AB 510 - 2007

Introduced on: Mar 23, 2007

By Select Committee on Corrections, Parole, and Probation

Makes various changes pertaining to offenders. (BDR 16-1377)

DECLARED EXEMPT

Fiscal Notes

Effect on Local Government: *No.*
Effect on State: *No.*

Most Recent History Action: Chapter 525.
(See full list below) **Sections 1 to 19, inclusive, 20, 21 and 22 of this act effective July 1, 2007.**

Past Hearings

Assembly Select Committee on Corrections, Parole, and Probation	Apr-03-2007	No Action
Assembly Select Committee on Corrections, Parole, and Probation	Apr-12-2007	Amend, and do pass as amended
Assembly Ways and Means	May-22-2007	No Action
Senate Judiciary	May-22-2007	Mentioned Not Agendized
Senate Judiciary	May-24-2007	Mentioned No Jurisdiction
Assembly Ways and Means	May-24-2007	Amend, and do pass as amended
Senate Judiciary	May-25-2007	No Action
Senate Judiciary Subcommittee	May-28-2007	Mentioned No Jurisdiction
Senate Judiciary	May-28-2007	Mentioned No Jurisdiction
Senate Judiciary	May-30-2007	No Action
Senate Judiciary	May-31-2007	Amend, and do pass as amended
Senate Finance	Jun-02-2007	Mentioned No Jurisdiction

Votes

Assembly Final Passage	May-25	Yea 35,	Nay 4,	Excused 3,	Not Voting 0,	Absent 0
Senate Final Passage	Jun-01	Yea 16,	Nay 5,	Excused 0,	Not Voting 0,	Absent 0

Bill Text **As Introduced** **1st Reprint** **2nd Reprint** **3rd Reprint** **As Enrolled**

Amendments **Amend. No.546** **Amend. No.1020** **Amend. No.1087**

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 18, 2007 From committee: Amend, and do pass as amended.
Placed on Second Reading File.
Read second time.
Amended. (Amend. No. 546.)
Rereferred to Committee on Ways and Means.
Action of rereferral rescinded.
Placed on Chief Clerk's desk.
To printer.

Apr 19, 2007 From printer. To engrossment. Engrossed. First reprint.
To Chief Clerk's desk.
Notice of exemption.
Taken from Chief Clerk's desk.
Rereferred to Committee on Ways and Means. To committee.

May 25, 2007 From committee: Amend, and do pass as amended.
Declared an emergency measure under the Constitution.
Read third time. Amended. (Amend. No. 1020.)
Reprinting dispensed with.

	Placed on General File. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 35, Nays: 4, Excused: 3.) To printer.
May 26, 2007	From printer. To reengrossment. Reengrossed. Second reprint. To Senate.
May 29, 2007	In Senate. Read first time. Referred to Committee on Judiciary. To committee.
Jun 01, 2007	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 1087.) 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: 16, Nays: 5.) To Assembly.
Jun 02, 2007	In Assembly.
Jun 03, 2007	Senate Amendment No. 1087 concurred in. To enrollment.
Jun 04, 2007	Enrolled and delivered to Governor.
Jun 14, 2007	Approved by the Governor.
Jun 15, 2007	Chapter 525.

Sections 1 to 19, inclusive, 20, 21 and 22 of this act effective July 1, 2007.

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 510

Topic

Assembly Bill 510 relates to offenders.

Summary

Assembly Bill 510 increases the credits earned by certain offenders to reduce their sentences through good behavior, educational attainment, or successful completion of an alcohol or drug treatment program. The bill similarly increases the deduction from a parolee's sentence if he is current with restitution or any fee to defray the cost of his supervision. It also allows for the retroactive application of credits and makes probationers eligible for good behavior credits.

The measure prohibits assigning certain convicted sex offenders or offenders convicted of violent felonies to minimum security facilities, and revises various requirements for residential confinement. Additionally, an offender convicted of a violent felony within the preceding year is not eligible to participate in certain programs of community reentry. Parolees or probationers who violate conditions of their parole or probation may be placed in community or minimum security correctional facilities for no more than six months.

In considering parole, the State Board of Parole Commissioners must not consider whether an inmate has appealed his sentence and must provide its reasons for denying mandatory release in writing to the inmate. The Advisory Commission on the Administration of Justice is charged with examining how the Open Meeting Law is applied to parole hearings and methods used by the Department of Corrections to calculate and award credits earned by inmates.

Finally, the bill changes the enhancement penalty for various felony crimes to a minimum of one year and a maximum of 20 years imprisonment, and requires consideration by the court of specific findings. The additional term must not exceed the underlying sentence for the crime.

