

AB 508 - 2007

Introduced on: Mar 23, 2007

By Select Committee on Corrections, Parole, and Probation

Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

DECLARED EXEMPT

Fiscal Notes

Effect on Local Government: No.

Effect on State: Contains Appropriation not included in Executive Budget.

Most Recent History Action: Chapter 488. Effective July 1, 2007.
(See full list below)

Past Hearings

Assembly Select Committee on Corrections, Parole, and Probation	Apr-05-2007	No Action
Assembly Select Committee on Corrections, Parole, and Probation	Apr-12-2007	Amend, and do pass as amended
Senate Judiciary	May-14-2007	Mentioned No Jurisdiction
Assembly Ways and Means	May-15-2007	No Action
Assembly Ways and Means	May-17-2007	Amend, and do pass as amended
Senate Judiciary	May-22-2007	Mentioned Not Agendized
Senate Judiciary	May-24-2007	Amend, and do pass as amended
Senate Judiciary	May-25-2007	After Passage Discussion

Votes

Assembly Final Passage	May-22	Yea 42,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0
Senate Final Passage	May-25	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0

Bill Text (PDF)	As Introduced	1st Reprint	2nd Reprint	3rd Reprint	As Enrolled
Statutes of Nevada 2007					Chapter 488
Amendments (PDF)	Amend. No.376	Amend. No.891	Amend. No.999		

Bill History

Mar 23, 2007	Read first time. Referred to Committee on Select Committee on Corrections, Parole, and Probation. To printer.
Mar 26, 2007	From printer. To committee.
Apr 02, 2007	Notice of eligibility for exemption.
Apr 20, 2007	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 376.) To printer.
Apr 23, 2007	From printer. To engrossment. Engrossed. First reprint. Taken from General File. Rereferred to Committee on Ways and Means. To committee. Exemption effective.
May 21, 2007	From committee: Amend, and do pass as amended. Placed on General File. Read third time. Amended. (Amend. No. 891.) To printer.
May 22, 2007	From printer. To reengrossment. Reengrossed. Second reprint. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 42, Nays: None.) To Senate.
May 23, 2007	In Senate. Read first time. Referred to Committee on Judiciary. To committee.
May 25, 2007	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 999.) To printer. From printer. To reengrossment. Reengrossed. Third reprint. Declared an emergency measure under the Constitution. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 21, Nays: None.) To Assembly.
May 26, 2007	In Assembly.
Jun 02, 2007	Senate Amendment No. 999 concurred in. To enrollment.
Jun 04, 2007	Enrolled and delivered to Governor.
Jun 13, 2007	Approved by the Governor.
Jun 14, 2007	Chapter 488.

Effective July 1, 2007.

Compiled on May 14, 2008



PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

BILL SUMMARY
74th REGULAR SESSION
OF THE NEVADA STATE LEGISLATURE

ASSEMBLY BILL 508

Topic

Assembly Bill 508 relates to the Advisory Commission on Sentencing.

Summary

Assembly Bill 508 changes the name of the Advisory Commission on Sentencing to the Advisory Commission on the Administration of Justice. The bill expands the duties of the Commission to include evaluating the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners; evaluating the effectiveness of specialty court programs; evaluating the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation; and evaluating, reviewing, and commenting on issues of juvenile justice. The bill also authorizes the Commission to issue subpoenas to compel the attendance of witnesses and the production of written documents.

Additionally, A.B. 508 modifies the membership of the Commission to include:

- A former or sitting member of Nevada's Supreme Court, appointed by the Chief Justice;
- A representative appointed by the Nevada Sheriffs' and Chiefs' Association;
- A member of the State Board of Parole Commissioners; and
- A representative of an organization advocating on behalf of inmates, to be appointed by the Governor.

A representative from the Nevada Association of Counties is removed from membership on the Commission. Any vacancies on the Commission must be filled by July 15, 2007. The Commission must hold its first meeting no later than July 31, 2007, and elect a new chairman at that meeting.

The measure appropriates \$50,000 from the State General Fund to the Commission to enter into a contract with a consultant to assist the Commission in carrying out its duties.

Effective Date

This bill is effective on July 1, 2007.

LEGISLATIVE HEARINGS

MINUTES AND EXHIBITS

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND
PROBATION**

**Seventy-Fourth Session
April 5, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:53 p.m., on Thursday, April 5, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman William Horne (Excused)

STAFF MEMBERS PRESENT:

Craig Hoffecker, Committee Policy Analyst
Brenda Erdoes, Legislative Counsel
Brooke Bishop, Committee Secretary
Olivia Lloyd, Committee Assistant
Deanna Duncan, Committee Manager



OTHERS PRESENT:

James Hardesty, Associate Justice, Supreme Court
Howard Skolnik, Director, Department of Corrections
Patricia Hines, Private Citizen, Yerington, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada
Fritz Schlottman, Administrator, Offender Management Division,
Department of Corrections
Oran McMichael, Member, American Federation of State, County and
Municipal Employees (AFSCME)
Kevin Ranft, Northern President, State of Nevada Employees
Association/American Federation of State, County and Municipal
Employees (SNEA/AFSCME)
Stanley Marshall, Chief, Bureau of Health Protection Services,
Department of Health and Human Services
Gary Peck, Executive Director, American Civil Liberties Union (ACLU)
of Nevada
Maria Melendez, Private Citizen, Las Vegas, Nevada
Harbert Rice, Member, Alternatives to Violence Project (AVP)

Chair Parks:

[Roll called.] We have two bills on the agenda this afternoon. We will start our meeting with Assembly Bill 508 (A.B. 508).

**Assembly Bill 508: Makes various changes to provisions concerning the
Advisory Commission on Sentencing. (BDR 14-1378)**

James Hardesty, Associate Justice, Supreme Court:

[Read from prepared testimony (Exhibit C).]

I would like to urge this Committee to go above and beyond what is currently provided in the wording of the bill. I have had extensive meetings with the District Attorney's Association and the Association of Chiefs and Sheriffs and they all support the revitalization and the utilization of the Advisory Commission on Sentencing to reexamine numerous areas within the criminal justice system and we strongly believe it can become a vehicle for making necessary improvements to the system as well.

With respect to certain goals of this Advisory Commission on Sentencing, A.B. 508 should be amended to specify certain matters that this Commission is expected to report back on at the 2009 Legislative Session: first, review the Division of Parole and Probation (DPP), its Presentence Investigation (PSI) reports, use of its officers for preparing these PSI reports, and the extent to

which judges rely on and follow their recommendations; second, the review of current sentences given for felonies, particularly those involving weapons, mandatory minimums, and drug crimes; third, review the Parole Board guidelines and *Nevada Administrative Code* (NAC) procedures and their effectiveness; and fourth, review the specialty courts and their effectiveness precluding or limiting the prison population and dealing with reentry issue. There have been suggested changes to the reentry statutes and the Commission should be charged with evaluating the recommendations of the DPP and whether those recommendations were effective. With these reviews and required reporting back, the Legislature will be providing this Legislature with some specifics that will assist in its evaluation of the criminal justice system in its entirety. The criminal justice system is a complex and integrated system; changes made to one section can have adverse and unpredictable effects on another section.

Assembly Bill 508 allows those groups within the criminal justice system to come together and share the impacts of their ideas, views, and concerns relative to the entire system as we move forward with consideration of these various matters. The Commission should be provided with staff support and that staff will be essential in order to have meaningful responses. Their consideration also needs to be given to the proposal of allowing district court judges to deviate from mandatory minimums for Category B, C, D, and E felonies. By documenting their findings, should deviations be made, the State can appeal if there is an adverse view, allowing this Commission to examine the effectiveness of such an approach.

Here is a prime example. A young man is offered \$150 to drive a car from Sacramento, California, to Salt Lake City, Utah. He is pulled over in Lovelock, Nevada, for a broken taillight. The trooper asks to search the vehicle and upon searching it finds an amount of drugs considered as trafficking here in Nevada. Under the current sentencing scheme the District Attorney has no choice to negotiate; the defendant cannot offer substantial assistance to qualify for probation, and depending on the actual quantity of drugs, that young man, with no prior convictions, would get sentenced to a term of 10 to 25 years in prison. We then house that individual, often an illegal immigrant, for a minimum of ten years before he can even be considered for parole. That is a waste of taxpayer dollars and I do not think that is what you, the Legislature, intended when those mandatory minimums were considered. This would be a proper case for a court judge, making specific findings of fact, to deviate from the mandatory sentencing guidelines and grant probation, and if that individual is an illegal alien, move him to an Immigration Customs Enforcement (ICE) holding facility for deportation.

These kinds of examples can benefit this State by extending to the judiciary, over the next two years, discretion to consider deviation on specific findings of fact in an individual case. This would also give empirical evidence, instead of speculation, about the extent to which judges follow or do not follow the mandatory sentencing guidelines.

Assemblyman Anderson:

I see your recommendations relative to having a retired justice as a member of the Advisory Commission; it might be helpful to have somebody who is not involved but knows the courts and who might be able to bring a certain level of objectivity to both sides. Do you see any value in having a retired justice member?

James Hardesty:

It would be perfectly acceptable to provide the option in the language of the bill to allow the Chief Justice to appoint either a sitting or a retired justice member. Since the Supreme Court is directly involved and confronted with all these cases coming in and out of the prison, and also charged with administering the judicial system in the State, we feel it would be more productive to have a sitting justice as a member of the Commission, someone who is more in tune with the current problems the court is facing internally with respect to its caseload.

My concern is the need for this Advisory Commission is of enormous urgency and the sooner we can get it formed and charge it with these responsibilities, the better off the entire legislative and justice systems will be. Often commissions are created and, unless there is a requirement that they start meeting on a certain date, they languish. The Legislature needs to expect accountability from this Commission and they should be charged with an enormous responsibility. The expectation for this Commission should be high and you should set deadlines which begin with the appointment of its members.

Assemblywoman McClain:

We have set a precedent with a couple of other commissions and those appointments will happen fairly quickly after July 1, 2007.

Assemblyman Carpenter:

You mentioned illegal aliens in your discussion on the judges' findings of actual facts in your example. What progress has been made in regard to the illegal aliens in our prison system?

James Hardesty:

Since I last testified on that subject, a lot has happened. The Legislature should be very proud of the hard work which has been done by the Nevada Department

of Corrections (NDOC) and its staff and new director, the chairman of the Parole Board, and the members of the Pardon's Board. The efforts by the Detention Removal Operations (DRO) segment of the ICE also need to be recognized. Currently the NDOC, Parole Board, and ICE have identified 146 inmates who can be considered by the Pardon's Board. They have already received parole, but need an earlier release date from the Pardon's Board. Forty-six of those inmates are in northern Nevada and 100 are in southern Nevada. Forty-seven are amenable to immediate removal not only from our system, but from the country. Another 64 are subject to interviews by the DRO and will be in a position to go before the Pardon's Board for removal. The Pardon's Board has agreed to meet monthly and consider presentations and recommendations from the Parole Board. This would be at a rate of 40 to 50 inmates per month being considered for deportation. The DRO has informed us of a Lawful Permanent Resident Removal Program, in which an administrative law judge will come into the prison and conduct deportation hearings and those arrangements are currently being worked out with the NDOC and the DRO.

We have identified another category of interest in our prison system. There are a number of inmates who are serving both state and federal sentences concurrently. It is our suggestion that the State of Nevada and the Pardon's Board review all these cases and turn them over to the federal prison system. Those statistics are currently being compiled. Often the sentences in the federal system are stiffer than those of the state system. Interestingly, it was necessary for a federal public defender to go to the federal courts to seek qualification of a Nevada prison as appropriate to house a federal defendant who had been sentenced on a federal crime. This is an example of a number of circumstances that are affecting our system that this Commission needs to review and provide some meaningful guidance to the Legislature. In the meantime, the NDOC will present a list of these cases to the Pardon's Board and review why they cannot be housed at federal prisons instead of the Nevada state prison. I would ask that you consider my amendments to A.B. 508 and have these issues be the focal point of this.

Chair Parks:

I have a question in looking at Section 1, the composition of the Commission, having 14 members. Do you see this as being a satisfactory number?

James Hardesty:

I would add, as another amendment to A.B. 508, one member who would be a representative of the Sheriffs' and Chiefs' Association. They would be greatly impacted by this Commission and its findings.

Chair Parks:

Thank you very much; we certainly appreciate your coming to testify, Mr. Hardesty. I would like to open the testimony to those who wish to speak on A.B. 508.

Howard Skolnik, Director, Department of Corrections:

The NDOC is neutral on A.B. 508. I do have one concern with regard to the Advisory Commission on Sentencing. The language of the bill needs to take into account the constitutionality of the Prison Board of Commissioners, which is established in the *Nevada Constitution* and governs the NDOC. I believe that if there were any kind of formation of a commission or a non-Executive Branch body, that they could probably not be more than advisory. Other than that, we have no position on this bill.

Patricia Hines, Private Citizen, Yerington, Nevada:

[Read from prepared testimony (Exhibit D).]

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

[Read from prepared testimony (Exhibit E).]

Chair Parks:

Thank you. We will close the hearing on A.B. 508 and open the hearing on Assembly Bill 361.

Assembly Bill 361: Providing for the establishment of certain standards for state correctional institutions and facilities. (BDR 16-1014)

Assemblywoman Valerie E. Weber, Assembly District No. 5:

[Read from prepared testimony (Exhibit F).]

Assemblyman Anderson:

I understand the special needs of certain inmate groups such as pregnant, mentally or physically disabled, or even youthful offenders. But by including women, in general, as a special needs group, would that not extend special rights to them as well?

Assemblywoman Weber:

I am referring to the needs of the diverse groups housed within our prison system not being met by the operating policies we currently have in place. There need to be standards established for a female offender versus a male offender.

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ASSEMBLY BILL 508

**Proposed Amendments
Submitted by Justice James Hardesty**

1. **Member Appointed by the Chief Justice**—Revised Section 1 of the bill, lines 7 through 9, to the provide that the Chief Justice appoints a sitting justice to the Commission instead of a retired justice;
2. **New Membership**—Amend the bill to require that the membership of the Commission be reappointed in its entirety within 60 days after July 1, 2007 (the effective date of the bill);
3. **First Meeting and Election of Chairman**—Amend the bill as follows to require that the newly appointed commission:
 - Hold its first meeting within 120 days after July 1, 2007; and
 - Elect a new chairman at this first meeting.
4. **Term of Chairman**—Amend the bill to provide that the newly elected chairman serves a two-year term. The purpose is to ensure that the same chairman presides over the 2007-2008 interim work and then is able to assist with the recommendations from that interim before the 2009 Legislature.
5. **Subpoena Power**—Amend the bill to provide subpoena power to the commission to ensure the commission will receive the information and participation necessary to conduct its review in a timely manner.

Patricia A. Hines
21 Shirley Lane
Yerington NV 89447
Jphines654@aol.com
702 375-2402

April 4, 2007

TO: Members of the Select Committee on Corrections, Parole and Probation

RE: Amendments to AB 508 Makes various changes to provisions concerning the
Advisory Commission on Sentencing

In the Title for Commission delete the word Advisory

Page 2 Section 1 general proposed makeup is heavy with lawyers, but perhaps
needed??? Should the Pardons Board makeup be under consideration here?

Since one of the duties of the committee, page 4 line 21 stipulates evaluation of the State
Board of Parole (as it says for the Department of Corrections) I suggest that **a
representative of the Parole Board be a member.**

Would it be better to have the representative from the Department of Corrections and
Division of Probation and Parole be appointed by the heads of the departments rather
than the Governor?

Page 2 line 22 If there is a need for a victim of a crime to be represented, I respectfully
request **an interested offender advocate from the general public also be a member** to
round out the perspectives represented.

Page 3 line 6 Besides the requirement to meet every three months would it be helpful if
this bill gave this large a committee funding and staff support to meet in sub committees,
minimum of three members, to research on and compile solutions to be brought back to
the entire committee for discussion and action?

Page 3 line 17 delete ^t*To the extent of legislative appropriation.*

Page 4 line 26 (a) change *actions* to **Policies**

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT **S.B. 286**

SENATE BILL NO. 286—COMMITTEE ON JUDICIARY

(ON BEHALF OF ADVISORY COMMISSION ON SENTENCING)

MARCH 7, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain committees that review issues pertaining to criminal justice. (BDR 14-774)

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

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

AN ACT relating to criminal justice; establishing the legislative committee on criminal justice; eliminating the advisory commission on sentencing and amending various provisions relating thereto; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 176.0129 is hereby amended to read as follows:
2 176.0129 *1.* The department of administration shall, on an annual
3 basis, contract for the services of an independent contractor, in accordance
4 with the provisions of NRS 284.173, to:
5 ~~1. (a)~~ Review *the* sentences imposed in this state ~~and~~;
6 ~~2. (b)~~ Review the practices of the state board of parole commissioners ;
7 and ~~project~~
8 ~~3. (c)~~ *Project* annually the number of persons who , *during the 10 years*
9 *immediately following the date of the projection*, will be:
10 ~~(a)~~ (1) In a facility or institution of the department of prisons;
11 ~~(b)~~ (2) On probation;
12 ~~(c)~~ (3) On parole; and
13 ~~(d)~~ (4) Serving a term of residential confinement . ~~1.~~
14 ~~during the 10 years immediately following the date of the projection; and~~
15 ~~2. Review preliminary proposals and information provided by the~~
16 ~~commission and project annually the number of persons who will be:~~
17 ~~(a) In a facility or institution of the department of prisons;~~
18 ~~(b) On probation;~~
19 ~~(c) On parole; and~~
20 ~~(d) Serving a term of residential confinement;~~

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1 during the 10 years immediately following the date of the projection;
2 assuming the preliminary proposals were recommended by the commission
3 and enacted by the legislature.}

4 2. The department of prisons and the division shall provide the
5 independent contractor retained by the department of administration
6 pursuant to subsection 1 with any available statistical information
7 requested by the independent contractor for the purpose of performing
8 the projections required by subsection 1.

9 Sec. 2. NRS 179A.290 is hereby amended to read as follows:

10 179A.290 1. The director of the department shall establish within the
11 central repository a program to compile and analyze data concerning
12 offenders who commit sexual offenses. The program must be designed to:

13 (a) Provide statistical data relating to the recidivism of offenders who
14 commit sexual offenses; and

15 (b) Use the data provided by the division of child and family services of
16 the department of human resources pursuant to NRS 62.920 to:

17 (1) Provide statistical data relating to the recidivism of juvenile sex
18 offenders after they become adults; and

19 (2) Assess the effectiveness of programs for the treatment of juvenile
20 sex offenders.

21 2. The division of parole and probation of the department of motor
22 vehicles and public safety and the department of prisons shall assist the
23 director of the department of motor vehicles and public safety in obtaining
24 data and in carrying out the program.

25 3. The director of the department of motor vehicles and public safety
26 shall report the statistical data and findings from the program to:

27 ~~(a) The~~ the legislature at the beginning of each regular session.

28 ~~(b) The advisory commission on sentencing on or before January 31 of~~
29 ~~each even-numbered year.~~

30 4. The data acquired pursuant to this section is confidential and must
31 be used only for the purpose of research. The data and findings generated
32 pursuant to this section must not contain information that may reveal the
33 identity of a juvenile sex offender or the identity of an individual victim of
34 a crime.

35 Sec. 3. Chapter 218 of NRS is hereby amended by adding thereto the
36 provisions set forth as sections 4 to 9, inclusive, of this act.

37 Sec. 4. As used in sections 4 to 9, inclusive, of this act, unless the
38 context otherwise requires, "committee" means the legislative committee
39 on criminal justice.

40 Sec. 5. 1. The legislative committee on criminal justice is hereby
41 created.

42 2. The committee consists of eight legislative members who must be
43 appointed as follows:

44 (a) The majority leader of the senate shall appoint one member from
45 the senate who served as a member of the senate standing committee on
46 judiciary during the immediately preceding session of the legislature and
47 two other members from the senate.

48 (b) The minority leader of the senate shall appoint one member from
49 the senate.

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1 (c) The speaker of the assembly shall appoint one member from the
2 assembly who served as a member of the assembly standing committee on
3 judiciary during the immediately preceding session of the legislature and
4 two other members from the assembly.
5 (d) The minority leader of the assembly shall appoint one member
6 from the assembly.
7 3. The committee shall consult with an advisory committee consisting
8 of 13 members who are appointed for terms of 2 years commencing on
9 July 1 of each odd-numbered year as follows:
10 (a) Two members who are district judges, appointed by the governing
11 body of the Nevada District Judges' Association. One of the district
12 judges appointed pursuant to this paragraph must be a judge of the
13 juvenile court.
14 (b) One member who is a district attorney, appointed by the governing
15 body of the Nevada District Attorneys' Association.
16 (c) One member who is a public defender, appointed by the governor.
17 (d) One member who is an attorney in private practice, experienced in
18 defending criminal actions, appointed by the governing body of the State
19 Bar of Nevada.
20 (e) One member who is a representative of a law enforcement agency,
21 appointed by the governor.
22 (f) One member who is a representative of the division of parole and
23 probation of the department of motor vehicles and public safety,
24 appointed by the chief parole and probation officer.
25 (g) One member who has been a victim of a crime or is a
26 representative of an organization supporting the rights of victims of
27 crime, appointed by the governor.
28 (h) One member who is a county commissioner, appointed by the
29 governing body of the Nevada Association of Counties.
30 (i) One member who is a representative of the department of prisons,
31 appointed by the director of the department.
32 (j) One member who is a representative of the central repository for
33 Nevada records of criminal history, appointed by the director of the
34 department of motor vehicles and public safety.
35 (k) One member who is a representative of the youth parole bureau of
36 the division of child and family services in the department of human
37 resources, appointed by the administrator of the division.
38 (l) One member who is a member of the general public, appointed by
39 the governor.
40 The members of the advisory committee are nonvoting members of the
41 committee. When meeting as the advisory committee, the members shall
42 comply with the provisions of chapter 241 of NRS.
43 4. The legislative members of the committee shall elect a chairman
44 from one house of the legislature and a vice chairman from the other
45 house. Each chairman and vice chairman holds office for a term of 2
46 years commencing on July 1 of each odd-numbered year.
47 5. Any member of the committee who is not a candidate for
48 reelection or who is defeated for reelection continues to serve until the
49 next session of the legislature convenes.

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D4

1 6. Vacancies on the committee must be filled in the same manner as
2 original appointments.
3 7. The committee shall report annually to the legislative commission
4 concerning its activities and any recommendations.
5 Sec. 6. 1. The members of the committee shall meet throughout the
6 year at the times and places specified by a call of the chairman or a
7 majority of the committee.
8 2. The research director of the legislative counsel bureau or a person
9 he designates shall act as the nonvoting recording secretary.
10 3. The committee shall prescribe regulations for its own management
11 and government.
12 4. Except as otherwise provided in subsection 5, five voting members
13 of the committee constitute a quorum, and a quorum may exercise all the
14 power and authority conferred on the committee.
15 5. Any recommended legislation proposed by the committee must be
16 approved by a majority of the members of the senate and by a majority of
17 the members of the assembly appointed to the committee.
18 6. Each legislative member of the committee, except during a regular
19 or special session of the legislature, and any member of the advisory
20 committee who is not employed by the State of Nevada or by a local
21 government, is entitled to receive the compensation provided for a
22 majority of the members of the legislature during the first 60 days of the
23 preceding regular session for each day or portion of a day during which
24 he attends a meeting of the committee or is otherwise engaged in the
25 business of the committee plus the per diem allowance provided for state
26 officers and employees generally and the travel expenses provided
27 pursuant to NRS 218.2207. The salaries and expenses paid pursuant to
28 this subsection and the expenses of the committee must be paid from the
29 legislative fund.
30 7. A local government that employs a member of the advisory
31 committee shall pay the regular salary, per diem allowance and travel
32 expenses of that member for each day or portion of a day during which
33 he attends a meeting of the committee or is otherwise engaged in the
34 business of the committee.
35 Sec. 7. 1. The committee shall research, investigate, evaluate,
36 review and comment upon issues related to criminal justice within this
37 state. Those issues may include, without limitation, any policies, practices
38 or procedures concerning adult or juvenile offenders.
39 2. In carrying out its functions and duties, the committee may:
40 (a) Conduct investigations and hold hearings.
41 (b) Request that the legislative counsel bureau assist in any research,
42 investigation, evaluation, hearing or review conducted by the committee.
43 (c) Make recommendations concerning the manner in which the
44 system of criminal justice is administered within this state and provide
45 those recommendations to governing bodies, agencies, officers,
46 employees and instrumentalities of federal, state or local government and
47 to any other person who is concerned with criminal justice within this
48 state.

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1. (d) Recommend to the legislature any appropriate legislation
2 concerning criminal justice or any matter that affects criminal justice
3 within this state.

4 Sec. 8. 1. If the committee conducts investigations or holds
5 hearings in carrying out its functions and duties:

6 (a) The secretary of the committee or, in his absence, a member
7 designated by the committee, may administer oaths.

8 (b) The secretary or chairman of the committee may cause the
9 deposition of witnesses, residing within or outside of this state, to be
10 taken in the manner prescribed by rule of court for taking depositions in
11 civil actions in the district courts.

12 (c) The chairman of the committee may issue subpoenas to compel the
13 attendance of witnesses and the production of books and papers.

14 2. If a witness refuses to attend or testify or produce books or papers
15 as required by the subpoena, the chairman of the committee may report
16 to the district court by a petition which sets forth that:

17 (a) Due notice has been given of the time and place of attendance of
18 the witness or the production of the books or papers;

19 (b) The witness has been subpoenaed by the committee pursuant to
20 this section; and

21 (c) The witness has failed or refused to attend or produce the books or
22 papers required by the subpoena before the committee that is named in
23 the subpoena, or has refused to answer questions propounded to him.

24 The petition may request an order of the court compelling the witness to
25 attend and testify or produce the books and papers before the committee.

26 3. Upon such a petition, the court shall enter an order directing the
27 witness to appear before the court at a time and place to be fixed by the
28 court in its order, the time to be not more than 10 days after the date of
29 the order, and to show cause why he has not attended or testified or
30 produced the books or papers before the committee. A certified copy of
31 the order must be served upon the witness.

32 4. If it appears to the court that the subpoena was regularly issued by
33 the committee, the court shall enter an order that the witness appear
34 before the committee at the time and place fixed in the order and testify
35 or produce the required books or papers. Failure to obey the order
36 constitutes contempt of court.

37 Sec. 9. Each witness who appears before the committee by its order,
38 except a state officer or employee, is entitled to receive for his attendance
39 the fees and mileage provided for witnesses in civil cases in the courts of
40 record of this state. The fees and mileage must be audited and paid upon
41 the presentation of proper claims sworn to by the witness and approved
42 by the secretary and chairman of the committee.

43 Sec. 10. NRS 176.0121, 176.0123, 176.0125 and 176.0127 are hereby
44 repealed.

45 Sec. 11. This act becomes effective on July 1, 2001.

SB286_R2

LEADLINES OF REPEALED SECTIONS

176.0121 "Commission" defined.
176.0123 Creation; members and appointing authorities;
chairman; terms; vacancies; salaries and per diem.
176.0125 Duties of commission.
176.0127 Department of prisons and division of parole and
probation to provide information to and assist commission.

H

SB286_R2

D7

Parks, David Assemblyman

From: Constance Kosuda [ckosuda@yahoo.com]
Sent: Thursday, April 05, 2007 10:13 AM
To: Parks, David Assemblyman; horne; Weber, Valerie Assemblywoman; Anderson, Bernie Assemblyman; John Carpenter; Munford, Harvey Assemblyman; Harvey Munford; Howard Skolnik; NV Prisonwatchdog; consuelo; Mary Hester; redress; larry rider; ckosuda@yahoo.com; good alyce addy
Subject: Fwd: Historical Development of Drugs by Pharmaceutical Companies Which Now Have Created an Epidemic Which Puts Thousands into Prison

Just some background information, which I always find helpful.

Particularly with ritalin, a form of meth which is making billions of dollars per year for the pharmaceutical companies and which leaves thousand of children in our State very susceptible to illegal drug use later on in their lives.

Thank you for this opportunity to communicate with you.

Constance Kosuda
 PO Box 621303
 Las Vegas, NV 89162

702 454 4053

<http://www.newstarget.com/021768.html>

The secret history of Big Pharma's role in creating and marketing heroin, LSD, meth, Ecstasy and speed
 Tuesday, April 03, 2007 by: Mike Adams

Most consumers think that street drugs are in an entirely different class than prescription drugs, and they believe that pharmaceutical companies would never manufacture or sell street drugs. But guess what? As you'll read here, drug companies actually invented many of the street drugs now considered to be the most devastating, including heroin and meth ("ice").

Here are seven facts you probably never knew about the connection between street drugs and pharmaceutical companies:

1. Heroin was launched as a medicine by Felix Hoffman, an employee of Bayer, only a few days after he invented aspirin. Bayer immediately applied for a trademark on the term "heroin," then began marketing the drug as a cure for morphine addiction. It was also marketed as cough syrup for children.
2. Parke-Davis, a subsidiary of Pfizer, promoted and sold cocaine. It even produced a "cocaine injection kit" complete with a syringe for shooting up. Skeptical? You can view the picture yourself by clicking www.NewsTarget.com/gallery/articles/ParkeDavisInjection.jpg

4/5/2007

20

Assembly committee: Corrections, Parole, and Probation
 Exhibit E P. 1 of 3 Date Apr. 15, 2007
 Submitted by: Constance Kosuda

3. A subsidiary of Novartis, Sandoz Laboratories, introduced the world to LSD in 1938, marketing it as a psychiatric drug named Delysid. This same drug company also created saccharin, the artificial chemical sweetener.

4. Drug giant Merck pioneered the commercial manufacture of morphine from opium and was a heavy pusher and marketer of cocaine. Merck also patented MDMA (Ecstasy, the rave drug). After World War II, Merck also began producing pesticides and food preservatives.

