sexually explicit material or entertainment <ul style="list-style-type: none"> • (p) in NRS 176A.410 • (o) in NRS 213.1245 	
Not possess any unapproved electronic device capable of accessing the Internet <ul style="list-style-type: none"> • (q) in NRS 176A.410 • (p) in NRS 213.1245 	
Inform parole and probation officer about enrolling or changing enrollment in institution of higher education <ul style="list-style-type: none"> • (r) in NRS 176A.410 • (q) in NRS 213.1245 	