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 3, 2007

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:54 p.m., on Tuesday, April 3, 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 William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman John Carpenter (Excused)

STAFF MEMBERS PRESENT:

Craig Hoffecker, Committee Policy Analyst
Risa Lang, Committee Counsel
Deanna Duncan, Committee Manager
Gayle Miles, Committee Secretary
Olivia Lloyd, Committee Assistant

Minutes ID: 869

Regarding the statement made about parole being a right, that can be semantic or a legal argument, but inmates do have an expectation of parole if they follow the rules within the facility; if the Parole Board follows the rules regulating them; and if the NDOC supplies the necessary programs, training, and education to allow for the receipt of parole when it is their turn. Parole is not a right, but it is an inmate's right to be treated fairly if he is in accordance with objective, explicit criteria.

Patti Edgin, Private Citizen, Las Vegas, Nevada:
I am also in support of A.B. 509, and I strongly feel the Parole Board needs more supervision, more regulation, and more accountability for their actions. I believe NDOC currently has many programs that inmates complete successfully but the Board undermines. When an inmate comes to the Parole Board, the Board decides whether or not to release the inmate, even though he has served his time and should be allowed parole. The Board does not always follow its own standards. An inmate eligible for parole with a point score in line with that eligibility is denied parole with no explanation. This is not fair, and I am glad to see that this Committee is beginning to take a look at that.

Tonja Brown, Private Citizen, Carson City, Nevada:
I am in support of A.B. 509, but I have one addition. The bill should have language requiring the Parole Board to provide a reasonable, written recommendation as to the reasoning behind a parole denial. The Board should not be able to base its denial of parole on whether an inmate has an appeal either in process or pending, and along with that they should not be able to inquire into the nature of an inmate's appeal, particularly when deciding on whether or not to deny parole.

Chair Parks:
We will close the hearing on A.B. 509, and open the hearing on Assembly Bill 510.

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

Howard Skolnik, Director, Department of Corrections:
The Nevada Department of Corrections (NDOC) is neutral on A.B. 510 as well. It is conceivable that an inmate serving consecutive sentences could be eligible for release prior to completing his minimum sentences. The NDOC is looking at 75 to 100 days to convert the sentence calculations should this bill be passed. If the court orders restitution, specific language within the bill seems to state that the NDOC would not be able to collect that. Inmates would have their

credits for time served doubled; this would greatly impact all levels of our inmate population. But it is a policy issue for the Legislature to decide on the exact intent of the language.

The NDOC will be impacted in different ways between the passing of A.B. 509 and A.B. 510. Assembly Bill 509 will greatly impact our camp inmates and have less of an impact on the medium security inmates; whereas, A.B. 510 will greatly impact all levels of our inmate population. That again will be a policy issue to decide who will be impacted by the language.

Assemblywoman McClain:
Is the difference between the two bills the different types of prisoners within the NDOC?

Howard Skolnik:
Assembly Bill 509 applies to an inmate based on his sentence structure and crime committed and usually affects the less serious offender. Assembly Bill 510 awards double credits for good behavior, and thus would affect all of the offenders we house.

Assemblywoman McClain:
Assuming both bills pass, we could see a whole lot of inmates qualifying for release with no place to go and no rehabilitation to get them there.

Howard Skolnik:
More significantly, we would see a whole lot of inmates having to be released, irrespective of whether they have a place to go or resources to assist them.

Assemblywoman McClain:
Our first concern is public safety, and building more prisons costs a lot of money, but I do not see any concern for public safety in releasing a bunch of people who are going to end up back in prison. Mr. Parks, do these bills have to meet the deadline?

Chair Parks:
We could request an exemption, but we would have to provide a very good reason to support our request.

Howard Skolnik:
I think in terms of impact to victims, the most significant impact is the elimination of the requirement of self-support and restitution to victims, pursuant to NRS 209.429, which deals with driving under the influence (DUI)

issues. That NRS focuses mainly on victims, and this bill does not give victims that same focus.

Assemblywoman McClain:
Because A.B. 509 could possibly empty some camps, and A.B. 510 would make it easier for medium security inmates to be released, could there be some language added regarding a change in sentence in mid-stream, and possibly send those medium security inmates to the camps and not directly out into society?

Howard Skolnik:
Going back to court and being sentenced again is the only way to change an inmate's sentence. Unless this Committee has the power to go back and act retroactively, other than the awarding of time credits, this would apply to all the NDOC's population and not simply the specific population the community would be most comfortable with releasing.

Patti Edgin, Private Citizen, Las Vegas, Nevada:
I would like to comment on Section 7 of A.B. 510. Just because these inmates might have a probable parole date does not mean they will be paroled. Often inmates are denied parole and then told they will not be considered again by the Parole Board for years and years.