5. Ritalin is "speed" for children. A chemical amphetamine, Ritalin is made of controlled substances that would land you in prison if you sold them to a kid on the street, yet the drug is currently prescribed to millions of schoolchildren in the United States to treat a "brain chemistry condition" that was invented by the drug companies.

6. In the 1930's, drug companies marketed amphetamines as over-the-counter inhaler medicines for treating nasal congestion. Tablet amphetamines were also widely available in tablet form and frequently abused by students, truck drivers and other groups.

7. Meth was originally synthesized by chemists and later refined by drug companies. During WWII, "meth" was actually prescribed to soldiers by the U.S., Germany and Japan. Even Hitler was known as a "meth head" by his own staff. By the end of the war, millions of military personnel were addicted to the drug.

Today, meth ("crank") is made from ingredients found in over-the-counter cold medicines. While a meth epidemic sweeps America, destroying entire communities and even threatening some states (Hawaii in particular), drug companies insist their cold medicines should remain over the counter and not be classified as controlled substances. There is currently no legislative effort whatsoever to ban over-the-counter cold medicines containing the chemicals used to create meth.

Also related: Coca-Cola really did contain cocaine during its first few decades on the market (it also contained kola nut extract, hence the name). Cocaine was later removed from the formula and replaced with caffeine, a substance that is similarly addictive and serves much the same purpose.

Once you realize the connection between street drugs and prescription drugs, it's easy to figure out why Big Pharma is such a strong supporter of the Partnership For A Drug-Free America -- because they don't want consumers getting their drugs from street dealers, they want people buying their drugs from drug companies! Drug companies' attempts to outlaw street drugs are little more than a way of eliminating the competition and monopolizing the drug market.

Ultimately, Big Pharma is just another drug pushing cartel that has the same goals as any drug dealer: Convince customers they need your drug, get them hooked on it, and eliminate the competition.

The only difference is that Big Pharma has been so successful at dealing drugs that it has enough funds to buy off Congress, the Food and Drug Administration and practically the entire psychiatric industry (not to mention medical schools and mainstream media outlets).

Today, more than 40 percent of the U.S. population ingests FDA-approved synthetic chemicals manufactured and marketed by drug companies.

Drug companies think this number is too low. Their goal is to have 100 percent of the U.S. population taking not just one drug per day, but multiple drugs every day, for life.

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<http://PrisonMinistry.net/ckosuda>

, God bless you, all you love and all you touch with Peace, Prosperity, Perfect Health, Harmony, and Happiness, always, forever.

Thomas

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND
PROBATION**

**Seventy-Fourth Session
April 12, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:59 p.m., on Thursday, April 12, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Mark Stevens, Fiscal Analyst
Craig Hoffeecker, Committee Policy Analyst
Matt Nichols, Committee Counsel
Deanna Duncan, Committee Manager
Brooke Bishop, Committee Secretary
Olivia Lloyd, Committee Assistant



Assemblywoman Weber:

I just wanted to determine if the Attorney General's Office and DPS have considered arrangements in their budget to be able to handle this. Were there conversations as it was moving forward to plan ahead, so that the requirements could be met, because of the three-year window to be able to enact it?

P.K. O'Neill:

The Legislative Counsel Bureau (LCB) requested we attach a fiscal note to A.B. 579, which we did. We do have a request in the Governor's recommended budget of additional staffing to the SOU. With that additional staffing we can meet the requirements of this bill or any of the other bills that are currently before the Legislature on sex offender modifications. So, the answer would be "yes" under what we have requested being in the Governor's recommended budget. If we lost that for some reason, then it would post a hardship on meeting and maintaining the dictates of the bill.

Assemblyman Anderson:

I suggest we amend and do pass the bill and accept the recommendations as outlined in the Work Session Document (Exhibit C) as well as change the effective date to July 1, 2008, as suggested by Mr. O'Neil. This would give the State the opportunity to put together the materials to carry out the intent of the federal legislation.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 579.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Parks:

We will now move to Assembly Bill 508.

**Assembly Bill 508: Makes various changes to provisions concerning the
Advisory Commission on Sentencing. (BDR 14-1378)**

Craig Hoffecker:

This bill revises provisions related to the current Advisory Commission on Sentencing. Currently, this is chaired by the Attorney General. This bill removes the designation of the Attorney General as chairman of the Commission and provides for the members of the Commission to elect a chairman at the first meeting of each calendar year. The Commission must

meet every three months and at other times as deemed necessary by the chairman. The measure adds a retired justice of the Nevada Supreme Court, appointed by the Chief Justice, to the Commission. The bill also revises the duties of the Commission, requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Parole Board. It will consider if it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning actions relating to parole policies for the operation of the Department of Corrections, budgetary issues, and related matters. The bill also provides an appropriation to the Advisory Commission on Sentencing for \$50,000 for the Commission to enter into a contract with a consultant to assist the Commission.

There are several amendments proposed (Exhibit F). The first amendment proposed amends Section 1 of the bill to provide that the Chief Justice appoint either a sitting or retired Justice of the Nevada Supreme Court to the Commission.

The second amendment amends Section 1 to add a representative from the Nevada Sheriffs' and Chiefs' Association to the Commission.

The third change amends Section 1 and adds a representative of the Parole Board to the Commission.

The fourth change amends Section 1 to have a representative of the Division of Parole and Probation appointed by the director of the Department of Public Safety instead of the Governor.

The fifth amendment amends Section 1 to have a member of the Commission be involved with inmate advocacy and be appointed by the Governor.

The sixth amendment amends Section 1 to provide for the entire Commission to be reappointed within 60 days after the appointment of members of the Legislature.

The seventh change amends the bill to have the newly appointed Commission hold its first meeting within 120 days after July 1, 2007, and elect a new chairman at the meeting.

The eighth amendment amends the bill to provide that the newly elected chairman serve a two-year term that would extend to the 2009 Legislative Session.

The ninth change amends the bill to provide subpoena power to the Commission.

The tenth amendment amends the bill to provide that the Commission report include a review of the Division of Parole and Probation, the inclusion of the division's presentence investigation reports, and the use of the report writer's of the Division as well the use of the 1990 Administrative Code matrix the report writer's used for making sentence recommendations. The report also must include the degree to which judges rely on presentence investigation reports as well as the degree to which judges also follow presentence investigation reports, as well as the recommendations produced by the Division.

The eleventh change amends the bill by adding provisions for the Commission to examine the effectiveness and impact on the prison system of the recommended current sentences for felonies, particularly those involving mandatory minimums and sentences for drug crimes, such as trafficking. The Commission would then report back to the Legislature.

The twelfth change amends the bill for the Parole Board regarding its guidelines and regulatory procedures, which are to be reviewed by the Commission. Recommendations would be made to the 2009 Legislature regarding the effectiveness of the guidelines and regulations.

The thirteenth recommended change amends the bill to charge the Commission with the responsibility of examining the effectiveness of specialty courts and the effect those resources can have on either precluding or limiting the prison populations or dealing with reentry.

The fourteenth change amends the bill to charge the Commission with the responsibility for evaluating effectiveness of sentencing scheme recommendations and to see if they are working or not.

The fifteenth change amends the bill to provide for subcommittees. The final change amends Section 2, subsection 4a, to read, "Policies relating to parole."

Assemblywoman McClain:

Since there are so many recommendations, can we run through each of those one at a time, then take a vote? Or do you want a blanket motion for all of them?

Chair Parks:

Do you want to vote on each one individually? We can readdress any of them again for clarification.

Assemblywoman McClain:

That would be easier. Is there anything in particular that anyone has concerns with?

Assemblyman Anderson:

Is the subpoena power of the Advisory Commission one of the amendments?

Chair Parks:

Yes, it is the ninth recommended amendment. We wanted to have a Commission on Sentencing that brought into its discussions as large a group as possible, from a wide variety of backgrounds. I think this amendment accomplishes that.

Assemblyman Anderson:

I do not have an issue with the expansion of the Commission with the changes suggested by Justice Hardesty to allow a current or retired member of the court. I think it shows the involvement of the court, and it is essential. I have no problem with the Nevada Sheriffs' and Chiefs' Association as a member, either. I was under the impression they already had an appointed member to the Commission.

Chair Parks:

One of the amendments proposes to add a member who is a representative of a law enforcement agency. They are appointed by the Governor.

Assemblyman Anderson:

So, would that preclude having the member provided by the Nevada Sheriffs' and Chiefs' Association?

Chair Parks:

The representative from law enforcement would be appointed by the Governor and then the Nevada Sheriffs' and Chiefs' Association would appoint another member. What that offers is an ability to provide a member from the rural areas and a member from the urban areas. Ostensibly, that is how they want them appointed to the Commission.

Assemblyman Horne:

I am not in favor of the third amendment proposed in the Work Session Document (Exhibit F), which deals with adding a member to the Commission from the Parole Board. Nor am I in favor of the fourth proposed change, which changes the Governor appointing the Parole Board member to the director of the Nevada Department of Public Safety doing it instead. The director works for the Governor. It is in statute that the Governor appoints someone. Having

one of his/her subordinates appoint someone instead seems like something we would not typically do. I am sure the Governor consults with the department and division heads before he makes any appointments. We cannot put into statute that he cannot make a Commission appointment but the subordinate he has appointed can.

Chair Parks:

Well, consistency wise, the Governor does make a number of other appointments. Your recommendation is to delete amendment changes 3 and 4 as outlined in the Work Session Document (Exhibit F).

Assemblyman Horne:

I have no problem with adopting the fifth amendment proposed, which deals with having an inmate advocate on the Commission.

Chair Parks:

There would be balance in the membership of the Commission with the addition of an inmate advocate since we have a victims' advocate. There would then be 17 members, though there would actually be 18 members if we include the Attorney General's office.

Assemblyman Anderson:

So, if we include the Attorney General representative, there would then be 18 members, and that is assuming we add the inmate advocate, the Supreme Court representative, and the Nevada Sheriffs' and Chiefs' Association representative. Would a quorum then be ten, in order to vote or make recommendations? Would we require all ten members to vote or just a majority of those ten present at that particular meeting?

Matt Nichols, Committee Counsel:

That language is not currently in the text, but we can clarify that language in the bill.

Assemblyman Anderson:

In large groups, there is a difficulty in having a quorum present so they can conduct business. Once they reach a decision, assuming that they do, will they have the ability to make a recommendation? Do they all have to agree? Does it have to be six out of the ten? We need to make sure to add the language, "a majority of those present at a meeting, quorum having been met." I am always of the opinion that it is a good idea because of distance. The people on the Commission have other duties. We can help by providing that language, rather than hindering them from reaching a decision by stating it has to be a majority of the total members of the Commission to get anything done. As we do in our

committees, we hinder the power of our committees by having a majority of the total membership be the deciding factor. We do that purposefully. So, I know how difficult it is over a long period of time, expecting them to make a decision. We would like for all of them to be present.

Assemblywoman Weber:

Can the director of Nevada's Department of Corrections and the Attorney General have a representative that could be a designee or alternate to help meet the quorum? I do not know if that takes away from the powers of the individual mentioned in the language of the bill.

Chair Parks:

Having served on various advisory bodies in the past, they tend to be a little more lenient as to what constitutes a quorum. I certainly would not have a problem with the majority or quorum of a body being able to make recommendations.

Assemblyman Anderson:

I do have a problem with alternates being allowed, because then the players who are going to make the decisions are not there to make recommendations. A designee often goes in your place, and then problems are constantly being put off or not addressed. Justice Hardesty mentioned the need for this Commission to be taken seriously and for its work ethics to be such that they would be able to produce a workable document. That was his argument for including a current sitting judge.

Chair Parks:

Have we decided to make it a 17-member commission? Or do we have problems with having 18 members and the sheer quantity? I thought the county commissioner provision was to address issues from a budgetary perspective. We can reduce it to 17 members by removing that provision.

Assemblyman Horne:

I do not see the need for the county commissioner provision.

Chair Parks:

We all agree that the county commissioner provision is to be removed from the composition of the Commission.

Assemblyman Anderson:

I agree. We would not be losing the county point of view because it would be represented by the Nevada Sheriffs' and Chiefs' Association. We would still have the reality of dealing with rural issues, such as the overcrowding of their

jail facilities. A county commissioner is only dealing with the fiscal responsibility and recognizes the impact of providing that particular service, but the reality of the prisoners themselves are handled by the sheriffs.

Chair Parks:

Are there any other concerns with proposed amendments? Most of these provisions are a simple matter of mechanics.

Assemblyman Horne:

For some clarification, on the sixth proposal, it says, "Amend Section 1 to provide for the entire Commission to be reappointed within 60 days after the appointment of members of the Legislature." What is the purpose of that?

Chair Parks:

The members of the Commission that are going to be appointed would be appointed by the leadership of both houses, and the timing would correspond with the first meeting of the Legislative Commission, which usually occurs within 60 days of the end of the legislative session.

Assemblyman Anderson:

The session at which the Legislative Commission generally takes up the appointments is usually held in late August or early September, rather than later—at least that has been the tradition. Many of the statutory committees come up for their appointments before the Legislative Commission at that time. I think the Majority Leader of the Senate and the Speaker usually try to balance those appointments among all the members of both houses so people are not on too many committees, or conversely, so that some people are not left out completely, especially if they have an interest to serve. After the 60 days, leadership can see all at once what the options are for committees and who can serve on them. Most legislators like to serve in many capacities and interests during the interim. They do, however, have to pick and choose so they do not overextend themselves and are not missing meetings.

Chair Parks:

Does that answer your concerns, Mr. Horne? We are recreating, basically, the Commission on Sentencing. There are more than just mechanics to that whole process. Are there any other concerns to the proposed amendments?

Assemblywoman Weber:

Can we summarize the amendments before we vote, so we all know what we are voting on?

Chair Parks:

We have discussed the composition of the Commission, the mechanics of when the members would be appointed, and the timeline for the first meeting. There seems to be a desire of have a makeup of 17 members for the Commission, which would require a quorum of nine. We would be striking the county commissioner as a member.

Assemblyman Horne:

Do we need to have the fifteenth proposed change outlined in the Work Session Document (Exhibit F) providing for the ability of this Commission to create subcommittees? I thought they already had the authority to do that.

Chair Parks:

I added that because we did not have the actual language in there. I presume they have that authority, but it was not specifically mentioned.

Matt Nichols:

Mr. Horne's interpretation is correct. That authority is inherent. The only situation where you would want to specifically provide for subcommittees is if there was going to be a standing subcommittee or a subcommittee the Commission was going to authorize with specific duties or powers, so that they could control what that subcommittee was going to examine. Otherwise, I think that is a power the advisory board would generally have.

Assemblyman Horne:

If we are going to add that language, we would need to make sure it was stated as an option to provide for subcommittees, not a requirement. I do not mind proposed change 16, "policies relating to parole." In Section 2, paragraph 4a it says "actions relating to parole." I think it is appropriate to change it to "policies relating to parole."

Assemblyman Anderson:

Going back to recommendation 6, regarding the 60-day question, after the appointment of members of the Legislature, would it not be better to make the suggested phrase "not later than 60 days after"? This would give the Legislative Commission the opportunity to appoint as soon as practical because the legislators would be the last members appointed. Since we are expecting them to meet within the first 120 days, putting the "not later" language in there might solve part of the dilemma of waiting to have a meeting.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS AS
AMENDED ASSEMBLY BILL 508 WITH PROPOSED

AMENDMENTS NOS. 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
AND 16, AS PRESENTED, AND THE FOLLOWING ADDITIONS:

- REMOVAL OF THE COUNTY COMMISSIONER PROVISION;
- ADDITION OF A SHERIFFS' AND CHIEFS' ASSOCIATION REPRESENTATIVE; AND
- ADDITION OF LANGUAGE SPECIFYING THAT A QUORUM IS NINE. A MAJORITY OF THAT QUORUM IS NEEDED TO MAKE RECOMMENDATIONS.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Parks:

We will move on to Assembly Bill 510.

Assembly Bill 510: Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16—1377)

Craig Hoffecker:

The bill increases the deduction of sentence time for good behavior from 10 to 20 days per month. It increases the educational credits for earning a General Education Diploma (GED) from 30 days to 60 days, credit for a high school diploma from 60 days to 90 days, and credit for a first associate's degree from 90 days to 120 days. It also revises eligibility requirements for offenders to enter residential confinement by prohibiting an offender convicted of a violent felony crime within the preceding three years or ever convicted of a sexual offense which was punishable as a felony or a Category A or B felony, from serving in residential confinement. The measure eliminates certain requirements of an offender to qualify for residential confinement, especially as it concerns costs of confinement and drug and alcohol treatments. It also reduces the discretion of the Director of the Department of Corrections as it relates to offenders completing treatment and complying with certain conditions. It prohibits the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner was ever convicted of a felony sexual offense and provides that an offender must be within one year, instead of the current two years, of probable release from prison and not been convicted of a violent felony crime within the preceding year instead of the current five years.

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Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

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

Assembly Bill 508

Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

Sponsored by: Select Committee on Corrections, Parole, and Probation
Date Heard: April 5, 2007
Fiscal Impact: Effect on Local Government: No
Effect on the State: Contains Appropriations not included in Executive Budget

Assembly Bill 508 revises the Advisory Commission on Sentencing by requiring the commission to hold meetings at least once every calendar quarter, adding a retired justice of the Supreme Court to its membership, and allowing the membership of the commission to choose its chairman each year. The legislation also adds duties for the commission to examine efficiency aspects of the Nevada Department of Corrections and the State Board of Parole Commissioners and make recommendations as to whether it is feasible and advisable to establish an oversight or advisory board. An appropriation is provided for the commission to obtain the services of a consultant to assist it.

Amendments: The following conceptual amendments were proposed. A copy of a submitted amendment is attached for reference.

1. Composition of Commission – Amend Section 1 of the bill to provide that the Chief Justice appoint either a sitting or retired justice of the Nevada Supreme Court to the Commission.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

2. Composition of Commission – Amend Section 1 of the bill to add a representative of the Sheriff's and Police Chief's Association on the Commission.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

3. Composition of Commission – Amend Section 1 to add a representative of the Parole Board to the Commission.

(Proposed by Patricia Hines.)

4. Composition of Commission – Amend Section 1 to have representative of the Division of Parole and Probation be appointed by the Director from the Department of Public Safety instead of the Governor.

(Proposed by Patricia Hines.)

5. Composition of Commission – Amend Section 1 to have a member of the Commission be interested in inmate advocacy appointed by the Governor.

(Proposed by Chairman David Parks based on idea by Patricia Hines.)

6. Composition of Commission – Amend Section 1 to provide for the entire Commission to be reappointed within 60 days after the appointment of members of the Legislature.

(Proposed by Chairman David Parks based on idea by Justice James Hardesty, Nevada Supreme Court.)

7. Initial Meeting of Commission – Amend the bill to have the newly appointed Commission hold its first meeting within 120 days after July 1, 2007 and elect a new chairman at the meeting.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

8. Term of Chairman – Amend the bill to provide that the newly elected chairman serves a two-year term that would extend through the 2009 Regular Legislative Session.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

9. Subpoena Power – Amend the bill to provide subpoena power to the Commission.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

10. Matters for the Commission to Report – Amend the bill to provide that the Commission report include: (1) a review of the Division of Parole and Probation, the Division's presentence investigation reports, and the use of the report writers of the Division of the 1990 administrative code matrix for making sentence recommendations; (2) the extent to which judges rely on presentence investigation reports; and (3) the extent to which judges follow presentence investigation reports and their recommendations as produced by the Division.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

11. Matters for the Commission to Examine – Amend the bill by adding provisions for the Commission to examine for effectiveness and impact on the prison system the recommended current sentences for felonies, particularly those involving mandatory minimums and for sentences for drug crimes such as trafficking and report back to the Legislature.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

12. Matters for the Commission to Examine – Amend the bill for the Parole Board, its guidelines, and its regulatory procedures to be reviewed by the Commission and recommendations made to the 2009 Legislature regarding the effectiveness of the guidelines and regulations.

(Proposed by Justice James Hardesty, Nevada Supreme Court.)

13. Matters for the Commission to Examine – Amend the bill to charge the Commission with the responsibility of examining the effectiveness of specialty courts and the effect that those resources can have on either precluding or limiting the prison population or dealing with re-entry.
(Proposed by Justice James Hardesty, Nevada Supreme Court.)

14. Matters for the Commission to Examine – Amend the bill to charge the Commission with the responsibility of evaluating effectiveness of sentencing scheme recommendations and see if they are working or not.
(Proposed by Justice James Hardesty, Nevada Supreme Court.)

15. Subcommittees of Commission – Amend the bill to provide for subcommittees.
(Proposed by Patricia Hines.)

16. Commission Recommendations – Amend Section 2, subsection 4(a) to read, “Policies relating to parole.”
(Proposed by Patricia Hines.)

ASSEMBLY BILL 508

**Proposed Amendments
Submitted by Justice James Hardesty**

1. **Member Appointed by the Chief Justice**—Revised Section 1 of the bill, lines 7 through 9, to the provide that the Chief Justice appoints a sitting justice to the Commission instead of a retired justice;
2. **New Membership**—Amend the bill to require that the membership of the Commission be reappointed in its entirety within 60 days after July 1, 2007 (the effective date of the bill);
3. **First Meeting and Election of Chairman**—Amend the bill as follows to require that the newly appointed commission:
 - Hold its first meeting within 120 days after July 1, 2007; and
 - Elect a new chairman at this first meeting.
4. **Term of Chairman**—Amend the bill to provide that the newly elected chairman serves a two-year term. The purpose is to ensure that the same chairman presides over the 2007-2008 interim work and then is able to assist with the recommendations from that interim before the 2009 Legislature.
5. **Subpoena Power**—Amend the bill to provide subpoena power to the commission to ensure the commission will receive the information and participation necessary to conduct its review in a timely manner.

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 14, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:38 a.m. on Monday, May 14, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care

COMMITTEE MEMBERS ABSENT:

Senator Steven A. Horsford (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1
Assemblyman Harvey J. Munford, Assembly District No. 6

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

Sig Rogich, Chair, Advisory Committee on Boxer Health and Safety

CHAIR AMODEI:

Mr. Wilkinson, please coordinate with Senator Washington's committee to ascertain whether those policies are appropriately germane.

FERNANDO SERRANO (Administrator, Division of Child and Family Services, Department of Health and Human Services):

It appears the discussion is twofold—policy and budget. On the policy side, the Division of Child and Family Services and the state support evidence-based programs and continuum of sanctions. The state passes a number of federal pass-through grants and looks for evidence-based programs which lead to a continuum of sanctions when approving that pass-through funding.

In terms of budget, an increase in the Community Corrections Partnership Block Grant was one of our funding priorities; however, there were not enough funds to cover all our priorities, specifically, child welfare in Clark County. Most funds went to issues surrounding child haven, foster care recruitment, retention, social workers in Clark and Washoe Counties and supervised increase in foster care caseloads.

THE HONORABLE JAMES W. HARDESTY (Associate Justice, Nevada Supreme Court):
Why did you want us here, Senator Amodei?

CHAIR AMODEI:

We are attempting to get a global view of the justice reinvestment issue. This Committee has been tasked by the money committees to set forth specific policy recommendations in the areas of crime, punishment, treatment and so forth. We want to have on record all individuals from the juvenile system through the adult system, parole and probation and corrections. We did not want the judiciary to think with respect to whether it was the treatment aspects of the drug courts when we talk about trying to minimize prison population in a policy sense.

JUSTICE HARDESTY:

I sent a number of changes to Senate Fiscal Analyst Gary L. Ghiggeri, Audit Division, Legislative Counsel Bureau and others that outlined suggestions for revising a number of statutes to deal with this Legislative Session and address in the next few months. It is our view that the Advisory Commission on Sentencing needs to be seriously revamped, retooled and recharged, which is the subject of Assembly Bill 508. The Advisory Commission on Sentencing

needs to be charged with a number of issues that would completely review the criminal justice system, mandatory sentencing and so forth.

ASSEMBLY BILL 508 (1st Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

We proposed addressing prison overcrowding issues. A white paper was provided in which extensive comments were shared with Mr. Ghiggeri. I assume copies have been provided to Committee members. One component of the white paper was to change the statutes allowing good time credits to be afforded inmates in order to develop the release program to address current overcrowding problems. The prison system estimated if good time credits were applied retroactively to 1997, the current prison population could be reduced by approximately 1,600 inmates. It might not be the best policy. It may be better served by making the retroactive one minimum, rather than minimums and maximums, which would allow inmates to make application to the State Board of Parole Commissioners. Their right to seek parole would be accelerated and allow the Parole Board to screen inmates for release. They would work with specialty courts and the Division of Parole and Probation to attain a responsible and careful approach to releasing inmates. They would determine which inmates are prepared to enter society and how release would be staged.

We suggested the Committee peruse specialty courts and indicated the prison reentry drug court statutes are not working. I offered amendments to Chapters 209 and 218 of *Nevada Revised Statutes* (NRS). I trust you have those statutes and the recommended changes.

JUSTICE HARDESTY:

We suggested amending the residential confinement statutes. Less than 100 inmates are currently on residential confinement in Nevada. This is way too low and due in large part to the fact that elements in the statutes do not allow for consideration of the release of people who could otherwise be released. There are not enough probation officers to supervise them or programs for them when they are released.

Finally, we urged you to consider savings that can be generated in the prison budget and redirected to specialty court programs. However, specialty court programs are at maximum strength at this time. Senior District Judge Peter I. Breen can share with you some of the issues they are facing.

Clearly, as part of the white paper, we need to address retooling of specialty courts. It is not as simple as taking a group of inmates, moving them from the prison system and putting them in specialty courts. We need court clerks, bailiffs, judges, personnel and infrastructure to handle it. It is cheaper to do it that way, but those needs should still be addressed.

Senator Raggio suggested setting aside funds in the Interim Finance Committee for transition over the course of the summer. Practical considerations can be addressed by Carlos Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services. Before release from prison, inmates need to be screened to make sure they are amenable to treatment and the specialty courts can adequately supervise and care for them.

We also offered special programs. When a person is technically violated and sent to prison, rather than have them do the full minimum term, shorten the period to four, five or six months. They will get a taste of prison and then be allowed to reapply to specialty court. The program will receive them back since they now have the inmate's attention. The programs will work to substantially reduce and address prison overcrowding. They require careful communication and relationships between the specialty court, the Division of Parole and Probation and the Department of Corrections.

PETER I. BREEN (Senior District Judge, Administrative Office of the Courts, Nevada Supreme Court):

I will provide historical perspective to the issue of prison reentry drug court. Five or six years ago, former District Judge Mills Lane and I took offenders into our specialty courts over a period of a year and a half as the result of a federal grant. It worked well and was the most successful component of the drug courts. The clients were monitored, structured, given attention and followed in regard to being rearrested, charged with a felony and returned to prison. At that time, drug courts were smaller and able to be absorbed with no changes or funds other than those for treatment.

Today, drug courts are at capacity. The county supplies clerks, integrated case managers and so forth. Committees screened applicants and they flowed into the drug courts; then the grant ran out and the flow slowed to a trickle. Currently, 15 drug courts in northern Nevada and 20 in Clark County are financed from A.B. No. 29 of the 72nd Session funds; in some cases, clients

paid their own way. We have the experience and ability to handle clients, but drug courts can only take a few more.

Success depends on handling drug addicts and monitoring them carefully. They must be helped to get a job, find housing and place themselves in a safe environment. They cannot be sent back to the streets, which is the reason 80 percent of them return to prison across the nation over a period of time. We do not have the infrastructure to support a large number of people.

Years ago, we knew prison reentry would work and wanted to try it. We took what we could get for new programs. Now, the population is limited. Changes are needed to enable us to go after available populations.

Screening committees look at the people who have a chance to be successful. We have the experience to choose those individuals who need further development.

THE HONORABLE A. WILLIAM MAUPIN (Chief Justice, Nevada Supreme Court):
We have been attempting to reassess the current status of specialty court programs since formulating the Court's budget last summer. After receiving information from Judges Peter I. Breen, Andrew Puccinelli, Archie E. Blake, and Jackie Glass, a budget was formulated in which, in addition to administrative assessment money, General Fund supplementation was requested. The budget closing process reached the point to request changes in the funding mechanism for specialty courts. The budget was closed by the Joint Committee on Government Affairs with a primary additional component of non-specialty court assessments to supplement that budget.

We have been looking and reassessing specialty court programs since last August. Our first interactions with the budget committees provided an opportunity to look at the substantive abilities of the specialty courts. The Legislature has globally addressed the issue, along with all other calls on the General Fund throughout this session. The stress on the General Fund caused an important reexamination of public policy with regard to the state prison system as well as all other issues, including highways, education and so forth.

We are here to talk about the global problem of the prison system. We come to you with a prison system that contains 1,200 more inmates than budgeted for in terms of physical plant. The Legislature must deal with it in some way. The

prison will tell you the problem cannot be dealt with entirely with specialty courts; therefore, we must take a global approach. We also must take a global approach to the criminal justice system. Issues about the severity of mandatory sentences are not reaching public policy considerations that the sentencing structures were originally designed to achieve.

An example is our severe trafficking laws. This behavior needs to be stopped in Nevada. We are not catching notorious drug traffickers. It does no good to fine or imprison an individual for 15 years who is enticed or intimidated into carrying a bag of drugs into the state by bus and intercepted in Winnemucca, Lovelock or Elko before they get to their destination. That is not the way to solve the problem.

There are two major solutions to the prison population. One is incarceration, which is a major call on the state budget. There is also the specialty court infrastructure in place. Both are stressed to the maximum at this point. How do we address reallocation of state resources to these programs? Let me assure you, specialty court programs are cheaper to operate and have proven more effective, which is the reason The National Council of State Governments asked several chief justices around the country, including myself, to form a chief justice task force on mental health courts.

CHIEF JUSTICE MAUPIN:

When I first heard about the program, I was skeptical. I thought we needed to provide housing for these people and all other things were temporary measures that worked as long as the individuals were in the program. I formed the task force, listened to the stakeholders and went to a national conference for the Chief Justices' Criminal Justice/Mental Health Leadership Initiative at The Council of State Governments Justice Center. I discovered mental health courts around the country have become well recognized in not only temporary success but permanent success as well.

I also learned the statistical needs and the fact that people in mental health courts stay in prison longer than other inmates due to compliance issues. These individuals utilize all forms of government resources when they are not in the prison setting; overconditioning them in regard to probation or parole with which they cannot comply is a recipe for failure. Senior District Judge Breen is talking about a recipe for success. I am convinced the specialty court issue with regard to mental health court addresses not only mental health issues but co-occurring

disorders. Statistical information around the country indicates they work permanently if done appropriately.

We ask the Legislature to look at the fundamental policy question of where to apply General Fund resources. I understand how difficult it is to get a handle on the best public policy. As a citizen, I say 120 days is not long enough for the Legislature to get a specific handle on many issues. We are now in crunch time with three weeks left in the Legislative Session; I know you will do your best. We are at a new starting point and believe specialty court concepts will be a major contributor in not only achieving a successful outcome for individuals but a successful financial outcome for the people of Nevada.

JUSTICE HARDESTY:

The Nevada Supreme Court budget request was \$5.2 million for specialty court funding out of the General Fund; we received \$1 million, which was disappointing. We will do our best with the resources received compared to what was requested and the demand, which is \$30 million.

District courts in Nevada can give you numerous examples of circumstances in which mandatory sentencing laws should have been deviated. It makes no sense to sentence a young man to 10 to 25 years in Nevada State Prison who was paid \$150 to drive a car from Sacramento to Utah, got pulled over for a broken taillight and consented to a trooper searching the vehicle who then found a trafficking level quantity of drugs in the trunk. Our statutes do not permit the district attorney to deal that case or the judge to deviate it. We propose authority from this body to allow judges to deviate on mandatory sentencing cases with findings and allow those findings to be appealed to the Nevada Supreme Court in appropriate circumstances.

CHAIR AMODEI:

The key part is findings. Mandatory sentencing resulted from people who told stories of individuals who received sweet deals. Discretion is good as long as it is used communicatively to balance the sentence. There is no resistance to returning some discretion, but it also requires deviation from the previous historical practice. I do not envy the job and would never aspire to it. When those decisions are made, there must be ample record with specific findings that, in many cases, we may want to put in statute. In that event, should someone have a complaint, it can be proven communication took place.

JUSTICE HARDESTY:

Before suggesting discretion, I met with representatives of the Nevada District Attorneys Association and Nevada Sheriffs' and Chiefs' Association and they understand the proposal; R. Ben Graham and Kristin L. Erickson were present in the meeting. I understand they can live with appropriate findings required in the statute and the ability to have it reviewed on appeal.

Doing it now would allow the Advisory Commission on Sentencing to test it over the next two years. I do not mean to imply we are in a laboratory, but to a degree we are. It would allow us to compare what the sentencing would have been in some circumstances versus how the sentencing turned out with special findings. It would allow the Legislature to have facts to deal with rather than conjecture and speculation of individuals. Many people can give opinions, but we need facts with which to work. This gives the opportunity to do that, along with the Advisory Commission on Sentencing.

SENATOR WASHINGTON:

I was here when the sentencing structure was refurbished. Discretion afforded the court was somewhat ambiguous and of concern because there was no balance. It was not the intent of the Legislature to take away discretion but to provide balance so victims knew the process and procedure that would take place based on the crimes against them. I am not opposed to dealing with lower level crimes, Categories C, D and E. I agree the major drug trafficker penalties should be stiffer; however, a person crossing state lines carrying small quantities of drugs is a different situation.

I am concerned about backlog in dealing with restructuring good time credits in regard to successful drug completion programs to diminish the prison population. If specialty courts have \$1 million, what will the Division of Parole and Probation request for supervision of released parolees? How do we balance the ongoing demand? I agree that \$1 million is not enough for specialty courts, particularly with the addition of the mental health courts instituted a couple of Legislative Sessions back. How do we balance fiscal responsibility with ongoing demands of overarching requirements we are trying to develop, not only for justice but for incarceration, parole and probation and so forth. As a Legislator, I am at a loss.

JUSTICE HARDESTY:

I have a suggestion. The Department of Corrections indicated giving retroactive, good time credits back to 1997 would immediately release approximately 1,600 inmates. Is that the best policy? Probably not. It would be wiser to screen those people to determine how best to deal with them. Be mindful that only people who earned good time credits and performed well in prison would be considered. The question would be whether some of them should be released under supervision. The Division of Parole and Probation, working with specialty courts and the State Board of Parole Commissioners, can identify those people for a timed release. The system is not in a position to deal with the immediate release of 1,600 people.

Some people could be released and not be a threat to society, but they would first need to be screened. The Department of Corrections would not release people who are a public threat; they would release those who should be released. Individuals with addiction and mental health problems would be screened by professionals who perform this work, and they would supervise released inmates on a staged program.

You have a starting point because the Department of Corrections identified 1,600 inmates who could be the subject of this particular program. The question is how to approach that group and allow them to be supervised or released under that kind of system. That is the back end. The front end deals with the sentencing question, which is a separate issue. My proposal is—do not give judges unfettered rights to disregard sentencing statutes—to require special findings for deviation. You could provide a category of areas for those findings.

SENATOR WASHINGTON:

Do specialty courts deal with prerelease reports from the Department of Corrections to ascertain which inmates are released?

SENIOR DISTRICT JUDGE BREEN:

People in the drug courts confer with prison authorities to decide who is eligible for release. Federal grant money ran out which slowed the flow to a trickle. It was not picked up by the state and now would be a good time to do it.

I would like to seal the records of individuals on probation in specialty court and some people who graduated from mental health court; however, the former cannot be done at this time and the latter cannot be done in domestic violence

cases. Discretion would benefit specialty court judges. If a person runs the gauntlet of drug court, which takes 18 months to 2 years, I would like to provide them the opportunity to have their record sealed as well as a person who has not been convicted. Judges do not currently have that ability.

SENATOR CARE:

The Committee sees several bills every Legislative Session that create a new crime, which are Category B felonies. The question is why is it a Category B felony? This is my fifth regular session and I have been here long enough to observe what I term "felony creep"—Category D becomes Category C, Category C becomes Category B and so forth. Do judges discuss "felony creep"?

JUSTICE HARDESTY:

Yes, we do. The Advisory Commission on Sentencing was structured approximately 10 or 12 years ago but has not met in the last 6 years. Is it any wonder Senators and Assemblymen in this Legislative Session are left holding the bag trying to sort it all out without receiving advice from the Advisory Commission on Sentencing?

I testified on February 13 before the Assembly Select Committee on Corrections, Parole and Probation and urged them to retool the Advisory Commission on Sentencing, charge it with responsibilities that would benefit the Legislature on all issues, require the Commission to be impaneled by May 1 and call a special session of the Legislature by September to deal with the recommendations.

Everybody freaks when they hear the term special session, but these issues are enormously important. There will be no capacity in the women's prison by August 1; there will be no capacity in the prison system by November. Is that urgent enough? I think it is.

Range of sentences imposed has not been studied for at least six years. There is no competent evaluation of what kinds of range of sentences should be imposed. The Advisory Commission on Sentencing was designed to accomplish that and it needs to "get it on," to quote a famous predecessor.

CHIEF JUSTICE MAUPIN:

The truth-in-sentencing law was passed in 1995. Nevada judges were concerned regarding how long an inmate would be incarcerated and wanted a fixed period as to when they would be released. There was also concern about episodic reporting of judges having to enforce the Fourth Amendment of the U.S. Constitution. People thought defendants were released on technical grounds. As District Judge Lee A. Gates so eloquently said several years ago during a judicial campaign, "The Fourth Amendment of the United States Constitution is not a technicality." That was not the perception; there was concern judges were not exercising discretion in favor of public safety.

Since the truth-in-sentencing law came into being, 12 years of empirical experience shows us that Nevada judges have behaved responsibly in exercising their discretion. Judges are better trained and more cognizant of public safety issues. Judges' interaction with the public during election cycles provides them information to ascertain what is expected by people in the communities and the state.

District court judges have annual meetings at which the issue of judicial discretion and problem of severity of sentences are addressed and discussed at length. There are many resources to reassess the issue on which we can draw.

What do we do in the short and long run to deal with the crisis Justice Hardesty has evaluated? In the short run, there needs to be an assessment and triage of inmates who could be ready for release. This can be done with existing resources in specialty courts. Processes are in place to properly evaluate individuals placed in the program; however, those programs are now at maximum. With the concept in place, it is not a question of addressing more resources in the short run. It can be done in specialty courts this Legislative Session. A mid-range approach can be taken by holding money out for the Interim Finance Committee.

In the long run, the problems can be studied with the Advisory Commission on Sentencing and information gleaned from judges in the next two years to address the issue in the 2009 Legislative Session. We also need to train police, social workers and parole and probation officers in the concepts in order to deal with it at the back end in prison as well as at the beginning in the community when the police interact with these people. The court system should interact with the prison system which should interact with parole and probation. We

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must take a broader approach that includes mental health programs. My recent experience with the Chief Justices' Criminal Justice/Mental Health Leadership Initiative taught me that drug and mental health courts should be expanded to include a prison reentry and probation court to address the issues.

CHAIR AMODEI:

There being no further business to come before the Committee, the hearing is adjourned at 11:28 a.m.

RESPECTFULLY SUBMITTED:

Barbara Moss,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____

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Committee Discussion of

Justice

Reinvestment



*Increasing Public Safety and Generating Savings:
Options for Nevada Policymakers*

By Council of State Governments
Justice Center

Monday, May 14, 2007
Senate Committee on Judiciary

Increasing Public Safety and Generating Savings: Options for Nevada Policymakers

I. Background

Legislative leaders from the Nevada State Senate and Assembly have requested technical assistance from the Council of State Governments Justice Center (“Justice Center”) to determine why the Nevada prison population is growing. They have also asked the Justice Center to provide them with policy options, which, if implemented correctly, would increase public safety, reduce spending on corrections, and improve conditions in “high stakes” neighborhoods to which offenders released from prison return.

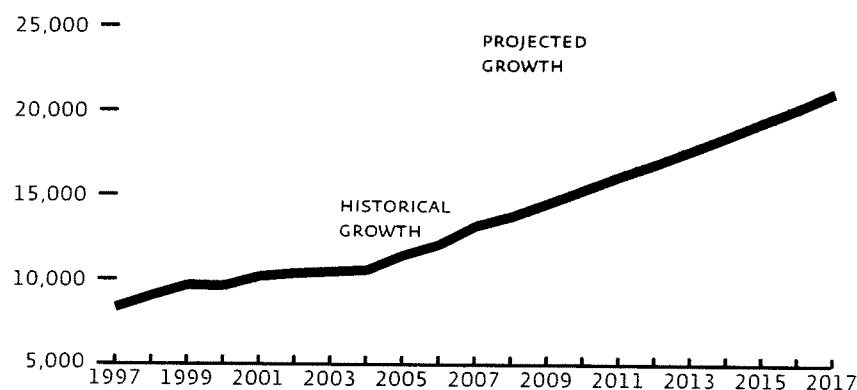
This policy brief summarizes increases in the Nevada prison population (and corresponding increases in spending on the corrections system) over the past several years, reviews the most recent prison population projections for the state, and explains factors that have contributed to recent and projected growth of the prison population.

II. Recent and Projected Growth of the Prison Population

Nevada’s prison population has been among the fastest growing in the nation, and it is projected to grow faster still over the next 10 years.

- Between 1996 and 2006¹, the prison population increased 58 percent, from 8,325 total inmates in 1996 to 13,186 by 2006.²
- The 2005 incarceration rate in Nevada (500.9 per 100,000 residents) exceeded the national average (424.9 per 100,000).³
- The state’s prison population is projected to grow 61 percent by 2017, to 22,141 prisoners.⁴
- The female population is projected to grow faster than the male population during the next ten years: 72 percent compared to 60 percent.⁵

Figure 1. Nevada Department of Corrections Inmate Population: Historical Growth (FY 1997–2007) and Projected Growth (FY 2007–2017)

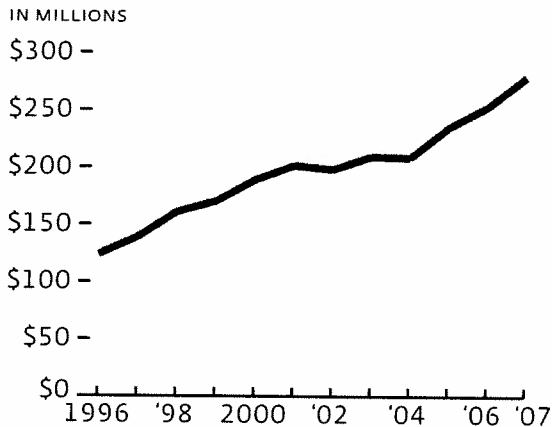


The Justice Center is providing intensive technical assistance to Nevada and a limited number of other states that demonstrate a bipartisan interest in justice reinvestment—a data-driven strategy for policymakers to reduce spending on corrections, increase public safety, and improve conditions in the neighborhoods to which most people released from prison return.

Spending on corrections in Nevada is outpacing the state's spending on education and human services.

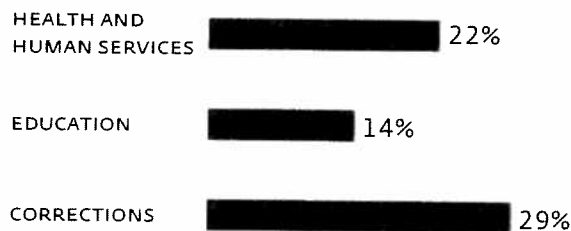
- As the prison population has increased in recent years, the Department of Corrections' ("NDOC") budget has also grown: expenditures increased 129 percent between 1996 and 2007, from \$121 million in FY1996 to \$277 million in FY2007.⁶

Figure 2. Nevada Department of Corrections Expenditures (FY 1996 – 2007)



- The FY2007–09 corrections budget request represents a 29 percent increase over the 2005–07 budget.⁷ Comparatively, the 2007–09 budget request reflects a 14 percent increase for education and a 22 percent increase for human services.⁸
- The 2007–09 biennium budget request includes an additional \$259 million for ongoing prison construction.⁹ The Department of Corrections proposes to open 2,672 new beds during the 2007–09 biennium, and to plan for an additional 3,490 beds that will be constructed in future biennia.

Figure 3. FY2007–09 Percentage Increase in Corrections, Education, and Human Services Budget Request over 2005–07 Budget



The state plans to construct four new prisons, five new conservation camps, and nine housing units by 2015 at a cost of **\$1.9 billion.**

III. Factors Driving the Increase in the Prison Population

As the state's resident population has increased, so has the state's prison population.

- Nevada was the fastest growing state in the nation in 2005, a distinction it has held for 19 consecutive years.¹⁰
- Between 1996 and 2006, the state's resident population increased 56 percent.¹¹ The growth of the prison population over this period was 58 percent.¹²

High failure rates among people under probation supervision are contributing significantly to an increase in prison admissions.

- 46 percent of people sentenced to probation are subsequently incarcerated for violating conditions of their supervision or for committing new crimes.¹³
- When a person violates a condition of release, such as failing to report or testing positive for use of an illegal substance, the state has few options available to sanction the probationer, other than returning the person to prison.
- People on probation have few incentives to comply with the conditions of their supervision other than the threat of possible revocation.¹⁴
- When a person on probation or parole violates a condition of release (i.e., a "technical violation", such as testing positive for use of an illegal substance), the Probation and Parole Division does not use guidelines that factor an offender's risk, severity of offense, or program needs to inform its decision whether to reincarcerate someone.
- Probation officers do not have access to the latest training on effective probation interventions, such as motivational interviewing techniques, which have shown to increase participation in substance abuse treatment programs.

Community-based treatment for substance abuse, mental illness, or co-occurring disorders is often not available or accessible for people who are on probation, incarcerated, or recently released from prison.

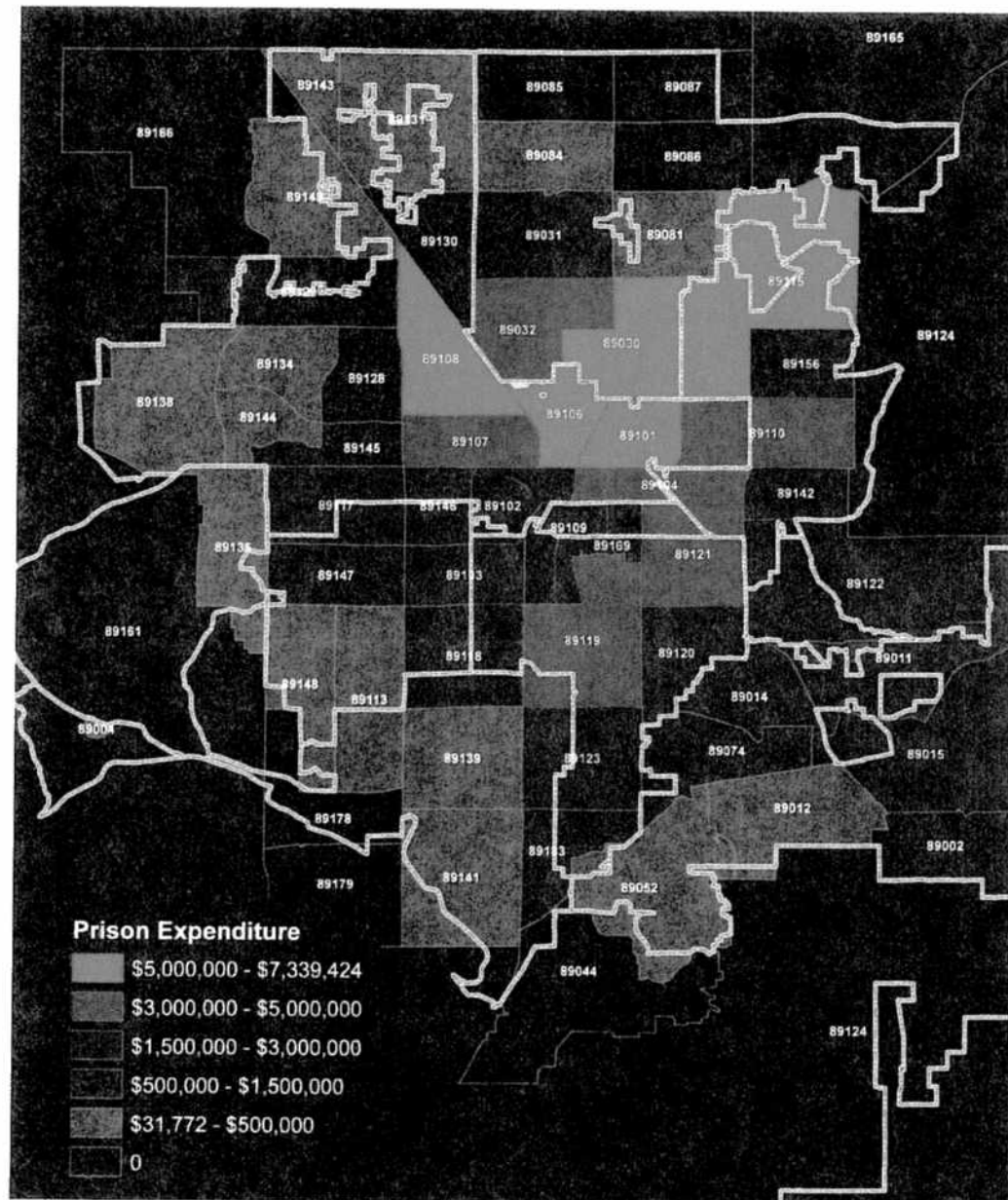
- The majority of people incarcerated or under community supervision in Nevada have substance abuse problems, **and a significant percentage of those with a substance abuse problem have co-occurring mental illnesses.** Treatment for these disorders is routinely mandated as a condition of release, but people are often unable to comply with this condition.¹⁵
 - Per capita alcohol consumption in Nevada is second highest in the U.S. Rates of alcohol consumption are particularly high among young adults in Nevada, who are between the ages of 18 and 25.¹⁶
 - Rates of admissions to treatment for methamphetamine/amphetamine use in Nevada are three times the national average.¹⁷
 - The Substance Abuse Prevention and Treatment Agency (“SAPTA”) estimates that approximately 80 percent of substance abusing adults in Nevada do not receive any treatment.¹⁸
 - During calendar year 2003, 8,513 adults were arrested for drug related crimes in Nevada and 14,393 were arrested for alcohol related crimes.¹⁹
 - In a random survey of people on probation or parole in March 2007, 43 percent reported significant drug addiction and 20 percent had significant alcohol use problems.²⁰
- Rates of mental illness among Nevada residents and its correction populations are high.
 - In a 2003 report of the Kaiser Family Foundation, Nevada ranked 1st (worst) in the nation with 42 percent of the population reporting poor mental health in the prior 30 days.
 - Nevada ranks 41st in the nation in mental health actual dollars and per capita expenditures.
 - As of March 26, 2007, 29 percent (3504) of male and female NDOC inmates were reported to have mental illnesses.²¹ This is almost twice the national average.
- The majority of people on probation are required to pay for court-ordered assessments and treatment, but, frequently, these people do not have the resources to pay for such services.²²
- The number of people under the supervision of the criminal justice system who are required to participate in treatment for a drug or alcohol addiction vastly exceeds community-based service providers’ capacity.
 - Between 2004 and 2006, the number of residential substance abuse treatment beds in Nevada has declined ten percent.²³
 - 70 percent of people on probation or parole referred to community-based substance abuse treatment programs wait an average of one month before starting an outpatient treatment program, during which time they are especially likely to relapse, violate conditions of release and return to prison.²⁴
- While progress has been made since the last biennium, few opportunities exist for people who with co-occurring mental and substance use disorders to receive integrated treatment while they are incarcerated or after they are released to the community.²⁵

IV. Opportunities for Neighborhood-based Strategies

Any strategy to reduce crime and manage the growth of the prison population should focus on improving conditions in the neighborhoods to which a disproportionate number of offenders will likely return.

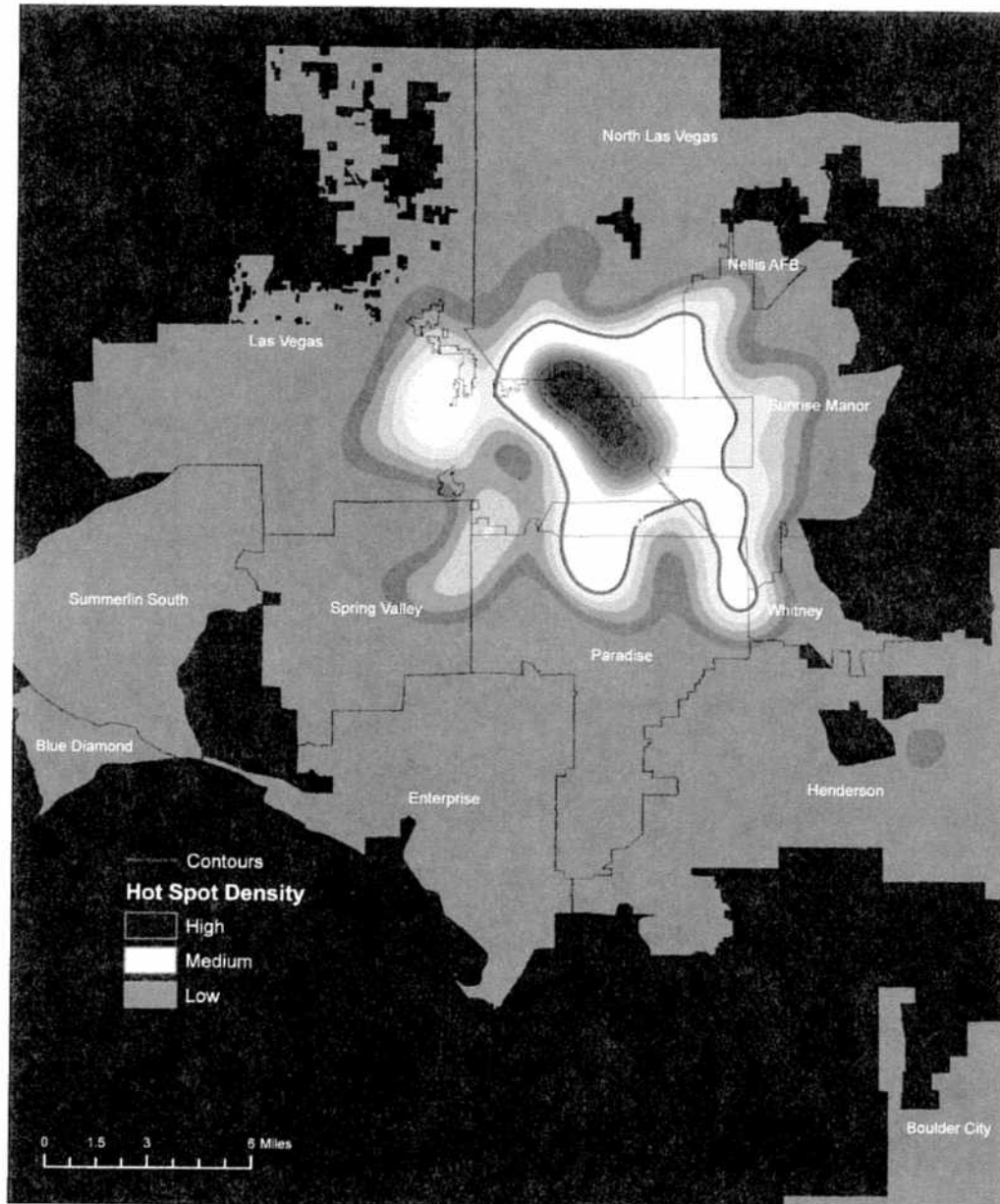
- The majority of people admitted to prison in Nevada come from two cities: Las Vegas and Reno.
 - 78 percent of those admitted to prison in 2006 come from Las Vegas or Reno.
 - 81 percent of people on parole or probation supervision live in Las Vegas or Reno.
- State spending on corrections for people admitted to prison from Las Vegas is approximately \$38 million per year. For some areas within Las Vegas and North Las Vegas, the state spends over \$5 million per year, per zip code.²⁶

Figure 4. Prison Expenditures (2006) Metro Clark County Cities and Towns by Zip Codes
(Based on average length of stay of 22 months.)



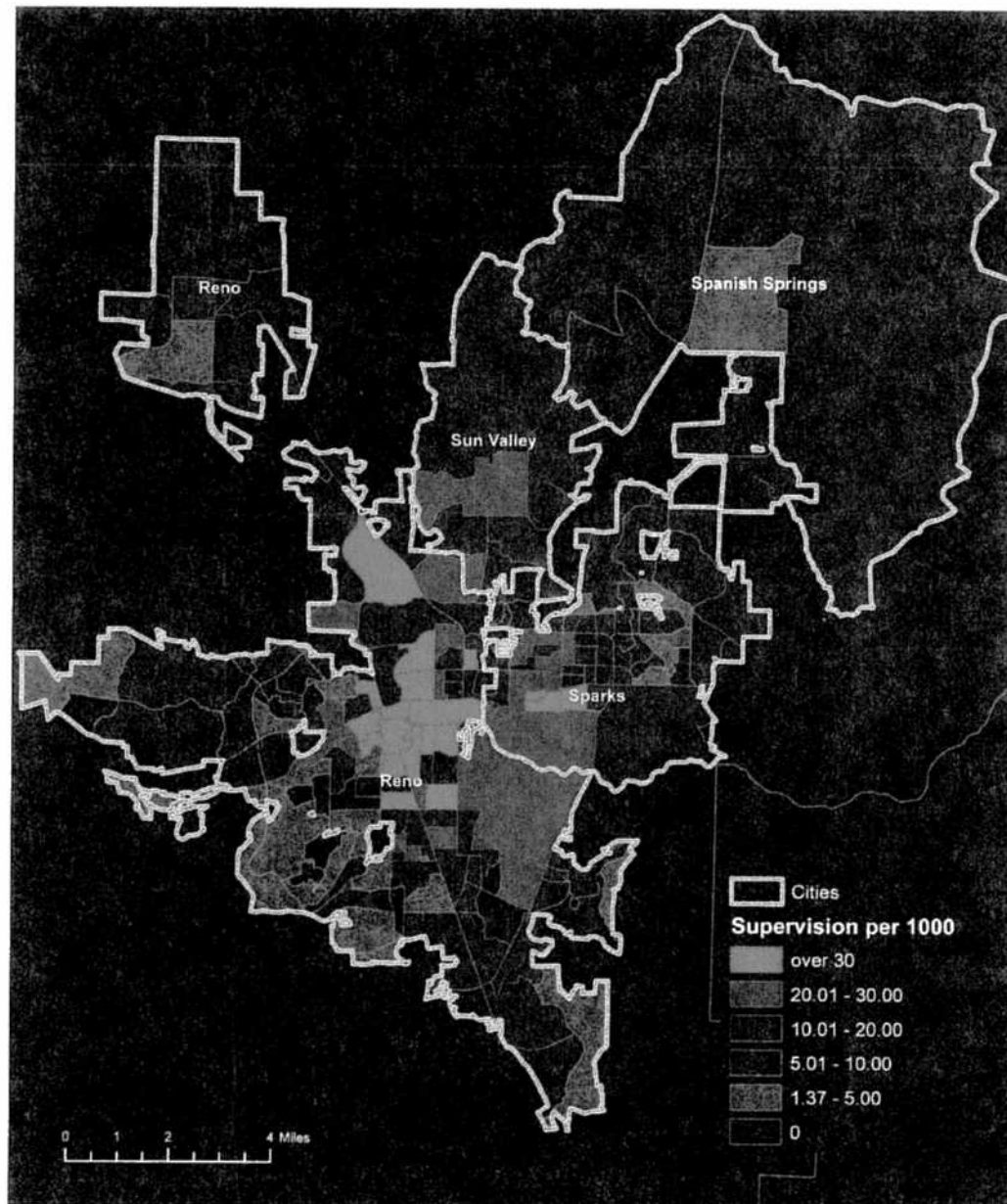
Zip Code	Expenditure in Millions
89101	\$7.3
89106	\$7.0
89030	\$5.9
89108	\$5.6
89115	\$5.1

Figure 5. Prison Admissions (Density, 2006) Metropolitan Clark County Cities and Towns



	Outer Contour Ring	Inner Contour Ring
Square Miles	36.9	5.4
Prison Admissions	1196	331
Population	284227	36067
Prison Admissions Per Sq Mile	32.4	61.8
Prison Admissions Per 1000 Pop	4.2	9.2

Figure 6. Probation & Parole Snapshot (Per 1000 Adults, 2006)
 Metro Washoe County Cities and Towns by Block Groups



City	% of County Population	Under Supervision	% of County Supervision
Reno	64.87%	1942	63.07%
Sparks	22.92%	552	17.93%
Sun Valley	6.36%	204	6.63%
Spanish Springs	3.23%	36	1.17%

The 12 contiguous block-group areas which represent the highest per 1000 adult rate of probation and parole account for 5.8% of the adult population, but are home to **21.9%** of parolees and probationers.