Chair Parks:
It does indeed look like we are going in the opposite direction of our intention. We will look into that. Thank you for bringing that to our attention.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:
In reference to Sections 5 and 6, I believe there needs to be mention of the mental or physical ability of an inmate to participate. In paragraph 3 and the second sentence in section A, regarding the serious infraction of a rule, this would be a great point of reference for the Prison Oversight Committee to review. Serious infractions of the prison rules need to be documented and need to be objective and not subjective. Sometimes an infraction is determined as an infraction by a staff member for revenge or malicious purposes. In terms of people being released and then creating havoc in the community, I know many who have been incarcerated for simply using a drug which has been deemed illegal by our society or the person has been deemed an alcoholic. Gambling and prostitution are allowed throughout Nevada, and there is drug use and other illegal activities that go on within the casinos that are allowed across the board. The aspect of police and prosecutorial profiling decides who will be incarcerated; it is not always fair or level for all of society. The best practices model is treatment, which is the way to avoid incarceration in the first place

and to prevent it from being repeated in the future. Dr. Austin pointed out that the crime rate is directly related to the perception that young people have of a "have and a have not" society which I find to be true. We can take care of people now with treatment, or we can take care of them down the road and spend ten times the money to incarcerate them.

Patricia Hines, Private Citizen, Yerington, Nevada:
I do, in part, support A.B. 510. There are a couple amendments I would like to suggest. There is a list of what qualifies for residential confinement, yet the list is presented in two sections of the bill, and each contains different items; but they should be the same. The credits are a great part, but those sections should be rectified along with a few other sections as well. When the credits are given for higher education, there are discrepancies in who gives them and the amounts for each degree. It will be a big job to restructure the good time credit system within the NDOC, but I feel, as do many others, that it needs to be done. There is a conflict in the language of time frames regarding a second offense of a convicted felon; that also needs to be reviewed.

Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety:
The Division of Parole and Probation (DPP) will remain neutral on both A.B. 509 and A.B. 510. As we previously testified before the Legislature regarding the release of Category D and E offenders to the DPP, our budget already includes the new staff needed to accept these people, but it was set for their coming out on a two-year biennium. That means, if our budget is approved, we could not hire that staff for 18 months. If these bills pass, there would be a huge surge coming out at once, and it would overwhelm our system. We do not currently have the staff to handle such a surge. If we do get staff, it takes at least a year to train the officers before they are ready for duty.

Assemblywoman McClain:
Did you provide a fiscal note on A. B. 510?

Mark Woods:
It should be here at the Legislature, but I have not seen it.

Assemblywoman McClain:
It should be exempt.

Mark Woods:
The passing of these bills would not affect our fiscal note overall because we are prepared to handle these individuals anyway. We just planned for them to

come to the DPP over a period of time. These bills will cause a huge surge at once.

Chair Parks:
The DPP did not submit a fiscal note with A.B. 510.

Assemblyman Horne:
Once the surge passes, things will even out, right?

Mark Woods:
Yes.

Assemblyman Horne:
There is no effective date in A.B. 510, so the date would be July 1, 2008, and that would give you time to prepare.

Chair Parks:
Since there is not an effective date specifically mentioned in A.B. 510, it would go into effect October 1, 2007. Mr. Woods, are you saying it would take an additional year to get new staff fully trained and up to speed?

Mark Woods:
We are assuming we can fill every position requested by July 1, 2007, versus waiting to hire them.

Assemblyman Horne:
After the budget passes, the DPP would have a year, until July 1, 2008, to prepare and accept this surge upon their release.

Assemblywoman Weber:
How many new staff members have you requested, and will that request cover the impact created by the passing of A.B. 509?

Mark Woods:
We have accounted for the majority of the officers needed, but we were going to hire some July 1, 2007, and then some more by October 1, 2007, and so on in phases. We are still asking for the same number, but we would like to hire them sooner in order to get them trained. I do not know the exact number requested.

Patricia Hines:
Can the DPP request emergency funds from the Interim Finance Committee (IFC) if needed?

Chair Parks:
Our hope is that before we leave on June 4, 2007, that we will have a comprehensive plan in place that addresses the various contingencies. You are right; the DPP could request additional funds from the IFC if determined necessary.

We will close the hearing on A.B. 510 which concludes the items listed on our agenda. We are adjourned [at 5:30 p.m.].

RESPECTFULLY SUBMITTED:

_____
Brooke Bishop
Transcribing Secretary

APPROVED BY:

_____
Assemblyman David R. Parks, Chair

DATE:_____

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 Hoffecker, Committee Policy Analyst
Matt Nichols, Committee Counsel
Deanna Duncan, Committee Manager
Brooke Bishop, Committee Secretary
Olivia Lloyd, Committee Assistant

Minutes ID: 872

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.