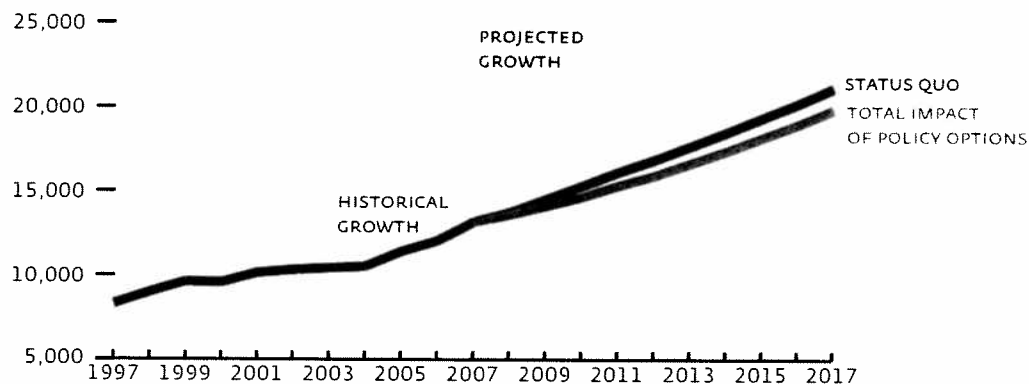
V. Options for Policymakers

The options listed below include projections of the impact that each policy would have on the prison population, and estimates the averted prison construction and operating cost. The estimates provided are based upon the JFA Associates' analysis of the Nevada Department of Corrections data.

Policy Option	Policy Elements	FY2008-09 Bed Savings	FY2017 Bed Savings
1. Increase the percentage of people in prison who successfully complete vocational, educational, and substance abuse treatment programs prior to release.	<ul style="list-style-type: none"> Create an incentive for people in prison to successfully complete vocational, educational, and substance abuse treatment programs by increasing the credit of time that can be earned. Expand the capacity of programs available to people in prison with a portion of the savings generated by this policy. Allow these credits to apply to both an offender's minimum and maximum sentence. Standardize the credit of time that people in prison can earn for successfully completing a substance abuse, vocational, and educational program at 90 days.²⁷ <p>ASSUMPTIONS:</p> <ul style="list-style-type: none"> Implementation July 1, 2007 for all cases in the system 20% of all male and female admissions (except Safekeepers) will receive an additional 45 days lump sum credit Credits will reduce flat discharge date, discretionary parole eligibility date and mandatory parole eligibility date 	51	92
2. Reserve prison space for serious and violent offenders by placing low-level offenders with Category E sentences on probation.²⁸	<ul style="list-style-type: none"> Mandate that Category E offenders serve probation in lieu of incarceration. Expand the availability of substance abuse treatment and other community-based services and sanctions for people sentenced to probation for Category E offenses. Increase funding for Probation and Parole Division to create new probation officer positions to supervise people convicted of Category E offenses. <p>ASSUMPTIONS:</p> <ul style="list-style-type: none"> Implementation July 1, 2007 100% of New Court Commitments will be diverted and 25% of probation violators Cases diverted will grow at the forecast admissions assumption rate of 4.7% for males and 5.9% for females per year through 2017 	208	529
3. Reduce the number of people on probation who fail to meet the conditions of supervision and return to prison by 30%.	<ul style="list-style-type: none"> Establish the goal of probation as the reduction of an offender's risk to public safety, rather the just enforcement of the conditions of supervision. Provide training to probation officers on evidence-based principles of effective probation supervision, as well as cross-training with community-based behavioral health care providers.²⁹ Create an incentive for people on probation to comply with the conditions of supervision, by providing a 10 day reduction in probation terms for every 30 days a person does not violate their conditions.³⁰ Create an Intensive Technical Violator Unit in the Probation and Parole Division to manage a caseload of people at risk for revocation to provide intensive case management for those who would otherwise be revoked on supervision Develop a set of intermediate sanctions centers (e.g. day reporting centers) to respond to offenders at risk of being revoked. Provide funds to pay for substance abuse assessments and treatment for offenders without the ability to pay for these services. Support the establishment of community task forces comprised of drug treatment and mental health providers, probation officers, law enforcement, housing providers, and public officials to develop strategies to reduce revocations through coordinated community planning. <p>ASSUMPTIONS:</p> <ul style="list-style-type: none"> 50% of cases admitted for "probation violation" are technical probation violators (FY 2006 = 866) 10% of these cases will be diverted during the first year of implementation, 20% the second year and 30% the third and subsequent years 	140	667
Combined Impact		399	1288
Averted Operational Costs³¹ (The cost of implementing the policy options is not included.)		\$9.6 million	\$155 million

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Figure 7. Nevada Department of Corrections Inmate Population:
*Historical Growth (FY 1997 – 2007), Projected Growth (FY 2007 – 2017),
 and Total Impact of Policy Options (FY 2007 – 2017)*



The options listed below, if implemented, have the potential to avert some growth in the prison population. However, the impact cannot be estimated.

1. Reorganize the Probation and Parole Division so that it is no longer part of the Department of Public Safety and is instead a stand-alone agency or under the umbrella of an agency with a similar mission.
2. Improve coordination between the Board of Parole Commissioners and the Department of Corrections with regard to the use of risk assessments and case planning to reduce continuances for program completion.
3. Standardize valid and reliable screening and assessment procedures used in prison and community corrections.
4. Require the Probation and Parole Division to work with national experts to design and implement a policy that clearly guides probation and parole officers on how to effectively and appropriately respond to an offender's positive and negative behavior with an appropriate response that can reduce the person's risk to public safety.
5. Establish a sentencing commission with the mandate to review criminal justice and sentencing policies and laws of the state and submit a comprehensive report with its findings and recommendations to revise sentencing policies as deemed necessary to the Nevada Assembly and Senate. The sentencing commission would also review the Probation and Parole Division's caseload levels and make recommendations on target caseloads, staffing levels, and support services to improve the effectiveness of probation and parole supervision.
6. Require the Department of Corrections and the Division of Mental Health and Developmental Services to coordinate prisoner release to assure access to the appropriate level of mental health and addiction services upon release.

-
7. Require the Probation and Parole Division to contract with an independent consultant to conduct an interim study on the application of the Probation and Parole Division's risk and needs assessment instruments with the mandate that all probationers and parolees be properly assessed no later than January 1, 2008.
-
8. Ensure that restitution, fees, and fines are collected from offenders who have the ability to pay.
 - Provide a range of incentives for payment of restitution, such as the case sealing, expungement, and travel permits—where appropriate—for people who are making good faith efforts to pay, and sanctions, such as travel restrictions and increased supervision for people who are able to make restitution payments but fail to do so.
 - Automatically discharge offenders from probation or parole supervision in cases where an offender has fulfilled his or her restitution requirements and has otherwise successfully completed the conditions of his or her supervision, unless public safety requires continued supervision (*e.g.*, of sex offenders).

1. Calendar years.
2. JFA Associates, "Nevada Department of Corrections Ten-Year Prison Population Projections 2007–2017," March 2007 Report, page 45.
3. JFA Associates, "Nevada Department of Corrections Ten-Year Prison Population Projections 2007–2017," March 2007 Report, page 7.
4. JFA Associates, "Nevada Department of Corrections Ten-Year Prison Population Projections 2007–2017," March 2007 Report, page 36.
5. JFA Associates, "Nevada Department of Corrections Ten-Year Prison Population Projections 2007–2017," March 2007 Report, page 36.
6. All funding sources are considered. See Nevada Department of Administration, Budget and Planning, "State of Nevada, Executive Budget in Brief 2007–2009"; Nevada Department of Administration, Budget and Planning, "State of Nevada, Executive Budget in Brief 2005–2007"; Nevada Department of Administration, Budget and Planning, "State of Nevada, Executive Budget in Brief 2003–2005"; Nevada Department of Administration, Budget and Planning, "State of Nevada, Executive Budget 1999–2001"; Nevada Legislature, Division of Fiscal Analysis spreadsheet April 5, 1007; Nevada Legislature, Division of Fiscal Analysis spreadsheet April 6, 2007.
7. This is considering the General Fund only. The corrections budget request represents an increase of 23 percent if all funding sources are counted. See 2007–2009 Executive Budget in Brief, page 47.
8. The education budget includes funding for K–12 and higher education. The percentage increase for education and human services is based on the General Fund approved by the Nevada Legislature. For FY2006–07, the legislature approved \$1,641,600,821 for education (K–12 and Higher Ed), and \$865,983,787 for human services. See Nevada Legislature, Division of Fiscal Analysis spreadsheet, April 5, 2006.
9. This funding will be used to support the expansion and construction of existing and new facilities, including a 100 bed transition center, a reunification center, and a 300-bed facility at the Southern Nevada Women's Correctional Center; two housing units at the High Desert State Prison; a remodeled 168-bed unit as well as a 384-bed facility at the Indian Springs Conservation Camp; and a 384-bed unit at the Stewart Conservation Camp. Nevada Legislature, Division of Fiscal Analysis spreadsheet, April 2006.
10. U.S. Census Bureau News, "Nevada Edges Out Arizona as the Fastest Growing State," December 22, 2005, <http://www.census.gov/Press-Release/www/releases/archives/population/006142.html>.
11. U.S. Census Bureau, Population Division. Population estimates for July 1, 2006.
12. From 1996 to 2006, the prison population grew 58 percent, a rate that exceeds the 56 percent of the resident population during that same time period. See JFA Associates, "Nevada Department of Corrections Ten-Year Prison Population Projections 2007–2017," March 2007 Report.
13. Dr. James Austin, Presentation before the Senate Judiciary Committee, "Justice Reinvestment: A Framework to Improve Effectiveness of Justice Policies in Nevada," the Justice Center, February 22, 2007.
14. Unlike parolees who receive a 10-day reduction for every 30 days of compliance, probationers do not have such a standard for applying credits to their terms of supervision.
15. 89 percent of offenders admitted to prison have a history of substance abuse. During calendar year 2003, 8,513 adults were arrested for drug related crimes in Nevada and 14,393 were arrested for alcohol related crimes. Methamphetamine-related arrests have escalated in recent years, and 30 percent of admissions to state-funded treatment facilities were related to methamphetamine usage in 2004. See Bureau of Alcohol and Drug Abuse, Annual Report, December 2004, pages 15–16. According to the Bureau's Client Data System, of the five most prevalent drugs for which the Bureau of Alcohol and Drug Abuse (now known as the Substance Abuse Prevention and Treatment Agency or "SAPTA") funded treatment admissions, in fiscal year 2004, amphetamine/methamphetamine comprised 29.2%, second to alcohol which made up 40% of admissions. See Division of Mental Health and Developmental Services, 2006 Mental Health Needs Assessment, page 93. Further, one Las Vegas community substance abuse treatment center reported that 90% of its clients do not have the means to pay for treatment. See WestCare Nevada, Memorandum on Programs, Services and Capacity, April 4, 2007.
16. 15.54 percent of the state's residents ages 18–25 are in need of, but not receiving, treatment for alcohol use. See Office of National Drug Control Policy, *Inventory of State Substance Abuse Prevention and Treatment Activities and Expenditures*. Washington, D.C.: Executive Office of the President (Publication No. NCJ 216918), page 467.
17. Drug and Alcohol Services Information System, "The DASIS Report: Trends in Methamphetamine/Amphetamine Admissions to Treatment: 1993–2003", page 3.
18. Out of 180,000, only 33,983 received treatment. See Department of Health and Human Services, Division of Mental Health and Developmental Services, Substance Abuse Prevention and Treatment Agency (SAPTA) Biennial Report, Jan. 07, pg. 18).
19. Bureau of Alcohol and Drug Abuse, Annual Report, December 2004, pages 15–16.
20. JFA Associates' analysis of probationers and parolees, March 2007.
21. NDOC review of inmates on mental health restrictions and/or receiving psychotropic medications. See Department of Corrections, Mental Health Diagnosis Spreadsheet, April 9, 2007.
22. Justice Center focus group meetings of community-based substance abuse and mental health treatment providers, Las Vegas, March 27, 2007.
23. Due to the relocation of Bristlecone Family Resources in Reno and the closure of Economic Opportunity Board in Las Vegas, Nevada lost 69 substance abuse treatment beds. See Department of Health and Human Services, Division of Mental Health and Developmental Services, Substance Abuse Prevention and Treatment Agency (SAPTA), "Substance Abuse Treatment Beds", February 8, 2007.
24. WestCare Nevada, Memorandum on Programs, Services and Capacity, April 4, 2007.
25. To address this, in the last biennial session, the Nevada legislature placed SAPTA within the Division of Mental Health and Developmental Services.
26. Cadora, E. and Swartz, C., Prison Expenditures 2006: Metro Clark County Cities and Towns by Zip Code, Justice Mapping, April 2007.
27. Apply this policy to all people currently in prison or under supervision, but do not increase credits for those offenders currently incarcerated who already received a program credit. According to existing statutes, credits are awarded based on the following criteria:

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 residential confinement or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:
 - (a) For the period he is actually incarcerated pursuant to his sentence;
 - (b) For the period he is in residential confinement; and
 - (c) For the period he 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 10 days from his sentence for each month he 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, 30 days.
 - (b) For earning a high school diploma, 60 days.
 - (c) For earning his first associate degree, 90 days.
3. The Director may, in his 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, 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 20 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. 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.

NRS 209.448 Credits for completion of program of treatment for abuse of alcohol or drugs:

1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 30 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

28. NRS 193.130 Categories and punishment of felonies:

e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater penalty is authorized or required by statute. See the below chart for the type of Category E offenses considered in this analysis.

E Felon Offenses

Offense Type	Female	Male	Total
Att. Forgery	14	12	26
Att. Uttering forged instrument	1	4	5
Poss controlled substance, sch 5, 1st off	1	1	2
Att. Poss false prescription	1	0	1
Att. Insufficient fund checks	2	2	4
Att possession stolen credit card	4	10	14
Poss contr, syb, sch 1-4, 1st off	76	283	359
Att. Poss contr, syb, sch 1-4, 1st off	5	41	46
Att. Poss contr sub for sale, sch 1&2, 1st off	2	8	10
Under Infl of cont subst	23	42	65
Possession false prescription	2	1	3
Att. open, gross lewdness	0	1	1
Att. Fraudulent use of credit card	0	1	1
Att arson 3	0	1	1
Att carry concealed weapon	0	5	5
contractor w/o license	0	1	1
Att falt to change address/sex off	0	9	9
Att. fraud/alted public records	0	1	1
Total	131	423	554

29. Cross training of probation officers and their supervisors includes motivational interviewing, cognitive-behavioral approaches, and other evidence-based approaches to reducing crime through effective probation supervision that connects people to the treatment and other programs that address their criminogenic needs. Community behavioral health providers should receive training in evidence based practices for offender populations and co-occurring mental and addictive disorders.

30. Apply this policy to all offenders sentenced after the date the legislation is enacted.

31. Fully loaded, due to new facilities required.

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Methodology

The prison population forecast used in this brief was generated by the JFA Associates, a Washington DC-based consulting firm. Under the direction of Dr. James Austin, JFA Associates utilized the Wizard 2000 model, a computerized simulation model which mimics the admissions and releases of people in prison over a ten-year period based on the current state sentencing structure, recent inmate population trends, and computer-extracted files provided by the Nevada Department of Corrections. To produce the projections, the Wizard 2000 model takes into account external (demographic, socio-economic, and crime trends) and internal factors (the criminal justice system's authority to release, recommit, give, and restore a wide array of good time credits, and offer programs that may reduce recidivism).

About this Report

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Center provides practical, nonpartisan advice and consensus driven strategies, informed by available evidence, to increase public safety and strengthen communities. The Justice Center contracted with Dr. James Austin and the JFA Associates staff to assist Republican and Democratic leaders in the executive and legislative branches of Nevada's state government. Research and analysis described in this report has been funded by the Bureau of Justice Assistance, a division of the U.S. Department of Justice. Points of view, recommendations, or findings stated in this document are those of the authors and do not necessarily reflect the official position or policies of the Bureau of Justice Assistance, U.S. Department of Justice, Council of State Governments Justice Center, or the Council of State Governments' members. © 2007

Justice Center
Council of State Governments
100 Wall Street, 20th Floor
New York, NY 10005
www.justicecenter.csg.org

PROJECT CONTACT:
LaToya McBean
(646) 383-5721
lmcbear@csg.org

Justice Center

Eissmann, Linda

From: LaToya McBean [lmcbean@csg.org]
Sent: Monday, May 14, 2007 8:18 AM
To: Eissmann, Linda
Subject: Comments from CSG
Attachments: 2007session-options_impacts.doc

Dear Linda,

Thank you once again for giving us the opportunity to comment on the statements and proposals submitted by Mark Woods (April 23, 2007 Memorandum), Director Howard Skolnik (May 8, 2007 E-mail), and Gary Ghiggeri and Mark Stevens ("Potential Legislation to Address the Prison Population" or Ghiggeri/Stevens document). Dr. Jim Austin and I have reviewed all three documents. We do not have any substantive concerns with the statements submitted by Mr. Woods and Mr. Skolnik.

Regarding the Ghiggeri/Stevens document, which incorporates proposals from AB510 and our report "Increasing Public Safety and Generating Savings: Options for Nevada Policymakers," we were given the opportunity to provide substantive feedback on each of the proposals. In fact, during the week of May 7 we held several conference calls with Mr. Ghiggeri and Mr. Stevens to discuss the document and were able to offer guidance on a number of the proposals. Specifically, Dr. Austin recommended applying good time credits retroactively to 2004, increasing program credits across the board (i.e. educational, vocational, and substance abuse) by 60 days, and limiting the length of stay for first time parole and probation technical violators to 90 days. The attached document, which we emailed to Mr. Ghiggeri and Mr. Stevens on Friday, includes the revised prison population projections based on these and other proposals found in the document. We understand that the Ghiggeri/Stevens document incorporated these recommendations and leadership on their respective committees are aware of these proposals.

Please do not hesitate to contact me again if you need further clarification.

Best regards,

LaToya McBean, Policy Analyst
Justice Center
Council of State Governments
100 Wall Street, 20th Floor
New York, NY 10005
(646) 383-5721
lmcbean@csg.org
www.justicecenter.csg.org

5/14/2007

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Potential Legislation to Address the Prison Population

Effective Date – July 1, 2007

Incarceration

- Increase good time credits for offenders incarcerated from 10 days to 20 days per month
- Have good time credits apply to minimum sentence for category C, D and E felonies that do **NOT** involve violence, a sexual offense or DUI that caused death or substantial bodily harm (good time credits currently only apply to the maximum sentence). This provision would **NOT** apply to category A or B felonies
- Limit the amount of time first time parole and probation offenders can serve in prison to 90 days.
- Increase credits for all education, vocational training and substance abuse treatment programs successfully completed while incarcerated. Credits would apply to both minimum and maximum sentence.
 - ✓ Increase from 30 to 90 days for earning GED
 - ✓ Increase from 60 to 120 days for earning high school diploma
 - ✓ Increase from 90 to 150 days for earning an associate degree
 - ✓ Increase from 30 to 90 days for successful completion of substance abuse program
 - ✓ Increase from 30 to 90 days for successful completion of vocational training

Assumptions:

- *All offenders will begin receiving additional credits beginning January 1, 2006. Credits will be awarded retroactively to time served in from January 1, 2006 to July 1, 2007 on July 1, 2007.*
- *In CY 2006, 92% of all incarcerated offenders received 10 statutory good time credits per month. This percentage is assumed to remain constant under the increased earning schema with 92% of the incarcerated population receiving 20 days per month.*
- *Category C, D and E felonies that do **NOT** involve violence, a sexual offense or DUI that caused death or substantial bodily harm (good time credits currently only apply to the maximum sentence) will have the additional credits apply toward both the maximum and minimum sentence.*
- *Category A and B offenders will only have the additional credits apply toward the maximum sentence.*
- *It is assumed approximately 20% of the incarcerated population received some form of educational credits in CY 2006. It is assumed that this 20% of the population will receive on average an additional 60 days educational credits over the course of their incarceration. It is assumed these additional credits will apply to both the minimum and maximum sentence.*

	December	Male GT Credits	Male Program Credits	Male P&P Tech Viol	Total Male	Revised Male
	Base Male	Bed Savings	Bed Savings	Bed Savings	Bed Savings	Forecast December
2007	12,499	-684	-55	-308	-1,047	11,452
2008	13,170	-698	-71	-500	-1,269	11,901
2009	13,892	-708	-113	-611	-1,432	12,460
2010	14,625	-714	-123	-701	-1,538	13,087
2011	15,295	-732	-131	-746	-1,609	13,686
2012	16,029	-785	-134	-788	-1,707	14,322
2013	16,768	-842	-140	-859	-1,841	14,927
2014	17,517	-860	-146	-967	-1,973	15,544
2015	18,239	-937	-152	-1021	-2,110	16,129
2016	19,079	-965	-159	-1022	-2,146	16,933
2017	19,990	-992	-156	-1137	-2,285	17,705

	December	Female GT Credits	Female Program Credits	Female P&P Tech Viol	Total Female	Revised Female
	Base Female	Bed Savings	Bed Savings	Bed Savings	Bed Savings	Forecast December
2007	1,252	-86	-6	-58	-150	1,102
2008	1,352	-105	-11	-90	-206	1,146
2009	1,430	-109	-10	-118	-237	1,193
2010	1,519	-119	-14	-124	-257	1,262
2011	1,582	-127	-11	-144	-282	1,300
2012	1,652	-133	-13	-150	-296	1,356
2013	1,734	-134	-14	-167	-315	1,419
2014	1,841	-147	-12	-160	-319	1,522
2015	1,963	-158	-15	-178	-351	1,612
2016	2,050	-185	-16	-181	-382	1,668
2017	2,151	-188	-18	-198	-404	1,747

	December	Total GT Credits	Total Program Credits	Total P&P Tech Viol	Total	Revised Total
	Base Total	Bed Savings	Bed Savings	Bed Savings	Bed Savings	Forecast December
2007	13,751	-770	-61	-366	-1,197	12,554
2008	14,522	-803	-82	-590	-1,475	13,047
2009	15,322	-817	-123	-729	-1,669	13,653
2010	16,144	-833	-137	-825	-1,795	14,349
2011	16,877	-859	-142	-890	-1,891	14,986
2012	17,681	-918	-147	-938	-2,003	15,678
2013	18,502	-976	-154	-1026	-2,156	16,346
2014	19,358	-1,007	-158	-1127	-2,292	17,066
2015	20,202	-1,095	-167	-1199	-2,461	17,741
2016	21,129	-1,150	-175	-1203	-2,528	18,601
2017	22,141	-1,180	-174	-1335	-2,689	19,452

Probation/Parole

- Increase credits for offenders on parole from 10 days to 20 days per month.
- Establish good time credits for offenders on probation of 20 days for each month served.

Assumptions:

- *It is assumed 100% of the parole supervision population will receive an additional 10 credit days per month while on parole supervision.*
- *It is assumed approximately 55% of the probation population successfully completes their term of supervision and will receive an additional 20 credit days per month.*
- *It is unclear at this point if additional supervision credits will apply to all portions of the parole and probation populations or just regular supervision. For this reason, the potential impact is presented in a percentage reduction per year. These percentages can be applied to the portion of the supervision population that will be affected by the legislation to determine the population reduction.*

	Parole	Probation
	Population	Population
2007	12%	11%
2008	21%	25%
2009	24%	30%
2010	25%	34%
2011	25%	36%
2012	25%	37%
2013	26%	38%
2014	26%	38%
2015	26%	39%
2016	26%	39%
2017	26%	39%



DIVISION OF PAROLE AND PROBATION
OFFICE OF THE CHIEF

MEMORANDUM

DATE: April 23, 2007
TO: Senator Mark Amodei
FROM: Mark Woods, Acting Major
SUBJECT: Technical Probation Violators

- **In felony probation cases, mandate the length of revocation for technical violations only to be six months.** By doing this it allows the Division an appropriate sanction for those offenders who habitually violate the technical conditions of their probation but at the same time does not cause the offender to be incarcerated for a year or more before their first appearance before the Parole Board. This action would also concur with JFA recommendations of shortening prison incarcerations for technical violators. In 2006 there were 637 felony probationers revoked for technical violations. Result of this change: If the average probationer who is revoked spends (current sanction) a minimum of one year before being eligible to appear before the Parole Board, this action would free up these beds after only 6 months of incarceration; *for 2006, this plan potentially could have freed up 637 beds for the second six months of that original year-long sanction period.*
- **In felony probation cases, request the transfer of technical violators to the appropriate Specialty Court as soon as the technical violation is discovered.** This would apply to technical violations which can be addressed by a Specialty Court, such as drinking, *drug use, failure to attend counseling, failure to seek or maintain employment, and failure to report. Generally, these violations go hand in hand and are a result of a relapse to substance abuse. This action would concur with JFA recommendations to increase treatment for offenders and to immediately act upon technical probation violations, before a new crime is committed. *As an example of one area of potential impact, in 2006, *177 of the 637 felony probationers revoked for technical violations were as a result of narcotics abuse.*
- **As a long term goal, provide training in evidence-based practices to specifically target meaningful reductions in the number of probation revocations.** Initial training would target Parole and Probation command personnel, directed at recognition of practices that do and do not lead to reduced recidivism, to describe the components needed to be implemented for the justice system to effect these changes, and the ability to identify and apply a skill set that must be in place at all levels within the agency to integrate evidence-based practices successfully. This would be accomplished in a partnership with the U.S. Department of Justice's Bureau of Justice Assistance (BJA) Technical Assistance program, based upon proven best-practices examples from throughout the United States.

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SENATE JUDICIARY AND JFA QUESTIONS

DEFINITION OF TECHNICAL VIOLATION:

Technical Violation: Any violation of the conditions of Parole or Probation except a new conviction, a new Felony or Gross Misdemeanor arrest, or when the offender has been determined to have absconded from supervision.

NUMBER OF INMATES RELEASED UNDER PROPOSED LEGISLATION:

AB510: As amended, would not have any effect until July 1, 2008 and that effect would be gradual. As originally proposed, if retroactive to 1997 and effective upon signature, NDOC estimated at a previous hearing approximately 1800-2000 inmates would expire their prison term in a very short time frame.

AB416: Changes eligibility for MPR from 12 months to 18 months prior to expiration date. P&P does not have an estimate for the number of inmates this would release.

NUMBER OF PAROLEES DISCHARGED UNDER PROPOSED LEGISLATION:

AB510: As amended, would not have any effect until July 1, 2008 and that effect would be gradual. As originally proposed, if retroactive to 1997 and effective upon signature, NDOC estimated approximately 2000 parolees would expire their parole immediately.

NUMBER OF PROBATIONERS DISCHARGED IF GIVEN 10 DAYS CREDIT FOR EVERY 30 DAYS OF COMPLIANCE:

There were approximately 2000 Honorable Discharges granted to probationers in FY2006. The average length of probation supervision is approximately 30 months. Granting 10 days "credit" per month would reduce the average length of probation supervision to 20 months.

IMPACT TO THE DIVISION OF PROPOSED LEGISLATION REGARDING RELEASE OF PAROLEES TO COMMUNITY SUPERVISION

The Pre-Release unit facilitates the investigation of the parolee's proposed residence and employment prior to release from NDOC.

The Division is prepared to handle the influx of "extra" parolees by training and transferring two additional employees to the Pre-Release unit. That would allow for the processing of 500 more parole releases per month.

RATIO OF OFFENDERS TO OFFICERS:

Residential Confinement (House Arrest)	30:1
Intensive Supervision	30:1
Sex Offenders	45:1
Regular Supervision	70:1

***Proposal for GPS ratio would be 20:1

Sent via e-mail on May 8, 2007.

Linda - here are some very preliminary thoughts. There are two issues that should be addressed, current overcrowding and future growth.

CURRENT OVERCROWDING

We currently have 1200 more inmates than budgeted or planned for. This is being addressed through the addition of 4 - 240 bed pre-engineered housing units (if passed), 2 at SDCC, 1 at SNWCC and one at NNCC. Until that time we have doubled up in cell houses, used day rooms and program areas and have plans for using the gyms at LCC, HDSP and SNWCC. The other gyms were not approved for use by the fire marshal since they have no fire suppression systems. We have a couple of vacant prison industries bays that are sprinkled and could probably be approved. We have also met with emergency management to determine if we can borrow tents if it comes to that. Beginning this Friday we will house women at Casa Grande Transitional Housing. Although the women do meet the criteria for being housed there, Casa Grande was neither designed nor staffed for a coeducational population.

The only policy change that can immediately impact our population today is alive in A.B. 510 through increased time credits and changes in residential confinement and transitional housing requirements. The problem is that almost none of that is retroactive, so although it will impact growth in the future, unless it is retroactive, the time credits will not meet any immediate crowding issues. Residential confinement and transitional housing changes could reduce our population in the short term by several hundred, however, most of those individuals will come from our camps and our last count that I was aware of had about 105 inmates awaiting camp transfer (we have greatly expanded camp and minimum security beds to help with our population already) and that 105 will be the total impact on hard beds which is where are greatest need is.

FUTURE GROWTH

Future growth can be impacted in a number of ways. We can increase time credits as outlined in AB 510. This will shorten sentences for all but life and life without inmates. We can reduce minimum time served to 85% of the minimum sentence and still be within Federal truth in sentencing guidelines. This would still be contingent on action by the parole board, but it would speed up eligibility. The development of meaningful diversion programs and alternative to incarceration approaches will start to have an immediate impact on our growth rate. Finally, I think one of the most thoughtful ways is through revitalization of the sentencing commission. Nevada has created a significant number of mandatory sentences not allowing either judicial discretion nor probation as an alternative. I think revisiting them with strong recommendations in the next session, or before if the Governor deems it appropriate, is the best way to have a long term impact on our incarceration rate.

There is a need for strong public education to gain support for any of the above. The requirement to incarcerate a college student with no criminal history because he has an accident after two glasses of wine and had a passenger break an arm in the accident should be eliminated, yet we do have one such case in our system. I think the public can understand the need to find meaningful alternatives to \$200,000 per bed construction costs and \$20,000+ annual costs to fill those beds.

Howard L. Skolnik,
Director
Nevada Department of Corrections
3955 W. Russell Road
Las Vegas, NV 89118
702.486.9906

Senate Judiciary Committee
Department of Corrections Housing Emergency
Options for Policymakers

This analysis is provided to update policy makers on a number of options available to provide relief to prison overcrowding. The options covered in this document are:

- Analysis of JFA recommendations
- Construction of Modular Housing
- Increasing Prison Programming
- Expanding Residential Confinement Criteria/Programming
- Expanding Transitional Housing Services
- Changing Sentencing
- Changing Sentence Credits

Option 1: Analysis of JFA recommendations

On April 17, 2007 James Austin of JFA Associates testified before the Joint Senate Finance and Assembly Ways and Means Committee, the Senate Judiciary Committee, and the Assembly Select Committee on Corrections, Parole and Probation. Three Options for Policy Makers were contained in the report *Increasing Public Safety and Generating Savings: Options for Policy Makers*.

1. Increase the percentage of people in prison who successfully complete vocational, educational, and substance abuse treatment programs prior to release.
FY 2008-2009 effect: 51
2. Reserve prison space for serious and violent offenders by placing low-level offenders with Category E sentences on probation.
FY 2008-2009 effect: 208
3. Reduce the number of people on probation who fail to meet the conditions of supervision and return to prison.
FY 2008-2009 effect: 140

Analysis:

Increase the percentage of people in prison who successfully complete vocational, educational, and substance abuse treatment programs prior to release.

The calculated savings is based on an assumption that an inmate will receive an additional 45 days of credit for programming. To achieve this goal, additional programming staff and programming space must be added to the Department of Corrections. Without knowing what programs would be added or expanded it is not possible to calculate any savings through reducing recidivism.

Reserve prison space for serious and violent offenders by placing low-level offenders with Category E sentences on probation.

Department of Corrections staff queried the NCIS inmate database to determine the status of Category E Offenders in the Department. All Category E offenders that came in as new commits and had completed the intake process were included in the study. The study population totaled 173 inmates, which is less than the total effect given by JFA Associates. There were 32 women (17 at institutions and 15 at camps) and 141 men- 73 at institutions (however 19 of those inmates were institutional minimums or are awaiting transportation to minimum custody), 10 at Casa Grande Transitional Center, 5 at the Northern Nevada Restitution Center, and 53 at camps across the state.

Based on this analysis, this policy option disproportionately effects the minimum custody population and will have little or no impact on the department's need for additional institutional housing (e.g. HDSP IV, V, Prison 8, Prison 9, Prison 10, etc).

Reduce the number of people on probation who fail to meet the conditions of supervision and return to prison.

Dr. Austin's testimony was that 140 prison beds could be saved by reducing the number of technical probation failures. Dr. Austin indicated that these probation failures were for multiple violations of probation conditions with the top four being absconding, a dirty UA, and failure to report, and failure to hold employment. This begs the question: if a case wouldn't be violated for these reasons, under what circumstances would they be violated for, as absconding and drug use are crimes? There currently are very few options currently available to the Division of Parole and Probation. It is unclear if there will be funds available for additional training of PO's.

Option 2: Construction of Modular Housing

The Governor's Executive Budget provides for the construction of four modular housing units, three for the male population and one for the female inmate population. Each of these tilt-up housing units could house up to 240 inmates. The units may have a useful life of up to 10 years.

PROS-No change in NRS would be required to implement this option. No offenders would be released and no additional P&P staff would be required.

CONS-The additional units do have a substantial effect on the state's construction and operating budgets. These additional units will be built and operated without any additional capacity added to the institutional core (laundry, medical, culinary, visiting, etc.) which will affect services provided to inmates and institutional maintenance. These housing units are temporary and would eventually have to be replaced by more substantial and costly prison housing.

Option 3: Increasing Prison Programming

Under this option, the future growth of the prison population could be reduced by expanding programming. The expectation would be that additional programming would reduce recidivism.

PROS-No change in the NRS would be necessary to implement this option. No offenders would be released and no additional P&P staff would be required.

CONS-Additional NDOC staff would have to be hired and trained and additional programming space would have to be planned and constructed. Further, the cost-benefit relationship between a particular program and the desired outcome (reducing recidivism) remains unclear. The State of California has studied the effects of the hundreds of millions of dollars recently spent on prison programming was that no significant cost benefit was realized (per Dr. Austin's testimony to the Assembly Select Committee on 4/17/2007). The NDOC has not been able to establish a correlation between increased programming and reducing recidivism.

Option 4: Expanding Residential Confinement Criteria/Programming

If the criteria for residential confinement programs were increased and the Director, NDOC given the statutory authority to place inmates into residential confinement, then this option would have an immediate effect on the state's prison population, although only for minimum custody.

Currently, there are a number of specialty courts that operate in Nevada (e.g. Drug court, Mental Health Court, etc.) While the Department of Corrections supports these programs, their limited size and their geographic limitations present challenges to reducing the inmate population. Policymakers should consider a state program administered by the Division of Parole and Probation.

Currently, the Department of Corrections has less than 100 inmates in residential confinement programs. The criteria for the programs are so strict that only a handful of inmates qualify. Further, there is a distinct difference in the kinds of inmates a court will accept. There may be a difference in the kinds of inmates a court will accept. Further, many of the specialty programs do not operate in rural Nevada. This creates an inequity of justice where two inmates who may have been convicted of the same crime, but one will stay in the community and another will go to prison.

PROS-By giving the Director, NDOC the authority to place inmates in the community upon completion of intake will reduce the prison population if housing and services are made available. This option would provide equity by giving inmates a second bite at the residential confinement apple. If they are turned down by a specialty program, they could apply to a state program upon arrival at NDOC.

CONS-This would require state resources to include finding public or private housing, transportation, and supervision. This option would affect NDOC's need for minimum custody housing, but would not affect the need for hard beds.

Option 5: Expanding Transitional Housing Services

The Department of Corrections currently houses around 200 inmates at the Casa Grande Transitional Housing facility. The facility is built for 400. The additional 200 beds could be

used if the criteria for inmates is expanded to minimum custody within a year of probable release.

PROS: The Facility is built and staffed for 400 inmates. There is no additional cost to this option.

CONS: This option would not affect the State's need for new institutional construction. Further, the state made certain commitments to the community and county for the initial approval for Casa Grande. Those commitments were that no sex offenders and no offenders with a history of violence within five years would be placed at that facility. That understanding would have to be revised if this option was implemented.

Option 6: Changing Sentencing

The State of Nevada has a Sentencing Commission. The Commission has not met for a number of years. The Sentencing Commission could be reinvigorated to study sentencing and sentencing practices.

PROS: The Commission could reexamine "Truth in Sentencing" legislation, mandatory minimum sentences, judicial descension, etc. for the purpose of reducing the length of sentence. By reducing the average time served by an inmate, the inmate population stacks up less quickly and the rate of future inmate population growth slows.

CONS: This is a long-term option what will not have an immediate effect on the department's current inmate population crisis. Assuming recommendations by the Sentencing Commission were adopted by the 2009 Legislature, and then they would most likely not have a substantial effect on the inmate population before 2012.

Option 7: Changing Sentencing Credits

Aside for clemency granted by the Pardons Board to large numbers of inmates or building modular housing, the most effective means of providing immediate and future relief to the state prison system is through changing the number of credits awarded for "good time" Credits are deducted for violations of the department's rules and are restored for completing appropriate programming and or behavior changes..

PROS: Increasing "good time" credits is the most equitable, measurable, cost-effective, and efficiently means of immediately reducing the state's prison population growth. Unlike work or programming credits, all inmates can earn good time and the requirements for this benefit (appropriate behavior) are clear and known by all offenders. Further, as offenders accumulate more credits they have more credits "at-risk" providing a further incentive for good behavior and a greater degree of institutional control. No additional staff would be necessary to implement this option.

CONS: There is a cost-benefit calculation to this option. Inmates do recidivate upon release and some of the inmates that have demonstrated good behavior in prison will not when put into a less

structured environment. Some inmates that have demonstrated good behavior in prison will commit new crime upon release. All of these inmates will be released one day regardless. The policymaker will have to weigh the benefits of holding a well-behaved inmate for roughly the last quarter of their sentence against the costs of new prison construction and the benefits of other uses for that money. This will affect the future growth of the prison population beginning three years after implementation (avg. length of stay), but will not affect the immediate need for prison construction.

Option 8: Changing Sentencing Credits Retroactively

The department is in a unique position. NDOC will be converting its inmate data to a new computer system. As part of the conversion process, it is possible to retroactively change the number of credits given for good behavior. This conversion could be done for a small, one-time fee.

PROS: Increasing "good time" credits is the most equitable, measurable, cost-effective, and efficiently means of immediately reducing the state's prison population. If made retroactive to 7/1/1997, NDOC staff estimates that 1,600 inmates would expire their sentences and be immediately released upon implementation. Another cohort would have immediate access to parole/mandatory parole. Unlike work or programming credits, all inmates can earn good time and the requirements for this benefit (appropriate behavior) are clear and known by all offenders. Further, as offenders accumulate more credits they have more credits "at-risk" providing a further incentive for good behavior and a greater degree of institutional control. No additional staff would be necessary to implement this option. Approximately 2,000 parolees would expire their sentences.

CONS: There is a cost-benefit calculation to this option. Inmates do recidivate upon release and some of the inmates that have demonstrated good behavior in prison will not when put into a less structured environment. Some inmates that have demonstrated good behavior in prison will commit new crime upon release. All of these inmates will be released one day, regardless. The policymaker will have to weigh the benefits of holding a well-behaved inmate for roughly the last quarter of their sentence against the costs of new prison construction and the benefits of other uses for that money.

POLICY OPTIONS FOR NEVADA'S JUVENILE JUSTICE SYSTEM

Increase the percentage of juveniles on probation/parole who successfully complete vocational, educational, mental health and substance abuse treatment programs prior to release from probation/parole.

- Create an incentive for juveniles on probation and parole to successfully complete vocational, educational, mental health and substance abuse treatment programs by reducing the period of probation or parole supervision.
- Reduce the number of out of home placements for juveniles.
- Expand the capacity of programs available to juveniles on probation or parole with a portion of the savings generated by this policy.

Reduce the number of juveniles on probation who fail to meet the conditions of supervision and are either committed to juvenile state custody or to prison by 30%.

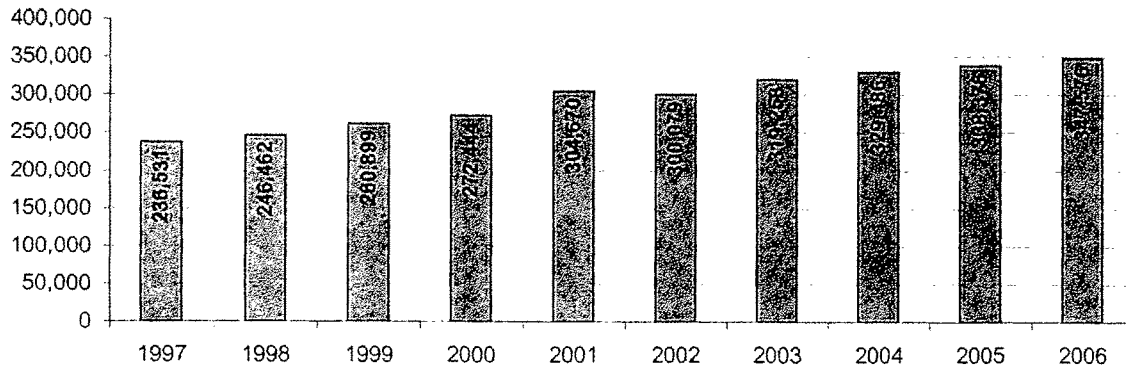
- Establish the goal of juvenile probation as the reduction of a juvenile's current and future risk to public safety as well as accountability, repairing the harm done, and enforcement of the conditions of supervision.
- Provide training to probation officers and community-based behavioral health care providers on evidence-based principles and models of effective supervision and intervention for individual youth and their families.
- Establish the capacity for intensive supervision with treatment in each county based on need.
- Develop a set of intermediate sanctions in each county that utilize evidence-based principles.
- Support the development of evidence-based community programs that are culturally appropriate and gender responsive.
- Provide funds for juvenile community-based services that are proportionate to the state's investment in adult community corrections programs.
- Support existing and new community task forces and initiatives comprised of education, family service, substance abuse and mental health treatment providers as well as juvenile justice officials, law enforcement, faith-based organizations and public officials to reduce revocations through coordinated community planning.

ASSUMPTIONS:

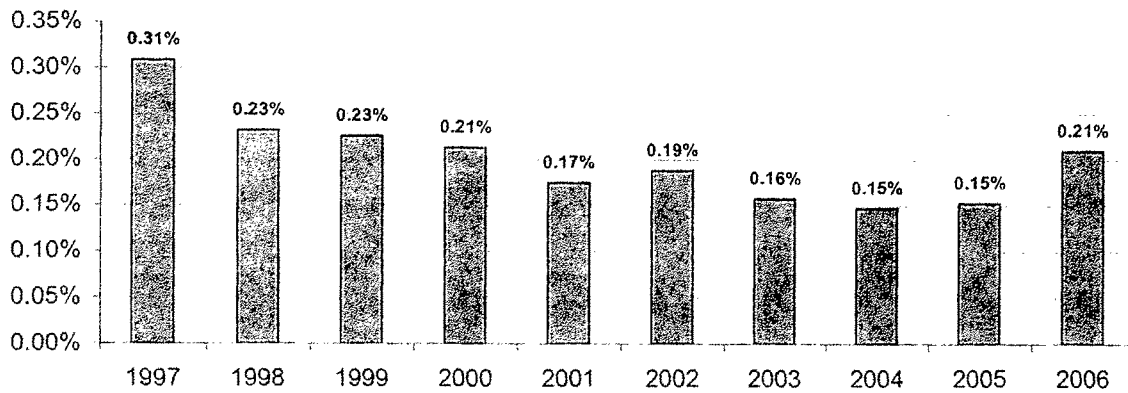
- 50% of cases admitted to juvenile state custody and 10% that escalate to the adult system are technical probation violators initially.
- 10% of these cases will be diverted during the first year of expansion of the Community Corrections Block Grant, 20% the second year and 30% the third and subsequent years.

STATE OF NEVADA

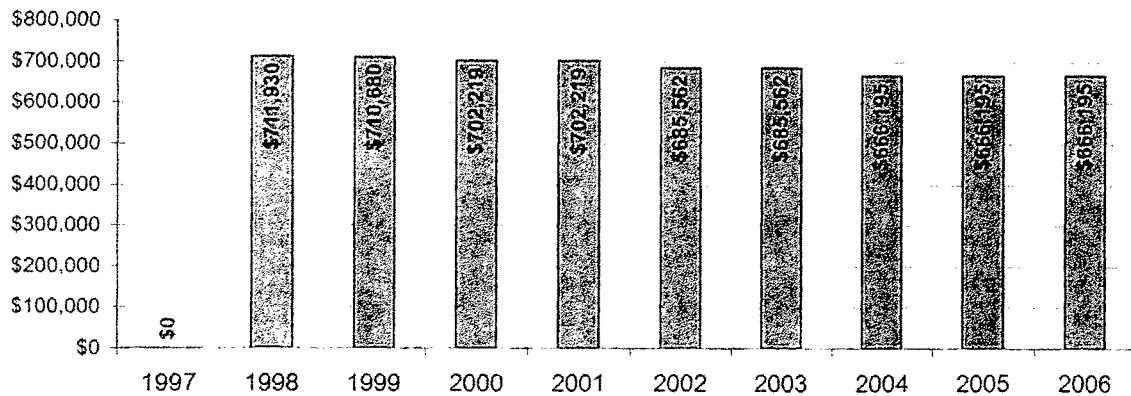
JUVENILE POPULATION AGES 8-18



PERCENTAGE OF STATEWIDE COMMITMENTS



COMMUNITY CORRECTIONS PARTNERSHIP BLOCK GRANT



PROPOSED CONCEPTUAL AMENDMENT CONCERNING JUVENILE JUSTICE

PREPARED FOR SENATOR HORSFORD
MAY 14, 2007

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

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

Section 1. NRS 62A.360 is hereby amended to read as follows:

62A.360 The Legislature hereby declares that:

1. This title must be liberally construed to the end that:

(a) Each child who is subject to the jurisdiction of the juvenile court must receive such care, guidance and control, preferably in the child's own home, as will be conducive to the child's welfare and the best interests of this state; and

(b) When a child is removed from the control of the parent or guardian of the child, the juvenile court shall secure for the child a level of care which is equivalent as nearly as possible to the care that should have been given to the child by the parent or guardian.

2. One of the purposes of this title is to promote the establishment, supervision and implementation of preventive programs that are designed to prevent a child from becoming subject to the jurisdiction of the juvenile court.

3. *One of the purposes of this title is to promote the establishment, supervision and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court.*

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600

LEGISLATIVE COMMISSION (775) 684-6800
BARBARA E. BUCKLEY, *Assemblywoman, Chair*
Lorne J. Malkiewicz, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
MORSE ARBERRY JR., *Assemblyman, Chairman*
Mark W. Stevens, *Fiscal Analyst*
Gary L. Ghiggeri, *Fiscal Analyst*



LORNE J. MALKIEWICH, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

MEMORANDUM

DATE: May 4, 2007
TO: Members, Senate Committee on Judiciary
FROM: Linda J. Eissmann, ^{LJE} Principal Research Analyst
Research Division
SUBJECT: **Potential Policy Direction Regarding the Justice Reinvestment Report from the Council of State Governments' (CSG) Justice Center**

You may recall that the Committee heard a brief presentation last month by the CSG Justice Center on its report titled: *Increasing Public Safety and Generating Savings: Options for Nevada Policymakers*.

Chairman Amodei asked me to distribute copies to you of the attached packet of information, with a request that you review it at your earliest convenience. He received this material yesterday from members of the Assembly, indicating their thoughts and ideas about how best to proceed with the Justice Center's policy options. Apparently the document at the top titled: *Potential Legislation to Address Prison Population*, is the primary document for your review. You will note that one of the bullet items has since been removed from consideration.

This topic will be brought up for Committee discussion next Monday, May 7. As always, please do not hesitate to contact me at (775) 684-6825 if I can be of assistance.

LJE/k:M07.SenateJudiciary.2007
Enc.

Potential Legislation to Address the Prison Population

Incarceration

- Increase good time credits for offenders incarcerated from 10 days to 20 days per month
- Have good time credits apply to minimum sentence for category C, D and E felonies that do **NOT** involve violence, a sexual offense or DUI that caused death or substantial bodily harm (good time credits currently only apply to the maximum sentence). This provision would **NOT** apply to category A or B felonies
- Increase credits for all education, vocational training and substance abuse treatment programs completed while incarcerated. Credits would apply to both minimum and maximum sentence. Enhance education, training and substance abuse programs with savings generated from measures approved to reduce prison population.

Probation/Parole

- Increase credits for offenders on parole from 10 days to 20 days per month.
- Mandate that category E offenders serve probation in lieu of incarceration.
- Establish good time credits for offenders on probation of 20 days for each month served.
- Reduce revocation of probation and parole by increased use of residential confinement and new programs funded through savings generated from measures approved to reduce the prison population. If there is insufficient time to identify the specific programs before the end of the 2007 Session, funds could be appropriated to the Interim Finance Committee for allocation to programs identified to reduce parole/probation revocations.
- Consider removing Parole & Probation from the supervision of the Department of Public Safety. Options include the Parole Board and Parole & Probation being a separate agency, or transfer to the court system, the Department of Corrections or the Department Health and Human Services.

Identify Inmates for Transfer to Immigration and Customs Enforcement (ICE)

- Justice Hardesty has been working with staff of the federal government and the Department of Corrections to identify individuals that could be transferred from Nevada prisons to ICE for deportation out of the country. The Pardons Board recently reviewed and took action to transfer 45 inmates to ICE. Initial data indicates that 200 inmates have been identified to date for transfer to ICE. The total number inmates that are immigrants totals 1,100, but not all of these individuals would be eligible for transfer to ICE.
- Authorize a sentencing judge to place an undocumented immigrant on probation to an ICE hold.

Sentencing Commission

- Revise membership of the Commission to include additional representation from the judicial branch
- Revise the duties of the Commission to include effectiveness and impact of current sentences for felonies, effectiveness of current method of producing PSI reports, effectiveness of specialty courts and the impact on prison population.
- Review mandatory sentencing and make recommendations on allowing a judge to deviate from imposing mandatory minimum sentence for category B, C, D and E felonies.
- Review eligibility for offenders to utilize the residential confinement program and the correctional reentry program.
- Require early appointments to the Sentencing Commission and completion of their work in advance of budgets being submitted on September 1, 2008. This would allow complete review of the Sentencing Commission's recommendations in advance of budgetary decisions being made in the development of the 2009-11 Executive Budget.

Stevens, Mark

From: Ghiggeri, Gary
Sent: Wednesday, April 25, 2007 9:23 PM
To: Stevens, Mark
Subject: Categories and punishment of felonies

IRS 193.130 Categories and punishment of felonies.

1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.

2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:

(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for a term with or without the possibility of parole may be imposed, as provided by specific statute.

(b) 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, as provided by specific statute.

(c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in a state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute.

(d) A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in a state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute.

(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in a state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater penalty is authorized or required by statute.

[1911 C&P § 18; RL § 6283; NCL § 9967]—(NRS A 1967, 458; 1995, 1167; 1997, 1177; 1999, 1186)

1. Except as otherwise provided in this section and NRS 176A.110 and 176A.120, if a person is found guilty in a district court upon verdict or plea of:

(a) Murder of the first or second degree, kidnapping in the first degree, sexual assault, attempted sexual assault of a child who is less than 16 years of age, lewdness with a child pursuant to NRS 201.230, an offense for which the suspension of sentence or the granting of probation is expressly forbidden, or if the person is found to be a habitual criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall not suspend the execution of the sentence imposed or grant probation to the person.

(b) A category E felony, except as otherwise provided in this paragraph, the court shall suspend the execution of the sentence imposed and grant probation to the person. The court may, as it deems advisable, decide not to suspend the execution of the sentence imposed and grant probation to the person if, at the time of sentencing, it is established that the person:

(1) Was serving a term of probation or was on parole at the time the crime was committed, whether in this State or elsewhere, for a felony conviction;

(2) Had previously had his probation or parole revoked, whether in this State or elsewhere, for a felony conviction;

(3) Had previously been assigned to a program of treatment and rehabilitation pursuant to NRS 53.580 and failed to successfully complete that program; or

(4) Had previously been two times convicted, whether in this State or elsewhere, of a crime that under the laws of the situs of the crime or of this State would amount to a felony.

• If the person denies the existence of a previous conviction, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the person. At such a hearing, the person may not challenge the validity of a previous conviction. For the purposes of this paragraph, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

(c) Another felony, a gross misdemeanor or a misdemeanor, the court may suspend the execution of the sentence imposed and grant probation as the court deems advisable.

2. In determining whether to grant probation to a person, the court shall not consider whether the person has the financial ability to participate in a program of probation secured by a surety bond established pursuant to NRS 176A.300 to 176A.370, inclusive.

3. The court shall consider the standards adopted pursuant to NRS 213.10988 and the recommendation of the Chief Parole and Probation Officer, if any, in determining whether to grant probation to a person.

4. If the court determines that a person is otherwise eligible for probation but requires more supervision than would normally be provided to a person granted probation, the court may, in lieu of sentencing him to a term of imprisonment, grant him probation pursuant to the Program of Intensive Supervision established pursuant to NRS 176A.440.

5. Except as otherwise provided in this subsection, if a person is convicted of a felony and the Division is required to make a presentence investigation and report to the court pursuant to NRS 176.135, the court shall not grant probation to the person until the court receives the report of the presentence investigation from the Chief Parole and Probation Officer. The Chief Parole and Probation Officer shall submit the report of the presentence investigation to the court not later than 45 days after receiving a request for a presentence

Investigation from the county clerk. If the report of the presentence investigation is not submitted by the Chief Probation and Probation Officer within 45 days, the court may grant probation without the report.

6. If the court determines that a person is otherwise eligible for probation, the court shall, when determining the conditions of that probation, consider the imposition of such conditions as would facilitate timely payments by the person of his obligation, if any, for the support of a child and the payment of any such obligation which is in arrears.

(Added to NRS by 1967, 1434; A 1973, 68, 1802; 1975, 84; 1977, 289, 658, 1631; 1979, 1460; 1981, 369, 989, 1887; 1991, 71, 1002, 2044, 2045, 2046; 1993, 9; 1995, 224, 857, 1249, 1328, 2388, 2389; 1997, 519, 187, 2505, 2509; 1999, 565, 1192; 2003, 846, 2827)

Ghiggeri, Gary

From: Hardesty, Justice James [hardesty@nvcourts.nv.gov]
Sent: Tuesday, May 01, 2007 4:19 PM
To: Ghiggeri, Gary
Subject: RE: Potential Legislation to Address the Prison Population

Gary, I have some additional information that you might wish to share with the parties this evening. If the good time credits are changed from 10 days to 20 days on offenders with category C, D, and E felonies and this change is made retroactive to 1/01/00, the prison can release 602 inmates.

I am also suggesting that we tweak the good time credits for category B felons. They would get the time on the minimum, not the maximum, side of their sentence. In this way, we can get some of the less problematic offenders and those who have been sentenced under mandatory sentencing statutes that probably would have been granted probation otherwise, before the Parole Board sooner. The victims, if there are any, will get notice as will the DA's office before any action is taken. And unlike the other categories, these defendants, if they get out, would be supervised by P&P.

On the deportation side to date, we have turned over to ICE 35 inmates for deportation that did not have to be reviewed by the Pardons Board, the Board has sent another 45 to ICE for deportation, and 1 inmate was deported before seeing the Board. 40 additional inmates will be turned over to ICE between now and June 15 for deportation without any additional action by the Board. Therefore, 121 inmates will have been removed from the system between April 1 and June 15. In addition, the Parole Board will be reviewing 186 inmates for recommendations to the Board this Thursday and Friday. A substantial number of those inmates are expected to be recommended for deportation and these recommendations will be considered by the Pardons Board at the next meeting of May 29. Another meeting is being scheduled for July 2 to deal with the rest of the ICE hold defendants. From there, ICE and the DOC have developed a program to identify defendants for holds at intake and, in appropriate circumstances, deport them on an ongoing basis.

29 inmates have been identified as serving concurrent federal time and this list will be developed for the Pardons Board to consider releases to the federal prison to serve the federal time. The Federal Public Defender is checking the list as she believes there are more that could be considered.

Releases for good time credits and deportation should relieve the prison of about 1,000 inmates within the next two months.

I am also suggesting some revisions to the residential release statute and the re-entry court statute that will open the door for a number of defendants to be considered for supervised release by the Probation department and/or the drug court.

A new item that should be considered is changing the statute that deals with technical violations of probation. Give the court the authority to revoke or violate for the technicality, but allow the judge to limit the time sent to prison for a period of up to 6 months. The time served would be applied to their sentence, but the taste of prison is probably the most effective way to get their attention when they come back on supervision.

These and several others are easy fixes to the statutes and will provide material relief to the prison system this session. It is critical that probation get more officers, but I have some suggestions on the fiscal part of that if you all want to hear them. Most critically, we need to expand the funds for mental health court, particularly in Las Vegas. This expansion is in Brandenburg's budget and only adds 75 more to a program that serves 75 currently.

As I indicated, some focused discussion on these and several other points with your group will put together a pretty good plan to address this problem and set the stage for the next session.

I trust you will provide a copy of this email to the Senator and others who are looking at this topic. Thank you.

From: Ghiggeri, Gary [mailto:ghiggeri@lcb.state.nv.us]
Sent: Monday, April 30, 2007 2:02 PM
To: Hardesty, Justice James
Subject: Potential Legislation to Address the Prison Population

Attached per our conversation. Please advise of any comments/concerns your may have.

Thanks!

POSSIBLE LEGISLATION TO ADDRESS PRISON OVERCROWDING

Based on Proposals Developed by Justice James W. Hardesty
(Updated: March 27, 2007)

Following is a list of possible legislation to address prison overcrowding based on proposals developed by Justice James W. Hardesty and forwarded to legislators. These proposals are *in addition to* the continuing efforts led by Justice Hardesty to coordinate the efforts to identify inmates who are in the United States illegally and place an Immigration and Customs Enforcement (ICE) "hold" on these inmates for possible deportation. Agencies involved in this effort include ICE, Nevada's Department of Corrections (DOC), the State Board of Parole Commissioners (Parole Board), and the State Board of Pardons Commissioners (Pardons Board).

1. Immigration Offenders and the Federal 287(g) Program—Authorize (or urge by resolution) the Governor or the Director of the DOC to enter into a memorandum of understanding (MOU) with ICE for the DOC to participate in the federal 287(g) program. According to an ICE Fact Sheet on this program, "Under 287(g), ICE provides state and local law enforcement with the training and subsequent authorization to identify, process, and when appropriate, detain immigration offenders they encounter during their regular, daily law-enforcement activity."

The legislation authorizing (or urging) the MOU could specify the following:

- Specify the MOU should only apply to the DOC for training State correction officers;
- Place the program under the supervision of the DOC's Inspector General; and
- If the MOU is established, require a report on the operation of the program to the next regular session of the Nevada State Legislature.

Rationale: Utilizing trained officers to identify inmates who are in the country illegally and transferring those inmates to ICE will save costs for the State. The training is provided with federal money at no cost to the states. The Arizona Department of Corrections is participating in the program and is reported to have saved 53,000 bed days by identifying immigration offenders at intake and placing ICE holds on them immediately.

These efforts are consistent with the current work of the Pardons Board to expedite review of inmates identified by the DOC as immigration offenders. A meeting of the Pardons Board on this issue was conducted on March 26, 2007, and the Pardons Board agreed unanimously to pursue a review of over 450 inmates for possible deportation. The Pardons Board agreed to monthly meetings to review recommendations made by the Parole Board for inmates in groups of 40-50 to be considered for early parole to the ICE holds.

2. Revise Existing Programs for Early Release From Prison—Revise the statutes that currently authorize programs for early release from prison under certain conditions as few people are eligible for release under the existing criteria. Options include changing the existing criteria to allow more flexibility or revising the statutes to provide that Director determines who is eligible to participate in the programs and must consider the items that are currently listed as criteria in the statutes. If the Director is granted such discretion, an appeal mechanism should be provided—perhaps through the Pardons Board—to address situations such as a Director who refuses to exercise any discretion to release inmates.

Bill Draft Request—The Assembly Select Committee on Corrections, Parole and Probation has requested the drafting of a bill on this issue (Bill Draft Request No. 16-1377). Amendments, as needed, may be proposed through the hearing process to enhance the effectiveness of these programs within legislative intent.

3. **Prison Reentry Program**—Amend *Nevada Revised Statutes* (NRS) 209.4871 to 209.4889 (Reentry Programs) to authorize the early release of persons sent to prison for failing a drug court program or violating a condition of probation if the release is approved by the drug court or the judge who ordered the probationer to prison, as appropriate. A minimum of four months should be served. The Reentry statutes and process at DOC must be examined to determine why the program is currently underutilized.

Rationale: The reentry program is an underutilized program. There are currently only 20 defendants in the Clark County prisoner reentry program, 16 in Washoe County, and only one in Elko. Such a change would expand participation and facilitate the early release of individuals for whom a brief experience in prison will serve as a “wake-up call” and who would not have been sent to prison except for the violation of the program or probation. Coordination between the Director and the drug courts could return many offenders to the community early.

4. **Judicial Discretion**—Revise existing statutes to return discretion to the judges in cases in which justice is not served by imposing the current statutory sentence.

- **Minimum Sentences**—Amend NRS 193.130 (Categories and Punishment of Felonies) to allow judges to deviate from the mandatory minimums for Category B, C, D, and E felonies. Require that the sentencing judge make findings at sentencing that supports the deviation.
- **Prohibition on Probation**—Nevada law currently prohibits probation and suspension of sentence for certain crimes. Review the drug trafficking crimes and Category B, C, D and E mandatory sentences through a newly constituted sentencing commission.

Rationale: In certain cases, judges and others involved in the case concur that the mandatory minimum statutory penalty for the felony does not serve the best interests of justice. However, under the existing statutory scheme, the judge often does not have sufficient discretion to design an appropriate sentence.

5. **Felony Sentences**—Review data concerning the crimes and sentences of inmates currently in prison to determine which statutory minimums and maximums should be revised, and revise these statutes during the 2007 Session. Dr. James Austin is scheduled to provide certain data regarding inmates and recommendations for reducing prison overcrowding to the Assembly Select Committee on Corrections, Parole and Probation in late March 2007 or early April 2007.

Rationale: When the Legislature revised the felony sentencing scheme in 1995, testimony indicated an intent subsequently to review the sentences for these crimes to determine whether any changes are appropriate. The Advisory Commission on Sentencing was also established in 1995, but for a variety of reasons, has not served this function. No comprehensive review of the felony sentences based upon the crimes and sentences of the State’s inmate population has been conducted since that time.

6. **Authorize Immigration Holds by the Court**—Authorize a sentencing judge to place an undocumented immigrant on probation to an ICE hold.

Rationale: The Division of Parole and Probation, which conducts presentence investigations and provides a sentencing recommendation to the court, generally recommends a prison term for undocumented immigrants when it would otherwise recommend probation. The authority to place such an offender on probation to an ICE hold would address concerns that the offender would flee the jurisdiction.

7. Specialty Courts—Identify increased funding for specialty courts through the budgetary process.

Rationale: Specialty courts successfully divert offenders from prison and work with the offenders on their drug-related or mental health problems. Addressing these problems can reduce recidivism. Lengthy waiting lists for existing courts often results in offenders being diverted to prison. An additional \$30 million is estimated to be needed to manage these offenders and shift from incarceration on the front-end and to manage the prison reentry program.

8. Parole and Probation—Recommendations include the following:

- Presentence Investigations (PSI)—Require training of the persons who write the PSI reports and biennial review (every two years) of the sentencing matrix and regulations governing the PSI process to determine if this process is appropriate.

Rationale: Anecdotally from the courts and the DOC, the quality of the PSI's and the ability of staff to provide the reports within the time required is a serious problem. These documents are a key factor in the determination of which offenders are sent to prison, thus playing a primary role in the number of offenders in prison. It does not appear the regulations governing the PSI process under the *Nevada Administrative Code* (NAC) or sentencing matrix have been revised since the early 1990s.

- Violations of Parole and Probation—Prohibit sending parolees and probationers to prison for minor violations, such as failing to pass a drug test.

Rationale: Reports indicate that offenders are now being sent or returned to prison for such minor violations, which does not appear consistent with the intended purpose of parole or probation.

- Structure of the Division of Parole and Probation—Remove the Division from the supervision of the Department of Public Safety. Options for restructuring may include placement of the Division under the Parole Board (which would also need to be removed from the Department of Public Safety under this scenario); the courts; or the DOC.

Rationale: Under the existing structure, the primary focus of the Division appears to be on law enforcement. While law enforcement is an appropriate and important role for the Division, the Division's role of working to rehabilitate an offender often appears lost.

9. Additional Study After the 2007 Session Through the Sentencing Commission or an Interim Study—Authorize a review of sentencing, corrections, parole, probation, and pardons during the interim and require recommendations be reported to the 2009 Legislature. Options for structuring the review may include the following:

- a) Advisory Commission on Sentencing—Options for restructuring the Commission, if desired, include the following:

- Relocate the Sentencing Commission from the Office of the Attorney General to the Judicial Branch with the Justice of the Supreme Court as the chair (either the Chief Justice or his appointee). Retain the Attorney General as a member. (The Legal Division may need to review the structure of such a body to ensure that the composition does not violate constitutional provisions regarding separate branches of government.)
- Appropriate money for a staff person, contract work, and multiple meetings during the interim;

- b) **Legislative Interim Study**—Authorize an interim study under the direction of the Legislative Commission. (This option may include a fiscal impact for staff, possible contract work, and multiple meetings during the interim); or
- c) **Judiciary Study**—Request a study through the Nevada Supreme Court, which may require an appropriation for staff or contract work to ensure an effective study.

Possible Tasks for an Interim Study or Review during the 2007-2008 Interim

- a) ***Division of Parole and Probation***—Review of process and procedures, including but not limited to Presentence Investigations (including the NAC governing this process and the sentencing matrix); the process and decisions involved in returning a parolee to prison; and the location of the Division within the Department of Public Safety.
- b) ***Review Current Sentences for Felonies***—Issues to review include, but are not limited to, the sentences for felonies and the crimes within each category; mandatory minimums; and sentences and amounts for drug crimes such as trafficking.
- c) ***Parole Board***—Review the guidelines contained within the NAC and process used by the Parole Board in determining when an inmate is eligible for a first parole hearing.
- d) ***Specialty Courts***—Review and identify any statutory changes needed to divert more people (as appropriate) into drug courts and mental health courts and identify additional resources to expand programs that have proven successful.
- e) ***Changes Implemented by the 2007 Legislature***—Review the effectiveness and impact of changes implemented by the 2007 Legislature with regard to all of these issues.

ASSEMBLY BILL NO. 508—SELECT COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to provisions concerning the
Advisory Commission on Sentencing. (BDR 14-1378)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included
in Executive Budget.

EXPLANATION — Matter in *bolded italics* is new; matter between brackets [*omitted material*] is material to be omitted.

AN ACT relating to the Advisory Commission on Sentencing;
revising the membership and duties of the Commission;
authorizing the Commission to issue subpoenas; requiring
the Commission to hold meetings at least once every 3
months; making an appropriation; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Section 1 of this bill authorizes the Advisory Commission on Sentencing or a
- 2 member acting on behalf of the Commission to issue subpoenas to compel the
- 3 attendance of witnesses and the production of books, records, documents and other
- 4 papers and testimony.
- 5 Section 2 of this bill adds: (1) a sitting or retired justice of the Nevada Supreme
- 6 Court; (2) a representative of an organization that advocates on behalf of inmates;
- 7 and (3) a representative of the Nevada Sheriffs' and Chiefs' Association to the
- 8 Commission and removes the member appointed by the Nevada Association of
- 9 Counties. Section 2 also removes the Attorney General as the Chairman of the
- 10 Commission. Instead, members are required to elect a Chairman at the first meeting
- 11 of each odd-numbered year. The Commission is further required to meet at least
- 12 quarterly.
- 13 Section 3 of this bill revises the duties of the Advisory Commission on
- 14 Sentencing by requiring the Commission to evaluate the effectiveness and
- 15 efficiency of the Department of Corrections and the State Board of Parole
- 16 Commissioners and to consider whether it is feasible and advisable to establish an
- 17 oversight or advisory board to perform various functions. Section 3 also requires
- 18 the Commission to evaluate the effectiveness of specialty court programs in this
- 19 State and to evaluate the policies and practices concerning presentence
- 20 investigations and reports of the Division of Parole and Probation of the
- 21 Department of Public Safety.



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22 Section 4 of this bill makes an appropriation to the Advisory Commission on
23 Sentencing to enter into a contract with a consultant to assist the Commission in
24 carrying out its duties.

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. *To carry out its powers and duties pursuant to this section*
4 *NRS 176.0121 to 176.0129, inclusive, and the Commission, or any*
5 *member thereof acting on behalf of the Commission with a*
6 *concurrence of a majority of the members of the Commission, may*
7 *issuc subpoenas to compel the attendance of witnesses and the*
8 *production of books, records, documents or other papers and*
9 *testimony.*

10 2. *If any person fails to comply with a subpoena issued by the*
11 *Commission or any member thereof pursuant to this section*
12 *within 20 days after the date of service of the subpoena, the*
13 *Commission may petition the district court for an order of the*
14 *court compelling compliance with the subpoena.*

15 3. *Upon such a petition, the court shall enter an order*
16 *directing the person subpoenaed to appear before the court at a*
17 *time and place to be fixed by the court in its order, the time to be*
18 *not more than 20 days after the date of service of the order, and*
19 *show cause why he has not complied with the subpoena. A*
20 *certified copy of the order must be served upon the person*
21 *subpoenaed.*

22 4. *If it appears to the court that the subpoena was regularly*
23 *issued by the Commission or a member thereof pursuant to this*
24 *section, the court shall enter an order compelling compliance with*
25 *the subpoena, and upon failure to obey the order the person shall*
26 *be dealt with as for contempt of court.*

27 Sec. 2. NRS 176.0123 is hereby amended to read as follows:

28 176.0123 1. The Advisory Commission on Sentencing is
29 hereby created. The Commission consists of:

30 (a) One member who is a district judge, appointed by the
31 governing body of the Nevada District Judges Association;

32 (b) *One member who is a justice of the Supreme Court of*
33 *Nevada or a retired justice of the Supreme Court of Nevada,*
34 *appointed by the Chief Justice of the Supreme Court of Nevada;*

35 (c) One member who is a district attorney, appointed by the
36 governing body of the Nevada District Attorneys Association;



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1 ~~{(e)}~~ (d) One member who is an attorney in private practice,
2 experienced in defending criminal actions, appointed by the
3 governing body of the State Bar of Nevada;

4 ~~{(d)}~~ (e) One member who is a public defender, appointed by
5 the governing body of the State Bar of Nevada;

6 ~~{(e)}~~ (f) One member who is a representative of a law
7 enforcement agency, appointed by the Governor;

8 ~~{(f)}~~ (g) One member who is a representative of the Division of
9 Parole and Probation of the Department of Public Safety, appointed
10 by the Governor;

11 ~~{(g)}~~ (h) One member who has been a victim of a crime or is a
12 representative of an organization supporting the rights of victims of
13 crime, appointed by the Governor;

14 ~~{(h)}~~ (i) *One member who is a representative of an*
15 *organization that advocates on behalf of inmates, appointed by the*
16 *Governor;*

17 (j) One member who is a ~~{county commissioner,}~~ *representative*
18 *of the Nevada Sheriffs' and Chiefs' Association,* appointed by ~~{the~~
19 ~~governing body of}~~ *the Nevada Sheriffs' and Chiefs' Association ;*
20 ~~{of Counties;}~~

21 ~~{(i)}~~ (k) The Director of the Department of Corrections;

22 ~~{(j)}~~ (l) Two members who are Senators, one of whom is
23 appointed by the Majority Leader of the Senate and one of whom is
24 appointed by the Minority Leader of the Senate; and

25 ~~{(k)}~~ (m) Two members who are Assemblymen, one of whom is
26 appointed by the Speaker of the Assembly and one of whom is
27 appointed by the Minority Leader of the Assembly.

28 If any association listed in this subsection ceases to exist, the
29 appointment required by this subsection must be made by the
30 association's successor in interest or, if there is no successor in
31 interest, by the Governor.

32 2. The Attorney General is an ex officio voting member of the
33 Commission. ~~{and shall serve as the Chairman of the Commission.}~~

34 3. Each appointed member serves a term of 2 years. Members
35 may be reappointed for additional terms of 2 years in the same
36 manner as the original appointments. Any vacancy occurring in the
37 membership of the Commission must be filled in the same manner
38 as the original appointment.

39 4. The Legislators who are members of the Commission are
40 entitled to receive the salary provided for a majority of the members
41 of the Legislature during the first 60 days of the preceding session
42 for each day's attendance at a meeting of the Commission.

43 5. *The members appointed pursuant to paragraphs (a) to (j),*
44 *inclusive, of subsection 1 must be appointed not later than 60 days*



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1 after the appointment of the Legislators who are appointed
2 pursuant to paragraphs (l) and (m) of subsection 1.

3 6. At the first regular meeting of each odd-numbered year,
4 the members of the Commission shall elect a Chairman by
5 majority vote who shall serve until the next Chairman is elected.

6 7. The Commission shall meet at least once every 3 months
7 and may meet at such further times as deemed necessary by the
8 Chairman.

9 8. A majority of the members of the Commission constitutes a
10 quorum for the transaction of business, and a majority of those
11 members present at any meeting is sufficient for any official
12 action taken by the Commission.

13 9. While engaged in the business of the Commission, to the
14 extent of legislative appropriation, each member of the Commission
15 is entitled to receive the per diem allowance and travel expenses
16 provided for state officers and employees generally.

17 {6-} 10. To the extent of legislative appropriation, the Attorney
18 General shall provide the Commission with such staff as is
19 necessary to carry out the duties of the Commission.

20 Sec. 3. NRS 176.0125 is hereby amended to read as follows:

21 176.0125 The Commission shall:

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

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

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

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

43 (b) Offenders who have extensive histories of criminality or
44 who have exhibited a propensity to commit crimes of a predatory or
45 violent nature must receive sentences which reflect the need to



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1 ensure the safety and protection of the public and which allow for
2 the imprisonment for life of such offenders.

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

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

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

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

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

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

28 (a) *Policies relating to parole;*

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

31 (c) *Policies for the operation of the Department of*
32 *Corrections;*

33 (d) *Budgetary issues; and*

34 (e) *Other related matters.*

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

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



A B S O S R I S

1 7. Compile and develop statistical information concerning
2 sentencing in this State.

3 [5-] 8. For each regular session of the Legislature, prepare a
4 comprehensive report including the Commission's recommended
5 changes in the structure of sentencing in this State, the
6 Commission's findings and any recommendations of the
7 Commission for proposed legislation. The report must be submitted
8 to the Legislature not later than 10 days after the commencement of
9 the session.

10 Sec. 4. 1. There is hereby appropriated from the State
11 General Fund to the Advisory Commission on Sentencing the sum
12 of \$50,000 so that the Commission may enter into a contract with a
13 qualified, independent consultant to assist the Commission in
14 carrying out its duties.

15 2. Any remaining balance of the appropriation made by
16 subsection 1 must not be committed for expenditure after June 30,
17 2009, by the entity to which the appropriation is made or any entity
18 to which money from the appropriation is granted or otherwise
19 transferred in any manner, and any portion of the appropriated
20 money remaining must not be spent for any purpose after
21 September 18, 2009, by either the entity to which the money was
22 appropriated or the entity to which the money was subsequently
23 granted or transferred, and must be reverted to the State General
24 Fund on or before September 18, 2009.

25 Sec. 5. The Attorney General shall continue to serve as
26 Chairman of the Advisory Commission on Sentencing until the
27 members elect a Chairman at the first regular meeting of the
28 Commission that is held after July 1, 2007. The Commission shall
29 meet not later than 120 days after July 1, 2007, and shall elect a
30 Chairman at that meeting.

31 Sec. 6. This act becomes effective on July 1, 2007.



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**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Fourth Session
May 15, 2007**

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 1:43 p.m., on Tuesday, May 15, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31
Assemblywoman Bonnie Parnell, Assembly District No. 40

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Larry Peri, Principal Deputy Fiscal Analyst
Jeff Ferguson, Program Analyst
Eric King, Program Analyst
Joi Davis, Program Analyst
Linda Blevins, Committee Secretary
Patti Adams, Committee Assistant

Chairman Arberry called the meeting to order and opened the hearing on Assembly Bill (A.B.) 161 (R1).



There being no further comments or questions, Chairman Arberry closed the hearing on A.B. 255 (R2) and opened the hearing on A.B. 610.

Assembly Bill 610: Makes an appropriation for use as matching money to reduce or retire the existing mortgage on the Veterans Guest House, Inc. (BDR S-1464)

Assemblyman Bernie Anderson, Washoe County District 31, presented an overview of Assembly Bill (A.B.) 610. Mr. Anderson explained the bill dealt with an appropriation for the Veterans Guest House, Inc. in Reno. The Guest House was created in 1990 to provide outpatient veterans and their families safe, overnight accommodations regardless of their ability to pay. The Guest House received no federal, State, or foundation support, depending entirely on private donations to cover expenses. Mr. Anderson further stated the legislation provided \$300,000 matching money to reduce or retire the existing mortgage on the Guest House.

Mr. Anderson introduced Ms. Elaine McNeill, past president and board member of the Guest House, and Ms. Noreen Leary, Executive Director, to further explain the mission of the Guest House and why the appropriation was necessary.

On a separate issue, Chairman Arberry inquired whether the reprint of A.B. 460 removed the fiscal note.

Mr. Anderson stated he was under the impression the fiscal note for A.B. 460 had been removed. In the new version from the Senate, no money was necessary to drive the program. Although there could be a minimal cost to the school districts, there was no cost to the State for the program.

Ms. Elaine McNeill, past president and board member of the Veterans Guest House, Inc., submitted prepared testimony (Exhibit O) in support of A.B. 610. The Guest House provided overnight accommodations for veterans and families of veterans when they received medical treatment at the Veterans Administration (VA) Hospital. Ms. McNeill stated that the requested appropriation was for matching money, and the Guest House would be holding fund raising events and requesting donations for the balance of the needed money.

Ms. Noreen Leary, Executive Director, Veterans Guest House, Inc., provided a brief statement supporting A.B. 610. The current Guest House had been in operation for three years and had recently reached the 5,000th guest night. In her opinion, the number of guests housed indicated the need for the Guest House in Reno.

There being no further comments or questions, Chairman Arberry closed the hearing on A.B. 610 and opened the hearing on A.B. 508 (R1).

Assembly Bill 508 (1st Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

Assemblyman Parks, Clark County District 41, presented the Committee with an overview of Assembly Bill (A.B.) 508 (R1) which reestablished the Commission on Sentencing and revised its membership and duties. The appropriation requested from the General Fund was \$50,000 to allow the Commission to enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties. There were also operating costs

associated with the administrative duties of the Commission. In the opinion of Mr. Parks, the bill was an important part of addressing the overall concerns regarding the prison population and the operation of the criminal justice system.

Assemblywoman Buckley agreed with the concept of the bill but believed it possible to perform the responsibilities for less than the \$50,000 requested.

Mr. Parks stated the Sentencing Commission could probably perform most of the functions required without the \$50,000; however, the Commission would be considerably more effective by hiring a consultant.

Responding to a concern voiced by Chairman Arberry, Ms. Buckley clarified that there would not be a conflict with the Parole Board as the duties of the Commission would be to evaluate sentencing structure for inequities, study recidivism concerns, and consider other relevant issues.

Mr. Parks envisioned a number of recommendations coming forth from the Sentencing Commission to the next legislative session.

Mr. Larry Struve, representing the Religious Alliance in Nevada (RAIN), supported A.B. 508 (R1) and commended the Select Committee on Corrections, Parole, and Probation for their work preparing this and other bills. Mr. Struve believed that reestablishment of the Advisory Commission on Sentencing focused on the critical problem of prison overcrowding. The RAIN was concerned about three main issues: (1) 97 percent of the prisoners would eventually be released; (2) there was a high recidivism rate; and (3) the projection of \$1.9 billion for new prison construction over the next ten years was unacceptable.

Ms. Pat Hines, private citizen, expressed support for A.B. 508 (R1). Ms. Hines believed a member of the Parole Board should be a member of the proposed Commission and that the Commission would be better served by the formation of subcommittees to study the issues.

There being no further questions or comments, Chairman Arberry closed the hearing on A.B. 508 (R1) and opened the hearing on A.B. 579 (R1).

Assembly Bill 579 (1st Reprint): Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Mr. John S. Michela, Deputy Attorney General, Gaming Division, presented the Committee with an overview of Assembly Bill (A.B.) 579 (R1). Mr. Michela submitted prepared testimony (Exhibit P) which he summarized for the Committee. Mr. Michela noted that the bill had been drafted by the Office of the Attorney General to bring Nevada into compliance with the Adam Walsh Child Protection and Safety Act (Adam Walsh Act), the first step toward a nationwide sex offender registry.

According to Mr. Michela, a state's failure to implement the Adam Walsh Act would result in a 10 percent reduction in funds received from the Edward Byrne Memorial Justice Assistance Grant (JAG). If Nevada was in compliance with the requirements of the Adam Walsh Act by 2008, it would be eligible for bonus federal funds created by the Adam Walsh Act.

Mr. Michela proposed an amendment (Exhibit Q) for A.B. 579 (R1). The original amendment as drafted did not contain language to close the loophole contained

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Fourth Session
May 17, 2007**

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:06 a.m., on Thursday, May 17, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Barron Brooks, Committee Secretary
Patricia Adams, Committee Assistant



ASSEMBLYWOMAN MCCLAIN MOTIONED TO DO PASS AS AMENDED A.B. 161 (R1).

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYWOMAN BUCKLEY WAS NOT PRESENT FOR THE VOTE.)

* * * * *

Assembly Bill 275: Makes appropriations to restore the balances in the Stale Claims Account, Emergency Account and Reserve for Statutory Contingency Account. (BDR S-1267)

Mr. Stevens stated that the Committee had discussed the bill three previous times, and he recommended taking action. The bill provided for the restoration of the Stale Claims Account, the Emergency Account, and Reserve Statutory Contingency. Mr. Stevens cited a schedule which had been developed by the Budget Director, indicating the projected expense in the Reserve Statutory Contingency Account would be \$6.5 million over the biennium. There had been discussion in Committee to add an additional \$1.5 million to the bill, because it currently provided \$5 million. The Budget Director recommended adding the \$1.5 million, but there had been discussion of adding it to the Interim Finance Contingency Fund to be available to replenish the Reserve Statutory Contingency Fund if necessary. If the Committee was unsure on what action to take, a hearing would need to be scheduled.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS A.B. 275, ADDING THE \$1.5 MILLION TO THE INTERIM FINANCE CONTINGENCY FUND.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYWOMAN BUCKLEY WAS NOT PRESENT FOR THE VOTE.)

* * * * *

Assembly Bill 291 (1st Reprint): Revises provisions governing the use of money deposited in a fund established to stabilize the operation of a school district. (BDR 31-189)

Mr. Stevens stated the bill had been passed out of Committee with an "Amend and Do Pass" motion; however, there was an additional amendment that needed to be considered. The Committee needed to decide whether to rescind the previous motion. [No action taken.]

Assembly Bill 508 (1st Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

Mr. Stevens explained that the bill had been rereferred to the Ways and Means Committee by the Select Committee on Corrections and involved the Sentencing Commission. There was a \$50,000 appropriation in Section 4. Testimony in Committee had been that it would be advantageous, from the Sentencing Commission's point of view, to have the \$50,000 retained in the bill.

Assemblyman Parks mentioned the possibility of providing the \$50,000 during the interim. There was another recommendation made to include a member of the Board of Parole Commissioners.

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 508 (R1), WITH THE INCLUSION OF THE REPRESENTATIVE FOR THE BOARD OF PAROLE COMMISSIONERS.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYWOMAN BUCKLEY WAS NOT PRESENT FOR THE VOTE.)

* * * * *

Assembly Bill 579 (1st Reprint): Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Mr. Stevens explained that the bill amended the *Nevada Revised Statutes* to comply with the "Adam Walsh Child Protection and Safety Act of 2006." If the State did not pass the bill, federal grant funding of approximately \$2.9 million per year may be at risk. Pat Hines, a Yerington resident, wished to move the effective date past the current biennium. There were also technical amendments proposed by the Attorney General which had been provided to the Committee. There had been a question to the Criminal History Repository, whether there was sufficient funding in their budget to comply with the provisions in the bill. The repository had now indicated that they had sufficient funding.

Assemblyman Parks agreed with the technical amendments submitted by the Attorney General's Office.

ASSEMBLYWOMAN LESLIE MOTIONED TO AMEND AND DO PASS AS AMENDED A.B. 579 (R1) WITH THE ATTORNEY GENERAL'S AMENDMENTS.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYWOMAN BUCKLEY WAS NOT PRESENT FOR THE VOTE.)

* * * * *

Assembly Bill 586: Revises certain provisions governing the regulation and taxation of the sales and use of cigarettes and other tobacco products. (BDR 32-515)

Mr. Stevens stated the bill had been submitted by the Attorney General and related to the enforcement of tobacco products. The amendments that had been offered substantially shortened the bill. The bill would still add the language "cigarettes and other tobacco products" to the NRS, to allow for enforcement of "other tobacco products."

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 22, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 10:09 a.m. on Tuesday, May 22, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)
Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Lora Nay, Committee Secretary

CHAIR AMODEI:

The purpose of this meeting is to review justice reinvestment because we have been asked to provide recommendations to the money committees. Evidently, they were in a bigger hurry than we were since they have already reached agreement on retroactive good time credits. I have not been provided a detailed description. I am not sure of the exact bill, but Assembly Bill (A.B.) 510 is the vehicle. What are the other Committee members' thoughts?

- What, if any, considerations were given to what I have referred to as felony creep, where one Legislative Session we create a Category D felony that later becomes a Category C, then a Category B.
- What testimony from this Committee was reviewed by the money committees before making their decisions.
- What exhibits presented to this Committee were reviewed by the Senate Committee on Finance and the money committees before they came up with their conclusions.
- Whether they think this Committee has any jurisdiction or business considering things like criminal code, evidence, sentencing enhancements and the like.

SENATOR MCGINNESS:

We are all concerned. In the Senate Committee on Taxation, we have policy bills which immediately get sucked into that central vacuum system called Senate Finance. It also happens on the Assembly side. I am disturbed that we look at the policy and have two, three or more meetings on issues that really mean something to this Committee, and Finance seems to make policy, not in a vacuum but close. I echo the comments of my colleagues.

CHAIR AMODEI:

Mr. Wilkinson, were any measures specifically put in any of the finance bills that dealt with judicial discretion in sentencing?

BRAD WILKINSON (Chief Deputy Legislative Counsel):

The only measure dealing with judicial discretion in some way is in A.B. 416 which was one of the package of bills including A.B. 508 and A.B. 510. Assembly Bill 416 changes all sentencing enhancements and makes them—instead of a term equal to the punishment imposed for a crime—a minimum of one year and a maximum of ten years across the board for the sentencing enhancements in *Nevada Revised Statute* 193.

ASSEMBLY BILL 416 (1st Reprint): Makes various changes to provisions concerning the Department of Corrections. (BDR 16-190)

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ASSEMBLY BILL 508 (2nd Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

SENATOR WIENER:

When I was there, The Honorable Justice James W. Hardesty, Associate Justice, Nevada Supreme Court, offered what sounded like three specific policy amendments. I remember hearing "judicial findings." It would be worth our while to find out if there may be more in the amendments offered this morning.

CHAIR AMODEI:

If they are seeking to amend those measures without coming back through this Committee, then I want an amendment drafted which removes them all when that bill comes to the floor. We heard testimony about the need for a sentencing commission. If someone is putting an amendment in one of the money committees that in any way, shape or form alters the truth-in-sentencing statute and it did not come out of this Committee, I would like an amendment drafted, at least with my name, which seeks to repeal all of those pending the work of this Committee and the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation next session.

SENATOR CARE:

Include my name too.

SENATOR MCGINNESS:

Also include my name.

SENATOR HORSFORD:

Add my name as well.

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

We hear comments from the money committees about no money. When we are dealing with direct policy in our Committees, we do consider the money. It is the Senate Committee on Finance's obligation to balance the books. If we say there is a policy decision to be made and it costs some money, Finance balances the books and when they come up a little short, they can get it. They can refer to the Chair of the Senate Committee on Taxation; it would be the policy of the Taxation Committee to set the means to get the money.

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The Finance Committee is out of line. They are setting all policy. The Finance Committee's obligation is to balance the books by moving the money around and then let us know if they are short. They have overstepped their lines quite a bit.

CHAIR AMODEI:
We are adjourned at 10:25 a.m.

RESPECTFULLY SUBMITTED:

Lora Nay,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 24, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:19 a.m. on Thursday, May 24, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)
Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Kathy McClain, Assembly District No. 15
Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

Nancy K. Ford, Administrator, Division of Welfare and Supportive Services,
Department of Health and Human Services
John S. Michela, Deputy Attorney General, Office of the Attorney General
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association

with the Attorney General's Office and they agreed if certain positions were not mandated, they would work with existing staff which would help get A.B. 226 going, even on a limited basis at the present time.

RANDAL MUNN (First Assistant Attorney General and Legislative Liaison, Office of the Attorney General):

On behalf of Attorney General Catherine Cortez Masto, we want to express our support for A.B. 226. The protection of our seniors is one of the highest priorities of the Attorney General. We see a growing need as the population shifts to baby boomers entering that aging stage. We take this area of the law seriously and support any enhancements that will bring necessary resources. We are reevaluating the priorities of our Office and this will be one of them.

SENATOR WIENER MOVED TO DO PASS A.B. 226.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

* * * * *

CHAIR AMODEI:

I would like to report that A.B. 579 is exempt; therefore, the Committee does not have to act on it by tomorrow. Senator Horsford, obtain the information needed to make you comfortable and the Committee will act on A.B. 579 by Monday or Tuesday next week. If you feel it would be better to convene the Committee rather than meet at the Bar on the Senate Floor, please let me know; otherwise, we will meet at the Bar.

The hearing is opened on A.B. 508.

ASSEMBLY BILL 508 (2nd Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

LINDA J. EISSMANN (Committee Policy Analyst):

I forwarded some questions to the Fiscal Division of the Legislative Counsel Bureau and have not yet heard from them. With regard to the sentencing specifics in A.B. 510, the bill is in the Assembly Committee on Ways and

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Means and has not yet reached the Senate. The question was whether the sentencing specifics in A.B. 510 came from this Committee; the answer was no. Senator Wiener asked about three bills that were working together and Mr. Wilkinson indicated they were A.B. 416, A.B. 508 and A.B. 510.

ASSEMBLY BILL 416 (1st Reprint): Makes various changes to provisions concerning the Department of Corrections. (BDR 16-190)

ASSEMBLY BILL 510 (1st Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

One of the questions was what types of assessment would be done on people with good time credits? The answer is if it is the maximum sentence, there would be no assessment because the inmate's sentence is shortened; but if it comes off the minimum sentence, it affects the inmate's parole eligibility date so they would be able to apply to the State Board of Parole Commissioners for parole.

Another question was to what felonies, if any, will good time credits be applied? The answer is all of them, which is current law and has not been changed by A.B. 510.

Those are all the answers to the questions asked. I will update the Committee when I receive further answers from the Fiscal Division of the Legislative Counsel Bureau.

CHAIR AMODEI:

Is A.B. 510 the only other bill that is in play from a policy perspective?

MS. EISSMANN:

Assembly Bill 510 and A.B. 416 are both in the Assembly Committee on Ways and Means.

CHAIR AMODEI:

Do we need to schedule a hearing on them? Receiving an affirmative answer, please notice a meeting for 9 a.m. tomorrow on A.B. 510 and A.B. 416.

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ASSEMBLYMAN PARKS:

I am testifying as Chair of the Assembly Select Committee on Corrections, Parole and Probation. Assembly Bill 508 reestablishes the Advisory Commission on Sentencing (ACOS) and makes a number of revisions, particularly regarding the membership. The bill also expands the duties of the ACOS to include evaluating effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners, evaluating effectiveness of specialty court programs and evaluating policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation. We also appropriated \$50,000 from the General Fund to the ACOS to enter into a contract with consulting services if necessary.

CHAIR AMODEI:

Page 4, lines 31 through 34 of A.B. 508 contain language directed at the specialty court aspect. Is the purpose of that language to get a little more information in dealing with controlled substances?

ASSEMBLYMAN PARKS:

Yes, that would be part of it.

CHAIR AMODEI:

As I read A.B. 508, it is all prospective in the way it is presently structured, which means we want to make changes to the ACOS, get members to begin meeting, move forward, look at specific areas and return with recommendations. Is that generally your impression as well?

ASSEMBLYMAN PARKS:

Yes, it is.

THE HONORABLE JAMES W. HARDESTY (Associate Justice, Nevada Supreme Court):
When I last testified before this Committee, I mentioned the urgency of having the ACOS retooled, redirected, its membership altered and a date scheduled. This Commission has been in statute for a long time but has not met in six years. I urged the ACOS to examine the entire criminal justice system from top to bottom and make extensive recommendations to this body in 2009. I also urged deadlines be put in the bill for appointment of people and mandating the requirement of meetings so they do not ignore that responsibility.

I wanted the ACOS to make recommendations to the Legislature by fall, which precipitated my suggestion for a special session to deal with the criminal justice system by fall of 2007. The women's prison will be at capacity by August 1 and the remainder of the prison system will be at capacity by November. Many of the recommendations I would anticipate from the ACOS would provide guidance on how to deal with both the front and back end of the criminal justice system as well as the prison overcrowding problem.

Nevertheless, A.B. 508 sets in place a requirement that recommendations be provided by September 2008 in advance of the budgeting process so budgets can be prepared with those recommendations in mind for the 2009 Legislative Session. Assembly Bill 508 contains a comprehensive list of representatives. We added individuals who should be part of the ACOS but were not on it before. All stakeholders who should be involved in the process were added—everyone from victim advocates to inmate advocates. A good comprehensive Commission will need a Chair who will direct the future of what will be accomplished. A great deal can come from this ACOS to help guide the Legislature in 2009.

SENATOR MCGINNESS:

Page 5, line 26, section 3, subsection 4 of A.B. 508 makes it appear to be a full-time commission and a huge undertaking.

JUSTICE HARDESTY:

Unquestionably, there have been questions raised about the State Board of Parole Commissioners and the Department of Corrections during the course of the prison overcrowding debate and discussion during this Legislative Session. I do not know whether those issues have priority over some other issues. Frankly, I do not view this question as something on which you will receive extensive recommendations, but you may. The point of A.B. 508 was to put in a potpourri of issues on which the ACOS will establish priorities and reasonable efforts will have to be made within time constraints to deal with these subjects. This statute is intended to survive 2009 as an ongoing process.

SENATOR HORSFORD:

I want to thank Justice Hardesty for his leadership on these issues and spending time to craft a plan to move forward. Without his involvement, we would not have moved as far as we have this Legislative Session.

In earlier testimony, Justice Hardesty requested planning or a report by fall of 2007. Does the language of the bill set time lines or dates for the ACOS to complete its work in advance of the 2009 Legislative Session? If there was a crisis prior to the 2009 Legislative Session, would anything prevent the ACOS from having information, data and/or analysis available to the Legislators in the event a special session is called?

JUSTICE HARDESTY:

Assembly Bill 508 does not set a deadline, but there is nothing to prohibit the ACOS from making recommendations the day it meets. I do not know if I will be on the ACOS, which is subject to the decision of the Chief Justice of the Nevada Supreme Court. I hope the momentum beginning this Legislative Session will be such that the members of the ACOS will carry on from the moment they are appointed. If I am on the ACOS, I hope over the interim it will set a specific agenda and attack issues. As soon as the issues are attacked, reports would be submitted then and there. Most assuredly, there is a crisis that must be examined the first time the ACOS meets.

SENATOR HORSFORD:

Page 4, section 3, subsection 2 of A.B. 508 talks about manufacturing and distribution of controlled substances as an area on which to evaluate effectiveness and/or fiscal impact. Was there discussion in general drug treatment program services that a large number of people in corrections are addicted to drugs or have substance abuse problems? The reentry piece is where I am going with this. Should there be some mention of reviewing the effectiveness of substance abuse treatment to ensure addicts do not return to the prison system?

JUSTICE HARDESTY:

That issue is covered. The list of subjects in the bill should not be viewed as exclusive; they are suggested topics. The ACOS knows exactly what needs to be done and it will be broader than the listed topics. Unfortunately, a detailed outline has not been provided; however, there have been informal discussions with some of you regarding outlines of provisions, which include drug treatment and use within the prison.

If A.B. 510 is considered favorably by the Assembly Committee on Ways and Means and this Committee, it will effectuate a release mechanism and a staged, planned, careful and responsible review of drug treatment inside and going

forward outside the prison setting. Those issues are discussed and contemplated both with the ACOS's study and the bill coming to you if approved by the Assembly Committee on Ways and Means.

CHAIR AMODEI:

You used the word crisis when referring to men's and women's prisons. Should we consider setting deadlines for work done by the ACOS based upon prison population? Does your definition of crisis precipitate federal court action? What is the potential crisis based on prison population?

JUSTICE HARDESTY:

The Director of the Department of Corrections could expand on this point. Many subjects are included when I refer to a crisis. There is a risk of federal court taking control and supervision of the prison system. I consider within the category of crisis a prison population so confined and restrained it causes inhumane treatment of inmates, risk to Department of Corrections' officers and inmates as well as riots. The consequences of overcrowded conditions places people who should not be mixed together in confinement settings; unfortunately, due to inappropriate housing, they must be together.

People talk about crisis in the context of federal judges taking over control of the system and the Attorney General's Office involved in litigation. I am more concerned about the human crisis and risk of injury to occupants of the prison system. Empanelment of the ACOS will not be completed for approximately 60 to 120 days after the end of this Legislative Session and it is not even required to meet.

I am not critical. Assemblyman Parks has done a tremendous job and his time and dedication have been incredible. The point I am trying to make is, "You have to get on with it."

CHAIR AMODEI:

Do you want us to strengthen the time line?

JUSTICE HARDESTY:

A couple of days ago, the Committee made comments about being policy makers. Make policy!

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CHAIR AMODEI:

What is your recommendation for that policy?

JUSTICE HARDESTY:

I do not understand the mechanism of appointing Legislators to a commission.

CHAIR AMODEI:

We do not, either—but that said, when do you want them appointed?

JUSTICE HARDESTY:

The ACOS should be formed within the next 30 days and there is no reason the members cannot meet 30 days after that. I have a full caseload and am one of the busiest Nevada Supreme Court justices sitting on one of the busiest supreme courts in the United States. We are prepared to make our time available to make this happen. This is an important issue which has priority. Why wait 120 days?

CHAIR AMODEI:

Does the Committee object to an amendment that would appoint Legislators to the ACOS within 30 days and the first meeting held within 30 days after the appointments?

SENATOR HORSFORD:

I am currently the appointed legislative representative for the minority side of the Senate. I am willing to continue to serve in that capacity and ready to meet anytime the ACOS is called.

CHAIR AMODEI:

Mr. Wilkinson, please e-mail Committee members as to the process and copy Assemblyman Parks, Justice Hardesty and Director Howard Skolnik on legislative procedure for filling the other appointments.

JUSTICE HARDESTY:

In fairness to Assemblyman Parks, he is in the same quandary. How are Legislators assigned? What is the time process? I suggest the time process on this issue should be ignored. I heard other rules are ignored on occasion and perhaps you could fudge on this one.

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CHAIR AMODEI:

We will not fudge—we will put it in the statute and the Assembly will concur. Is that correct, Assemblyman Parks?

ASSEMBLYMAN PARKS:

Yes, most definitely.

CHAIR AMODEI:

Do you want deadlines for action on specific items?

JUSTICE HARDESTY:

That is not advisable. There will be talented people on the ACOS who know the issues and will face up to them quickly.

CHAIR AMODEI:

As presently structured, do you think A.B. 508 has the ability to handle a crisis that requires a special session? Is there flexibility in the bill for the ACOS to go into overdrive in preparation for that? Is there anything that prohibits them from meeting? The budget issue would not be in the purview of the Legislature.

JUSTICE HARDESTY:

There is nothing in A.B. 508 that would prohibit the ACOS from pointing out a serious issue and bringing it to the attention of the Governor, the public, the Legislature, the Legislative Counsel Bureau and the Interim Finance Committee.

CHAIR AMODEI:

Who are the individuals assigned to the ACOS so far?

SENATOR HORSFORD:

Assigned members of the ACOS are Senator Washington, Assemblywoman Francis Allen, Assemblywoman Susan Gerhardt and I.

HOWARD SKOLNIK (Director, Carson City, Department of Corrections):

We support A.B. 508. Prison crowding is beyond anybody's imagination or projection. We moved women into the Casa Grande Transitional Housing Facility to provide some relief. Currently, 23 women are there; we can go as high as 50 if we get qualified women who meet the criteria, which will buy some time. The crisis will not be quite as serious by January 2008, which is the date

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pre-engineered buildings will start to come online and provide 480 beds. This will not solve the problem but will provide safety for the staff.

CHAIR AMODEI:

Page 5, line 34, section 3, subsection 4, paragraph (c) of A.B. 508 says "Policies for the operation of the Department of Corrections." That is global.

MR. SKOLNIK:

It is global and also constitutionally given to the Board of State Prison Commissioners; therefore, I am not sure how it would work out. I am not an attorney.

CHAIR AMODEI:

My assumption is they are policies relating to sentencing in which you are involved.

MR. SKOLNIK:

Sentencing does not fall under the purview of the Department of Corrections in any capacity, nor does release or parole. We simply take what we get and do the best we can.

CHAIR AMODEI:

Do you recall how that particular piece got in A.B. 508? Was it in drafting?

ASSEMBLYMAN PARKS:

I have no specific memory as to where and how that line got into A.B. 508. I agree it has a rather global perspective. We wanted to give the ACOS as much flexibility as possible. In our marching orders to the bill drafters, they took it quite literally.

CHAIR AMODEI:

Section 3, subsection 4, paragraph (e) of A.B. 508 says "Other related matters," which ties in with Justice Hardesty's comments. Anything that is appropriate in a sentencing context is probably under that. From time to time, the Department of Corrections reaches the top of the list for front-page news, which is all fair game. I wonder whether it is fair game in the context of the ACOS.

MR. SKOLNIK:

There have been a number of bills submitted and processed during the course of this Legislative Session dealing with whether the Department of Corrections operates effectively. Personally, I find some of them offensive. The Department of Corrections operates effectively, particularly given resources provided by the Legislature. I am comfortable that we can stand the scrutiny of anyone who wants to take a look at how we work with what we have. My guess would be after their visit, we would be provided another 300 to 400 staff.

SENATOR WIENER:

Due to the global approach, the ACOS is an advisory commission that is putting all the pieces together and perhaps making recommendations specific to the Department of Corrections, Division of Parole and Probation, and so forth. This is the one player in this theatre with the entire picture in front of them to advise those who make decisions to carry out policy as well as the Legislature. In terms of the nature of the components listed, I am comfortable with it. The bigger picture, the greater counsel we will have in putting the pieces together.

CHAIR AMODEI:

I do not disagree. Clearly, the Department of Corrections has a part to play; the statement policies for the operation deals with a lot of things that are not related to sentencing. I will leave it in. If there is a problem with the operations of the Department of Corrections, generally this is not where it is taken. It goes to someplace more appropriate. This is about cradle-to-grave sentencing and the part the Department of Corrections plays.

MR. SKOLNIK:

I recommend counsel take a look at that particular sentence because the policy for the Department of Corrections is not established by the Department but by the Board of Prison Commissioners, which is a constitutionally established body to do that. I am not certain what conflicts might arise from this language. Be that as it may, because it is advisory, we have no problem with it.

CHAIR AMODEI:

I understand that. Following Senator Wiener's comments, perhaps it could be focused a little more so the Department of Corrections is clearly a player and within the purview of the ACOS's mission, which is broad-ranging, and policies that impact sentencing considerations for operation of the Department of Corrections.

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JUSTICE HARDESTY:

We picked up the statute because it was on the books and called the Advisory Sentencing Commission. Senator Wiener is correct—this Commission was intended to have a much broader base. It is really the advisory commission on the criminal justice system. If we retool the commission, we should rename it because that is its intent.

CHAIR AMODEI:

I have no objection to the Committee considering renaming the commission.

JUSTICE HARDESTY:

I urge you to consider it.

CHAIR AMODEI:

Section 1 of A.B. 508 is the standard panoply of subpoena power. What was the discussion?

JUSTICE HARDESTY:

I requested it. Occasionally people are not responsive to advisory commissions. I felt having subpoena power would strengthen the ability of the ACOS to obtain accurate and correct information. Its use might never occur, but you never know.

CHAIR AMODEI:

Mr. Wilkinson, is the cite to *Nevada Revised Statute* 176 the standard subpoena statute? If the ACOS decides at their first meeting they want to issue a subpoena, is this a cite to the section that says majority, or can the Chair do it? I ask the question in the context of timing.

JUSTICE HARDESTY:

It requires a majority of the ACOS.

CHAIR AMODEI:

There would have to be an ACOS meeting to issue a subpoena.

MR. SKOLNIK:

The Department of Corrections is comfortable with it because of the makeup of the ACOS. We feel sensible and appropriate decisions will be made.

CHAIR AMODEI:

We are looking for a proposed amendment regarding renaming the commission, the time frame for appointment and a deadline for the first meeting.

MR. WILKINSON:

Senator Horsford mentioned that the legislative members, as the ACOS currently exists in statute, are already appointed. At the present time, section 5 of A.B. 508 provides that a meeting must be held no later than October 1. There is also a provision that says new members and non-legislative members must be appointed within 60 days after the appointment of Legislators. Of course, the Legislators are already currently appointed; therefore, I am not sure how that is supposed to occur. I am not sure what the current makeup of the ACOS is with respect to non-legislative members.

CHAIR AMODEI:

Please find out how that occurs. I suggest non-legislative members be appointed 30 days after passage and approval of A.B. 508; then change the first meeting date to July 15, which keeps it on a 30-30 schedule or faster. I assume members currently appointed will keep their appointments. New members need to be appointed within 30 days of passage and approval of A.B. 508. Am I in the right neighborhood on that?

MR. WILKINSON:

Yes.

CHAIR AMODEI:

We need to know the appointing authority for selecting new members.

MR. WILKINSON:

That is set forth in A.B. 508. The effective date is July 1; therefore, we will have to play with the dates for the first meeting.

CHAIR AMODEI:

The time frame will have to be changed for the ACOS to meet in the summer and not the fall. Do you want to do a conceptual amendment or would you prefer to vote on the Senate Floor after you see the amendment?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 508.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE
ABSENT FOR THE VOTE.)

* * * * *

CHAIR AMODEI:

When the amendment is ready, it will be distributed to the Committee. If there are any red flags, we will attempt to fix them on the Senate Floor.

Please update us on the retroactive good time credit issue in the context of what is being discussed in the money committees on release, timing of release, logistics of release and coordination of release.

JUSTICE HARDESTY:

First, for sentencings that occur on or after July 1, good time credits would be increased on minimums and maximums for individuals in all categories with an emphasis on increased good time credits for those who seek rehabilitation, additional educational opportunities and the like. With respect to retroactivity of good time credits, the basic concept is those good time credits would be granted retroactive to July 1, 2000, but only on the minimums, not on the maximums.

There is an important reason for that. It allows an inmate who has performed well in prison the opportunity to seek parole sooner. That individual would then be screened by the State Board of Parole Commissioners. The Nevada Mental Health Institute will also screen individuals with mental health issues. Drug and specialty courts will weigh in on it as well.

When the State Board of Parole Commissioners hears the case, a plan can be put in place with respect to release of the inmate. There will be no chaotic release of a large group of inmates; in fact, there will be no release of inmates except through the process of review by the State Board of Pardons Commissioners. It would require a careful, staged review and not all inmates would qualify.

Applying good time credits retroactive to July 1, 2001, on minimums only, inmates who have performed well in the prison system will be allowed to seek parole earlier. The system will have the ability to react to those increased requests. Staging release and providing subsequent supervision by probation officers, increasing the number of probation officers and providing supervision for individuals with Specialty or Mental Health Court will all be part of the process.

CHAIR AMODEI:

Are there enough resources allocated to staging applications and increasing the Division of Parole and Probation, or can it be done with existing resources?

MR. SKOLNIK:

Department of Corrections budget closings included 50 percent of the inmate-driven costs anticipated to be reduced and placed in the Interim Finance Committee for distribution as appropriate based on what happens to the prison population. If inmates get out and the numbers come down, the money would become available for the Division of Parole and Probation, programs and even diversionary programs. If not, we could go after the money to put it back into the budget if the prison population stays the same. Therefore, a provision is there assuming what is proposed actually works.

SENATOR HORSFORD:

Was there any discussion regarding the capacity of the State Board of Parole Commissioners? Was there discussion about expanding the State Board of Parole Commissioners or creating a new board to handle this process? There have been questions about the existing State Board of Parole Commissioners process, and we are adding more to what is already a challenged Commission.

MR. SKOLNIK:

It was put on the record as a concern by the State Board of Parole Commissioners. There was no clear-cut decision at this point as to how it would best be handled. Although the assumption is we could conceivably have as many as 1,200 inmates who would qualify for parole earlier under the good time credit retroactivity, it does not mean they will all be reviewed at once. Much will depend on existing legislation regarding the Nevada Open Meeting Law and other things that will impact the State Board of Parole Commissioners. I am unsure how it will play out when everything is said and done. There is a lot of

pressure on the State Board of Parole Commissioners and more coming. At this point, I am not aware of any packaged solution to that pressure.

ASSEMBLYMAN PARKS:

When the State Board of Parole Commissioners' budget was closed, funding was put in for additional individuals to be temporary parole commissioners, which is already provided in statute; therefore, funding was increased to a certain extent. If it is decided they must comply with the Open Meeting Law, it will present additional costs. It would be handled by the Interim Finance Committee by calling an early meeting immediately upon finding out that is the case.

CHAIR AMODEI:

From a resource perspective, there is recognition this may create a bulge in the snake up front; therefore, we retained flexibility through the Interim Finance Committee to meet it as it materializes.

JUSTICE HARDESTY:

Senator Horsford's comment is well-taken on that point. I would not want anyone to have the illusion there will not be a terrible bottleneck at the State Board of Parole Commissioners. Hopefully, they can deal with these temporary measures. The State Board of Parole Commissioners' response to the review of almost 450 files on the deportation of undocumented immigrants was incredible; however, that pace cannot be maintained over the course of the next year. I hope things will return somewhat to normal after the first year. There will have to be a request for assistance from the Interim Finance Committee right out of the chute.

The Department of Corrections estimates 1,200 inmates would qualify for these requests. There are no legal obligations as to when the requests must be heard. Clearly, depending upon decisions by our court, the State Board of Parole Commissioners could face serious staffing concerns. This returns to the issue that the pressure on the system is now, not a year from now. I hope the Legislature sets aside enough money with the Interim Finance Committee, not just with the savings worked out through the Department of Corrections budget but more to anticipate these kinds of issues.

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CHAIR AMODEI:

Testimony today indicates additional funding has been provided in budget closings to the Division of Parole and Probation and a mechanism is anticipated to be created. Should anything else in that context be done before the Legislature adjourns?

MR. SKOLNIK:

The only issue that has not been discussed is the impact on the Department of Corrections should there be open meeting requirements for the State Board of Parole Commissioners. We will be physically challenged to provide the separation of victims from family members of the offenders as well as from the additional people who show up for hearings. There will be scheduling issues because it is an open meeting, which means inmates must be noticed. There will be challenges that currently do not have to be addressed and have not been included in the discussions.

CHAIR AMODEI:

Where are the open meeting provisions?

MR. SKOLNIK:

Open meeting provisions are in A.B. 416.

ASSEMBLY BILL 416 (1st Reprint): Makes various changes to provisions concerning the Department of Corrections. (BDR 16-190)

CHAIR AMODEI:

Open meetings are traditionally with the Senate Committee on Government Affairs; is A.B. 416 a Senate Committee on Judiciary bill?

MR. SKOLNIK:

Assembly Bill 416 came through the Assembly Committee on Ways and Means and is still there.

CHAIR AMODEI:

Did it go to the Assembly Committee on Judiciary before it went to the Assembly Committee on Ways and Means? Mr. Wilkinson indicates it did; therefore, we will talk about it tomorrow when we pre-hear A.B. 416.

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 25, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:14 a.m. on Friday, May 25, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Dennis Nolan (Excused)
Senator Terry Care (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Harvey J. Munford, Assembly District No. 6
Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Gale Maynard, Committee Secretary

OTHERS PRESENT:

Don Helling, Warden, Northern Nevada Correctional Center, Carson City,
Department of Corrections
Florence Jones
Mark Woods, Division of Parole and Probation, Department of Public Safety

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Joseph A. Turco, American Civil Liberties Union of Nevada
Tonja Brown
Rich Lamb
Donald Hinton, The Spartacus Project of Nevada
Pat Hines
Larry D. Struve, Religious Alliance In Nevada

CHAIR AMODEI:

I call this meeting to order, and we will open with Assembly Bill (A.B.) 416.

ASSEMBLY BILL 416 (1st Reprint): Makes various changes to provisions concerning the Department of Corrections. (BDR 16-190)

I had contact with The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court about A.B. 63 where we put the discretion language in for sentencing. Justice Hardesty indicated concern based on an application by the United States Supreme Court case which was *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Mr. Wilkinson, please get copies of that case for our Committee members.

The rule of that case will require all discretion factors be submitted to the jury for factual findings. The concern was significant additional findings and presentations to the jury.

I recommend we leave the promulgation of those factors at an administrative level to the Advisory Commission on Sentencing in our attempt to make the process communicative and produce findings. It creates a consequence of increasing matters that must be put to the jury for a factual finding.

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):

A handout provided to the Committee on A.B. 416 goes through the bill by section (Exhibit C). This bill will become effective on July 1, and a provision creating a Policy Advisory Commission on Corrections expires by limitation on June 30, 2011.

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DON HELLING (Warden, Northern Nevada Correctional Center, Carson City, Department of Corrections):

I am here to state the Department's position that we are against A.B. 416. Areas pointed out in this bill are addressed in other areas in A.B. 508, section 2, subsection 4.

ASSEMBLY BILL 508 (3rd Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

CHAIR AMODEI:

Are you opposed to the Advisory Commission on Sentencing?

MR. HELLING:

Yes.

CHAIR AMODEI:

There are other sections in the bill.

MR. HELLING:

It is the sections in the bill that apply to the Department of Corrections.

CHAIR AMODEI:

Those are the ones you are opposed to, is this correct?

MR. HELLING:

Yes, that is correct.

CHAIR AMODEI:

Are your reasons for opposition because you have language in A.B. 508 and that prison policy already exists?

MR. HELLING:

The Board of State Prison Commissioners is in the *Constitution of the State of Nevada*, and that board will be responsible for oversight.

CHAIR AMODEI:

Mr. Wilkinson, can you look at both bills and see if there are differences in the provisions and what are the overlaps?

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MR. HELLING:

There are many unclassified employees in Nevada and to have peer reviews only in the Department of Corrections seems unfair.

SENATOR MCGINNESS:

I am looking at a fiscal note (Exhibit D) on page 4 of \$7.9 million, is this correct? Does the amendment to the bill change the fiscal note?

MR. HELLING:

I am not aware of any fiscal note for the Department of Corrections. There would have to be additional staff and support services for the review committee to be established.

SENATOR MCGINNESS:

Do you know how many unclassified staff members are in the Department of Corrections?

MR. HELLING:

The number is 47, including myself.

SENATOR WIENER:

This may be a question for our legal staff. In sections 26 through 34 of A.B. 416, the enhancements are reduced but for which crimes would enhancements remain?

BRAD WILKINSON (Chief Deputy Legislative Counsel):

I did not compare the ones listed in the bill with the ones that remain.

SENATOR WIENER:

I am curious as to which enhancements would remain.

CHAIR AMODEI:

The enhancements you are referring to are the ones that change the—

SENATOR WIENER:

It is the enhancement penalty that changes certain crimes from a minimum of one year to a maximum of ten years. There is a bill I introduced about using a juvenile in the commission of a crime under vulnerable persons and enhancement was used.

FLOOR ACTIONS

AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

NOTE: THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS*
([HTTP://WWW.LEG.STATE.NV.US/SESSION/74TH2007/JOURNAL/](http://www.leg.state.nv.us/session/74th2007/journal/)), WHICH ARE NOT THE OFFICIAL
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NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE SEVENTY-FIFTH DAY

CARSON CITY (Friday), April 20, 2007

Assembly called to order at 11:10 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Jacob Benzaquen.

Our Lord, God and Rock of all Ages, who rules all universes, infinite and awesome beyond praise and description; source of all blessing, bless our great country and the great state of Nevada—for its government, legislature, leaders, and for all who exercise just and rightful authority.

Creator of all and who renews creation day after day, revive and renew our spirits and souls as they have been sorely tested these last few days. Grant peace to the families and friends who lost their loved ones in Virginia, who passed like grass which flourished for a day. Heal us, O Lord, and we shall be healed, God of healing. Be merciful to us, O God, for it is only with You where we can truly take refuge. We shall take shelter under your wings until calamities have passed. You are good to all and compassionate to all creatures. Teach us to use all of our days that we may attain a heart of wisdom.

Psalms 15: "O Lord, who shall dwell in your sanctuary? Who shall abide upon Your holy mountain? He who lives integrity, does what is right, and speaks the truth in his heart; who has no slander upon his tongue, who does no evil to his fellow man, and bitterness he not places on his neighbor. In his eyes, a vile person is abhorred, but he honors those who revere the Lord. He takes an oath, even to his own harm and does not change. He does not lend money at usurious interest; he does not take a bribe against the innocent. Whoever does these, shall stand firm forever. And let us say:

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Ocegueda moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

members employed at the premises at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the labor dispute, but if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this section, be deemed to be a separate factory, establishment or other premises.

3. *As used in this section* ~~is~~

~~(a) "Labor dispute" includes any type of "labor dispute" ~~except~~ does not include a lockout.~~

~~(b) "Lockout" means a labor dispute in which the employer withholds employment from an employee and wholly or partially closes the workplace.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 508.

Bill read second time.

The following amendment was proposed by the Select Committee on Corrections, Parole, and Probation:

Amendment No. 376.

"SUMMARY—Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)"

"AN ACT relating to the Advisory Commission on Sentencing; revising the membership and duties of the Commission; authorizing the Commission to issue subpoenas; requiring the Commission to hold meetings at least once every 3 months; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Advisory Commission on Sentencing or a member acting on behalf of the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.

Section 2 of this bill adds : (1) a sitting or retired justice of the Nevada Supreme Court ; (2) a representative of an organization that advocates on behalf of inmates; and (3) a representative of the Nevada Sheriffs' and Chiefs' Association to the ~~[Advisory]~~ Commission ~~[on Sentencing]~~ and removes the member appointed by the Nevada Association of Counties. Section 2 also removes the Attorney General as the Chairman of the Commission. Instead, members are required to elect a Chairman at the first meeting of each ~~[calendar]~~ odd-numbered year. The Commission is further required to meet at least quarterly.

Section ~~[2]~~ 3 of this bill revises the duties of the Advisory Commission on Sentencing by requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners and to consider whether it is feasible and advisable to establish an oversight or advisory board to perform various functions. Section 3 also requires the Commission to evaluate the effectiveness of specialty court programs in this State and to evaluate the policies and practices concerning presentence investigations and reports of the Division of Parole and Probation of the Department of Public Safety.

Section ~~[3]~~ 4 of this bill makes an appropriation to the Advisory Commission on Sentencing to enter into a contract with a consultant to assist the Commission in carrying out its duties.

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

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

1. To carry out its powers and duties pursuant to this section NRS 176.0121 to 176.0129, inclusive, and the Commission, or any member thereof acting on behalf of the Commission with a concurrence of a majority of the members of the Commission, may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents or other papers and testimony.

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or a member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

~~[Section 1.]~~ *Sec. 2.* NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on Sentencing is hereby created. The Commission consists of:

(a) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(b) *One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;*

(c) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

~~[(e)]~~ (d) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

~~[(d)]~~ (e) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

~~[(e)]~~ (f) One member who is a representative of a law enforcement agency, appointed by the Governor;

~~[(f)]~~ (g) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~[(g)]~~ (h) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

~~[(h)]~~ (i) One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;

(j) One member who is a ~~county commissioner,~~ representative of the Nevada Sheriffs' and Chiefs' Association, appointed by the governing body of the Nevada Sheriffs' and Chiefs' Association; [of Counties;]

~~[(i)]~~ ~~[(j)]~~ (k) The Director of the Department of Corrections;

~~[(j)]~~ ~~[(k)]~~ (l) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~[(k)]~~ ~~[(l)]~~ (m) Two members who are Assemblymen, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

➔ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. The Attorney General is an ex officio voting member of the Commission . ~~[and shall serve as the Chairman of the Commission.]~~

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment.

4. The Legislators who are members of the Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Commission.

5. The members appointed pursuant to paragraphs (a) to (j), inclusive, of subsection 1 must be appointed not later than 60 days after the appointment of the Legislators who are appointed pursuant to paragraphs (l) and (m) of subsection 1.

6. *At the first regular meeting of each ~~calendar~~ odd-numbered year, the members of the Commission shall elect a Chairman by majority vote who shall serve until the next Chairman is elected.*

~~{6.}~~ 7. *The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chairman.*

~~{7.}~~ 8. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

9. While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~{6.}~~ ~~{8.}~~ 10. To the extent of legislative appropriation, the Attorney General shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

~~{Sec. 2.}~~ Sec. 3. NRS 176.0125 is hereby amended to read as follows:
176.0125 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) ~~Actions~~ 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;

~~(e)~~ (d) Budgetary issues; and

~~(d)~~ (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. Compile and develop statistical information concerning sentencing in this State.

~~{5.}~~ ~~{6.}~~ 8. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes in the structure of sentencing in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Legislature not later than 10 days after the commencement of the session.

~~{Sec. 3.}~~ Sec. 4. 1. There is hereby appropriated from the State General Fund to the Advisory Commission on Sentencing the sum of \$50,000 so that the Commission may enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

~~{Sec. 4.}~~ Sec. 5. The Attorney General shall continue to serve as Chairman of the Advisory Commission on Sentencing until the members elect a Chairman at the first regular meeting of the Commission that is held ~~{in 2008.}~~ after July 1, 2007. The Commission shall meet not later than 120 days after July 1, 2007, and shall elect a Chairman at that meeting.

~~{Sec. 5.}~~ Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Parks moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 517.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 226.

“SUMMARY—Makes various changes to election laws. (BDR 24-542)”

“AN ACT relating to elections; eliminating various obsolete provisions; providing that a voter registration card does not provide proof of the identity, address or residence of a person; revising the definition of “candidate” for the

NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 21, 2007

Assembly called to order at 11:56 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

O Lord, keep strong our faith in the power of prayer as we unite our petitions in this sacred moment. We have asked for Your guidance in difficult decisions many times, yet it has not always come when we thought it should. Many of the situations and relationships which we have asked You to change have remained the same. Forgive us for thinking, therefore, that You are unwilling to help us in our dilemmas or that there is nothing You can do. Remind us, O God, that when we plug in an electric iron and it fails to work, we do not conclude that electricity has lots its power, nor do we plead with the iron. We look at once to the wiring to find what has broken or blocked the connection with the source of power.

May we do the same with ourselves, that You can work through us to do Your will. This we ask in the name of our Lord.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Ocegüera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which were referred Senate Bills Nos. 312, 313, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

~~provide a written report to the Legislative Committee on Health Care concerning the findings and recommendations resulting from those meetings.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.] (Deleted by amendment.)~~

Sec. 4. The Legislative Committee on Health Care shall, during the 2007-2009 interim, hold at least one hearing to identify the health-related issues, needs and priorities of children residing in this State. The Committee shall solicit input from all health authorities in this State and all county and local public health officials.

~~[Sec. 3.]~~ **Sec. 5. [This act becomes]**

1. This section and sections 1 and 4 of this act become effective on July 1, 2007.

2. Section 1 of this act expires by limitation on June 30, 2010.

3. Section 2 of this act becomes effective on July 1, 2010.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 508.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 891.

AN ACT relating to the Advisory Commission on Sentencing; revising the membership and duties of the Commission; authorizing the Commission to issue subpoenas; requiring the Commission to hold meetings at least once every 3 months; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Advisory Commission on Sentencing or a member acting on behalf of the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.

Section 2 of this bill adds: (1) a sitting or retired justice of the Nevada Supreme Court; (2) a representative of an organization that advocates on

behalf of inmates; ~~and~~ (3) a representative of the Nevada Sheriffs' and Chiefs' Association to the Commission ; **and (4) a member of the State Board of Parole Commissioners** and removes the member appointed by the Nevada Association of Counties. Section 2 also removes the Attorney General as the Chairman of the Commission. Instead, members are required to elect a Chairman at the first meeting of each odd-numbered year. The Commission is further required to meet at least quarterly.

Section 3 of this bill revises the duties of the Advisory Commission on Sentencing by requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners and to consider whether it is feasible and advisable to establish an oversight or advisory board to perform various functions. Section 3 also requires the Commission to evaluate the effectiveness of specialty court programs in this State and to evaluate the policies and practices concerning presentence investigations and reports of the Division of Parole and Probation of the Department of Public Safety.

Section 4 of this bill makes an appropriation to the Advisory Commission on Sentencing to enter into a contract with a consultant to assist the Commission in carrying out its duties.

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

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

1. *To carry out its powers and duties pursuant to this section NRS 176.0121 to 176.0129, inclusive, and the Commission, or any member thereof acting on behalf of the Commission with a concurrence of a majority of the members of the Commission, may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents or other papers and testimony.*

2. *If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.*

3. *Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.*

4. *If it appears to the court that the subpoena was regularly issued by the Commission or a member thereof pursuant to this section, the court shall*

enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 2. NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on Sentencing is hereby created. The Commission consists of:

(a) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(b) *One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;*

(c) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

~~[(e)]~~ (d) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

~~[(d)]~~ (e) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

~~[(e)]~~ (f) One member who is a representative of a law enforcement agency, appointed by the Governor;

~~[(f)]~~ (g) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~[(g)]~~ (h) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

~~[(h)]~~ (i) *One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;*

(j) One member who is a ~~county commissioner,~~ *representative of the Nevada Sheriffs' and Chiefs' Association,* appointed by ~~the governing body of~~ the Nevada Sheriffs' and Chiefs' Association ; ~~of Counties;~~

~~[(i)]~~ (k) One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;

(l) The Director of the Department of Corrections;

~~[(j)]~~ ~~[(l)]~~ (m) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~[(k)]~~ ~~[(m)]~~ (n) Two members who are Assemblymen, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

➡ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. The Attorney General is an ex officio voting member of the Commission . ~~[and shall serve as the Chairman of the Commission.]~~

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment.

4. The Legislators who are members of the Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Commission.

5. *The members appointed pursuant to paragraphs (a) to ~~[(j)]~~ (k), inclusive, of subsection 1 must be appointed not later than 60 days after the appointment of the Legislators who are appointed pursuant to paragraphs ~~[(j)]~~ (m) and ~~[(m)]~~ (n) of subsection 1.*

6. *At the first regular meeting of each odd-numbered year, the members of the Commission shall elect a Chairman by majority vote who shall serve until the next Chairman is elected.*

7. *The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chairman.*

8. *A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.*

9. While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~{6-}~~ 10. To the extent of legislative appropriation, the Attorney General shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:
176.0125 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. Compile and develop statistical information concerning sentencing in this State.

~~{5.}~~ 8. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes in the structure of sentencing in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Legislature not later than 10 days after the commencement of the session.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the Advisory Commission on Sentencing the sum of \$50,000 so that the Commission may enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 5. The Attorney General shall continue to serve as Chairman of the Advisory Commission on Sentencing until the members elect a Chairman at the first regular meeting of the Commission that is held after July 1, 2007. The Commission shall meet not later than 120 days after July 1, 2007, and shall elect a Chairman at that meeting.

Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Parks moved the adoption of the amendment.

Remarks by Assemblyman Parks.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 22, 2007

Assembly called to order at 11:02 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father, I pray for the members of this body today. May they see the larger picture of the work that they have to accomplish in the next two weeks. Help them to understand that it is better to fail in a cause that will ultimately succeed than to succeed in a cause that will ultimately fail. Guide them in their work and then teach them to listen.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguela moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bill No. 619; Senate Bills Nos. 3, 53, 111, 279, 310, 432 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN OCEGUERA, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Joint Resolution No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 18 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 4:53 p.m.

ASSEMBLY IN SESSION

At 4:58 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the action whereby Senate Bill No. 354 was to be placed on the Chief Clerk's desk upon return from the printer be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 508.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 508:

YEAS—42.

NAYS—None.

Assembly Bill No. 508 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 579.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Assembly Bill No. 579:

YEAS—42.

NAYS—None.

Assembly Bill No. 579 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 612.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 612:

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 25, 2007

Senate called to order at 11:54 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Kochsmeier.

Eternal God,

Gratefully we come to You this morning acknowledging Your faithfulness. You awakened us again, today, with Your call to life; to service; to be used to bring care and compassion to Your people. Thank You for this opportunity.

Lord, there is so much for these, Your servants, to do today, more than for which they have time. Grant them peace and discernment as they navigate through bills and legislation today. Give them endurance and patience and the reminder of Your Holy Spirit that Your peace is available for the asking. Keep them mindful of Your presence in every moment.

As we prepare for a weekend in which we remember the sacrifice of those who have given the last full measure of devotion to secure our freedom, give us the same spirit of selflessness as those who put themselves in harm's way for this State and Nation.

Lord, the State of Nevada and its Capital, Carson City, said goodbye to a hero this week in the person of Fire Chief Les Groth. We pray Your comforting touch upon his family and thank You for the many ways You made this a better place through his service.

We ask now that You would continue this kind of service through all that we seek to accomplish here, today. May it be Your will we seek and to Your glory that we work. Gratefully, we pray.

AMEN.

Pledge of Allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 250, 572; Assembly Bill No. 608, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 513, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Your Committee on Government Affairs, to which was rereferred Assembly Bill No. 462, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

2. The disposal by sale, lease or otherwise must be:

(a) ~~[Made]~~ Except as otherwise provided in subsection 3, made by public auction; and

(b) In accordance with the laws of this State, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal Government for aeronautical purposes incident thereto, the sale, lease or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality, and except as otherwise provided in subsections 3, 4 and 5 of NRS 496.090.

3. A board of county commissioners of a county whose population is 50,000 or more may rent or lease to a person, or renew the rental or lease to a person of, a space for the parking or storage of aircraft, including, without limitation, a hangar, on the grounds of a municipal airport that is owned or operated by the county without conducting a public auction and at a price at least equal to the fair market rental or lease value of the space based on an independent appraisal conducted within 6 months before the rental or lease.

~~[Sec. 10.]~~ Sec. 11. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Carlton and Titus.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 508.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 999.

"SUMMARY—Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)"

"AN ACT relating to the Advisory Commission on Sentencing; changing the name of the Commission; revising the membership and duties of the Commission; authorizing the Commission to issue subpoenas; requiring the Commission to hold meetings at least once every 3 months; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~¶ Section 1 of this bill authorizes the Advisory Commission on Sentencing or a member acting on behalf of the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.]~~

Section 2 of this bill changes the name of the Advisory Commission on Sentencing to the Advisory Commission on the Administration of Justice and adds: (1) a sitting or retired justice of the Nevada Supreme Court; (2) a representative of an organization that advocates on behalf of inmates; (3) a

representative of the Nevada Sheriffs' and Chiefs' Association to the Commission; and (4) a member of the State Board of Parole Commissioners and removes the member appointed by the Nevada Association of Counties. Section 2 also removes the Attorney General as the Chairman of the Commission. Instead, members are required to elect a Chairman at the first meeting of each odd-numbered year. The Commission is further required to meet at least quarterly.

Section 1 of this bill authorizes the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.

Section 3 of this bill revises the duties of the ~~[Advisory]~~ Commission ~~for Sentencing~~ by requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners and to consider whether it is feasible and advisable to establish an oversight or advisory board to perform various functions. Section 3 also requires the Commission to evaluate the effectiveness of specialty court programs in this State and to evaluate the policies and practices concerning presentence investigations and reports of the Division of Parole and Probation of the Department of Public Safety. Section 3 also requires the Commission to evaluate, review and comment upon issues relating to juvenile justice.

Section 4 of this bill makes an appropriation to the ~~[Advisory]~~ Commission ~~for Sentencing~~ to enter into a contract with a consultant to assist the Commission in carrying out its duties.

Section 5 of this bill provides that incumbent members of the Commission may serve out the remainder of their respective terms. Section 5 requires that new positions and vacancies in the Commission be filled in a designated manner. Section 5 also mandates that the Commission meet and elect a Chairman by July 31, 2007.

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

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

1. To carry out its powers and duties pursuant to this section NRS 176.0121 to 176.0129, inclusive, ~~and~~ the Commission, or any member thereof acting on behalf of the Commission with a concurrence of a majority of the members of the Commission, may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents or other papers and testimony.

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. *Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.*

4. *If it appears to the court that the subpoena was regularly issued by the Commission or a member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.*

Sec. 1.5. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, "Commission" means the Advisory Commission on ~~Sentencing~~ the Administration of Justice.

Sec. 2. NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on ~~Sentencing~~ the Administration of Justice is hereby created. The Commission consists of:

(a) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(b) *One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;*

(c) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

~~{{e}}~~ (d) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

~~{{d}}~~ (e) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

~~{{e}}~~ (f) One member who is a representative of a law enforcement agency, appointed by the Governor;

~~{{f}}~~ (g) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~{{g}}~~ (h) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

~~{{h}}~~ (i) *One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;*

(j) One member who is a ~~county commissioner~~ representative of the Nevada Sheriffs' and Chiefs' Association, appointed by ~~the governing body of~~ the Nevada Sheriffs' and Chiefs' Association; ~~of Counties;~~

~~{{i}}~~ (k) *One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;*

(l) The Director of the Department of Corrections;

~~[(j)]~~ (m) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~[(k)]~~ (n) Two members who are Assemblymen, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

➔ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. The Attorney General is an ex officio voting member of the Commission. ~~[and shall serve as the Chairman of the Commission.]~~

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment ~~[not later than 30 days after the vacancy occurs.]~~

4. The Legislators who are members of the Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Commission.

5. ~~[The members appointed pursuant to paragraphs (a) to (k), inclusive, of subsection 1 must be appointed not later than 60 days after the appointment of the Legislators who are appointed pursuant to paragraphs (m) and (n) of subsection 1.]~~

~~6.]~~ At the first regular meeting of each odd-numbered year, the members of the Commission shall elect a Chairman by majority vote who shall serve until the next Chairman is elected.

~~7.]~~ 6. The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chairman.

~~8.]~~ 7. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

~~9.]~~ 8. While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~6.]~~ ~~10.]~~ 9. To the extent of legislative appropriation, the Attorney General shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 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.

~~{5.} {8.}~~ 9. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes ~~in the structure of sentencing~~ 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 ~~{10 days after the commencement of the session.}~~ September 1 of each even-numbered year.

Sec. 3.5. NRS 179A.290 is hereby amended to read as follows:

179A.290 1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:

(a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:

(1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and

(2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.

3. The Director of the Department shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on ~~[Sentencing]~~ the Administration of Justice on or before January 31 of each even-numbered year.

4. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the Advisory Commission on ~~[Sentencing]~~ the Administration of Justice the sum of \$50,000 so that the Commission may enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 5. 1. The Attorney General shall continue to serve as Chairman of the Advisory Commission on ~~[Sentencing]~~ the Administration of Justice until the members elect a Chairman. ~~[at the first regular meeting of the Commission that is held after July 1, 2007.]~~ The Commission shall meet not later than ~~[120 days after]~~ July ~~[1,]~~ 31, 2007, and shall elect a Chairman at that meeting.

2. Notwithstanding the amendatory provisions of this act, a member of the Commission, other than the member who is a county commissioner, who is serving a term on July 1, 2007, is entitled to serve out the remainder of the term to which he was appointed.

3. Not later than July 15, 2007:

(a) The Chief Justice of the Supreme Court shall appoint the member described in paragraph (b) of subsection 1 of NRS 176.0123, as amended by this act;

(b) The Governor shall appoint the member described in paragraph (i) of subsection 1 of NRS 176.0123, as amended by this act;

(c) The Nevada Sheriffs' and Chiefs' Association shall appoint the member described in paragraph (j) of subsection 1 of NRS 176.0123, as amended by this act; and

(d) The State Board of Parole Commissioners shall appoint the member described in paragraph (k) of subsection 1 of NRS 176.0123, as amended by this act.

4. Any vacancy on the Commission that exists on July 1, 2007, must be filled not later than July 15, 2007, in the manner described in NRS 176.0123, as amended by this act.

Sec. 6. This act becomes effective on July 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei and Coffin.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 513.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 884.

"SUMMARY—Revises provisions relating to general improvement districts. (BDR 25-1380)"

"AN ACT relating to general improvement districts; ~~allowing the board of trustees of a general improvement district to be created or reorganized as either a five member or seven member board under certain circumstances;~~ requiring the creation of certain general improvement districts in certain counties within the sphere of influence of certain cities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law authorizes each board of county commissioners to create general improvement districts within the county and to appoint five persons to serve as the first board of trustees of each district. (NRS 318.080) Sections 1 and 2 of this bill authorize a board of county commissioners, in the alternative, to appoint seven persons to such a board of trustees, but provide additionally that no general improvement district which is created or reorganized on or after October 1, 2007, may have a board of trustees that consists of seven members unless the board of county commissioners of the county in which the district is located also consists of seven members. Sections 3-5 of this bill amend provisions regarding general improvement districts to account for boards of trustees with either five or seven members.~~

~~Existing law authorizes qualified electors of a general improvement district to petition the board of county commissioners for the creation of election areas within the district, each area to be represented by one member of the board of trustees of the district. Under existing law, election areas within a general improvement district may be altered or abolished in the same manner~~

Roll call on Assembly Bill No. 439:

YEAS—21.

NAYS—None.

Assembly Bill No. 439 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 460.

Bill read third time.

Roll call on Assembly Bill No. 460:

YEAS—21.

NAYS—None.

Assembly Bill No. 460 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 462.

Bill read third time.

Roll call on Assembly Bill No. 462:

YEAS—17.

NAYS—Care, Carlton, Titus, Wiener—4.

Assembly Bill No. 462 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 483.

Bill read third time.

Roll call on Assembly Bill No. 483:

YEAS—21.

NAYS—None.

Assembly Bill No. 483 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 508.

Bill read third time.

Roll call on Assembly Bill No. 508:

YEAS—21.

NAYS—None.

Assembly Bill No. 508 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 514.

Bill read third time.

The following amendment was proposed by Senator Beers:

Amendment No. 1003.

NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), June 2, 2007

Assembly called to order at 11 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Minister Bruce Henderson.

Lord, it's Saturday and even You took this day to rest. We would like to be with family and friends, picnicking, visiting, or playing. May we but put those things on hold until we finish the work that You and the people of Nevada have given us to do. We pray in the Name of the One who promises us rest, some day.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Ocegüera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 573, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ELLEN KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 55, 250, 251, 252, 462, 463, 467, 468, 555, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Remarks by Assemblywoman Kirkpatrick.
Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Atkinson, Munford and Settlemeyer as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 516.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 13, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 843 of the Senate be concurred in.

DEBBIE SMITH
DAVID BOBZIEN
T. GRADY

Assembly Conference Committee

JOSEPH HECK
MIKE MCGINNESS
MAGGIE CARLTON

Senate Conference Committee

Assemblywoman Smith moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 13.

Remarks by Assemblyman Smith.

Motion carried by a constitutional majority.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its actions on Senate Bill No. 354, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblyman Anderson, Kirkpatrick, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 354.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 508.

The following Senate amendment was read:

Amendment No. 999.

AN ACT relating to the Advisory Commission on Sentencing; **changing the name of the Commission**; revising the membership and duties of the Commission; authorizing the Commission to issue subpoenas; requiring the

Commission to hold meetings at least once every 3 months; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill authorizes the Advisory Commission on Sentencing or a member acting on behalf of the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.]~~

Section 2 of this bill **changes the name of the Advisory Commission on Sentencing to the Advisory Commission on the Administration of Justice** and adds: (1) a sitting or retired justice of the Nevada Supreme Court; (2) a representative of an organization that advocates on behalf of inmates; (3) a representative of the Nevada Sheriffs' and Chiefs' Association to the Commission; and (4) a member of the State Board of Parole Commissioners and removes the member appointed by the Nevada Association of Counties. Section 2 also removes the Attorney General as the Chairman of the Commission. Instead, members are required to elect a Chairman at the first meeting of each odd-numbered year. The Commission is further required to meet at least quarterly.

Section 1 of this bill authorizes the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.

Section 3 of this bill revises the duties of the ~~[Advisory]~~ Commission ~~for Sentencing]~~ by requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners and to consider whether it is feasible and advisable to establish an oversight or advisory board to perform various functions. Section 3 also requires the Commission to evaluate the effectiveness of specialty court programs in this State and to evaluate the policies and practices concerning presentence investigations and reports of the Division of Parole and Probation of the Department of Public Safety. **Section 3 also requires the Commission to evaluate, review and comment upon issues relating to juvenile justice.**

Section 4 of this bill makes an appropriation to the ~~[Advisory]~~ Commission ~~for Sentencing]~~ to enter into a contract with a consultant to assist the Commission in carrying out its duties.

Section 5 of this bill provides that incumbent members of the Commission may serve out the remainder of their respective terms. Section 5 requires that new positions and vacancies in the Commission be filled in a designated manner. Section 5 also mandates that the Commission meet and elect a Chairman by July 31, 2007.

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

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

1. *To carry out its powers and duties pursuant to this section NRS 176.0121 to 176.0129, inclusive, ~~and~~ the Commission, or any member thereof acting on behalf of the Commission with a concurrence of a majority of the members of the Commission, may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents or other papers and testimony.*

2. *If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.*

3. *Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.*

4. *If it appears to the court that the subpoena was regularly issued by the Commission or a member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.*

Sec. 1.5. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, “Commission” means the Advisory Commission on ~~Sentencing~~ the Administration of Justice.

Sec. 2. NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on ~~Sentencing~~ the Administration of Justice is hereby created. The Commission consists of:

(a) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(b) *One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;*

(c) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

~~{{e}}~~ (d) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

~~{{d}}~~ (e) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

~~{{e}}~~ (f) One member who is a representative of a law enforcement agency, appointed by the Governor;

~~{{f}}~~ (g) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~{{g}}~~ (h) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

~~{{h}}~~ (i) *One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;*

(j) One member who is a ~~{county commissioner,}~~ *representative of the Nevada Sheriffs' and Chiefs' Association*, appointed by ~~{the governing body of}~~ the Nevada Sheriffs' and Chiefs' Association ; ~~{of Counties;}~~

~~{{i}}~~ (k) *One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;*

(l) The Director of the Department of Corrections;

~~{{j}}~~ (m) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~{{k}}~~ (n) Two members who are Assemblymen, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

➤ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. The Attorney General is an ex officio voting member of the Commission . ~~{and shall serve as the Chairman of the Commission.}~~

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment ~~{,}~~ not later than 30 days after the vacancy occurs.

4. The Legislators who are members of the Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Commission.

~~5. The members appointed pursuant to paragraphs (a) to (k), inclusive, of subsection 1 must be appointed not later than 60 days after the appointment of the Legislators who are appointed pursuant to paragraphs (m) and (n) of subsection 1.~~

~~6.~~ At the first regular meeting of each odd-numbered year, the members of the Commission shall elect a Chairman by majority vote who shall serve until the next Chairman is elected.

~~7.~~ 6. The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chairman.

~~8.~~ 7. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

~~9.~~ 8. While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~6.~~ ~~10.~~ 9. To the extent of legislative appropriation, the Attorney General shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 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.

~~{5.}~~ ~~{8.}~~ 9. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes ~~in the structure of sentencing~~ 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 ~~10 days after the commencement of the session.~~ September 1 of each even-numbered year.

Sec. 3.5. NRS 179A.290 is hereby amended to read as follows:

179A.290 1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:

(a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:

(1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and

(2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.

3. The Director of the Department shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on ~~Sentencing~~ the Administration of Justice on or before January 31 of each even-numbered year.

4. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the Advisory Commission on ~~[[Sentencing]]~~ **the Administration of Justice** the sum of \$50,000 so that the Commission may enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 5. 1. The Attorney General shall continue to serve as Chairman of the Advisory Commission on ~~[[Sentencing]]~~ **the Administration of Justice** until the members elect a Chairman . ~~[[at the first regular meeting of the Commission that is held after July 1, 2007.]]~~ The Commission shall meet not later than ~~[[120 days after]]~~ July ~~[[1,]]~~ 31, 2007, and shall elect a Chairman at that meeting.

2. **Notwithstanding the amendatory provisions of this act, a member of the Commission, other than the member who is a county commissioner, who is serving a term on July 1, 2007, is entitled to serve out the remainder of the term to which he was appointed.**

3. **Not later than July 15, 2007:**

(a) The Chief Justice of the Supreme Court shall appoint the member described in paragraph (b) of subsection 1 of NRS 176.0123, as amended by this act;

(b) The Governor shall appoint the member described in paragraph (i) of subsection 1 of NRS 176.0123, as amended by this act;

(c) The Nevada Sheriffs' and Chiefs' Association shall appoint the member described in paragraph (j) of subsection 1 of NRS 176.0123, as amended by this act; and

(d) The State Board of Parole Commissioners shall appoint the member described in paragraph (k) of subsection 1 of NRS 176.0123, as amended by this act.

4. **Any vacancy on the Commission that exists on July 1, 2007, must be filled not later than July 15, 2007, in the manner described in NRS 176.0123, as amended by this act.**

Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Parks moved that the Assembly concur in the Senate amendment to Assembly Bill No. 508.

Remarks by Assemblyman Parks.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 19, consisting of the undersigned members, has met and reports that:
It has agreed to recommend that the Amendment No. 955 of the Assembly be concurred in.

WILLIAM HORNE
DAVID PARKS
GARN MABEY
Assembly Conference Committee

JOSEPH HECK
MAGGIE CARLTON
MICHAEL SCHNEIDER
Senate Conference Committee

Assemblyman Horne moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 19.
Remarks by Assemblyman Horne.
Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 244, consisting of the undersigned members, has met and reports that:
It has agreed to recommend that the Amendment No. 699 of the Assembly be concurred in.

SUSAN GERHARDT
PEGGY PIERCE
LYNN STEWART
Assembly Conference Committee

DENNIS NOLAN
VALERIE WIENER
MAURICE WASHINGTON
Senate Conference Committee

Assemblywoman Gerhardt moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 244.
Remarks by Assemblyman Gerhardt.
Motion carried by a constitutional majority.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was rereferred Assembly Bill No. 483, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 2, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 604, Senate Amendment No. 987.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 182, Senate Amendment No. 1056, and

BILLS AND AMENDMENTS

SEE LINKS ON BILL HISTORY PAGE
FOR COMPLETE TEXT