There are four amendments which have been proposed. The first amends the bill to allow the Department of Corrections to continue to collect restitution from inmates who have had court orders of restitution. The second change amends the bill regarding victim impact, eliminating the requirements of self-support and restitution to victims under *Nevada Revised Statutes* (NRS) 209.429. The third amendment amends Section 8, subsection 1(c) to allow eligibility for the program when an offender is within two years of probable release from prison. The fourth amendment changes the effective date to July 1, 2008.

Assemblyman Horne:
I do not have any objections to the four proposed amendments. The original language of the bill had one year for probable release from prison, and the amendment changes it back to two years. I believe that is consistent with what we have been trying to do. It is allowing for an opportunity to move someone onto parole and other means of supervision in the prison system. They have earned their spot, to be able to do that.

Assemblywoman Weber:
Is the amendment language correct? Two years instead of one year?

Chair Parks:
We think the one-year provision was an error. Previously it was two years, but someone thought they were improving an inmate's circumstance by reducing it to one year. That is not the reality, however—they were actually compounding the problem this measure is addressing, which is moving inmates onto parole. Are there any further questions?

Assemblyman Carpenter:
Does this mean that if they have a high school diploma, they will get 90 days good time? During a lot of the testimony we have heard, they said inmates have not been getting credit for getting a diploma. I cannot understand the reason for that. If that provision is back in the bill, I think it is good if it specifically provides for that.

> ASSEMBLYWOMAN MCCLAIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 510 WITH THE AMENDMENTS AS PRESENTED.
>
> ASSEMBLYWOMAN WEBER SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

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

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

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

Sponsored by: Select Committee on Corrections, Parole, and Probation
Date Heard: April 3, 2007
Fiscal Impact: Effect on Local Government: No
Effect on the State: No

Assembly Bill 510 increases the deduction from the sentence of an offender who engages in good behavior from 10 days to 20 days for each month served and increases educational credits for obtaining a GED to 60 days, obtaining a high school diploma to 90 days, and a first associate degree to 120 days. The bill requires the Director to adopt standards providing for an offender to not be eligible for residential confinement if the offender was ever convicted of a violent felony crime within the past three years, a felony sexual offense, or a Category A or B felony. It also eliminates certain requirements for an offender to qualify for residential confinement concerning costs of confinement, treatment completion, and the beliefs of the Director regarding the offender complying with conditions and completing treatment. Finally, A.B. 510 requires that an offender must be within one year of probable release from prison and not have been convicted of a violent felony crime within the past year to be eligible for a program of re-entry into the community.

Amendments: The following conceptual amendments were proposed.

1. **Restitution Collection** – Consideration of amending the bill to allow the Department of Corrections to continue to collect restitution from inmates if a court orders restitution be paid.
(Proposed by Howard Skolnick, Director, Department of Corrections.)

2. **Victim Impact** – Consideration of amending the bill concerning the victim impact of eliminating requirements for self-support and restitution to victim under NRS 209.429.
(Proposed by Howard Skolnick, Director, Department of Corrections.)

3. **Eligibility for Re-entry Program** – Amend Section 8, subsection 1(c) to allow eligibility for the program when an offender is within two years of probable release from prison.
(Proposed by Pattie Edgin.)

4. **Effective Date** – Amend the bill by adding an effective date of July 1, 2008.
(Proposed by Assemblyman William Horne.)

Assembly committee: Corrections, Parole, and Probation
Exhibit G **P.** 1 **of** 1 **Date** 4/12/07
Submitted by: Legislative Counsel Bureau

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

Seventy-Fourth Session
May 22, 2007

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:08 a.m., on Tuesday, May 22, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 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:

Senator Valerie Wiener, Clark, District No. 3
Assemblyman Pete Goicoechea, District No. 35
Assemblyman John C. Carpenter, District No. 33

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Carol Thomsen, Committee Secretary
Patricia Adams, Committee Assistant

pumping that was noninterruptible service, and producers served by Sierra Pacific Power Company could not pass the additional costs on to customers.

Mr. Routson indicated that interruptible service was not a subsidized service, and Winnemucca Farms had its service interrupted in the past during the critical pumping period in August. Sierra Pacific Power Company's higher rates reflected the management practice of the company and the unrealistically high business overhead of over 100 percent.

Mr. Routson indicated that the bill would not have a fiscal impact on the State, and because of that, U.S. Foods hoped that the Committee would pass the bill. The agricultural sector paid approximately the same energy rate as all other classes, but it was not the general rate. Agriculture had its infrastructure in place and was not growing, but it paid for line extensions and infrastructure for other entities.

Andy Aldax stated that he was a rancher from Minden, Nevada and used interruptible power for irrigation. For many years, the Sierra Pacific Power Company rates were very reasonable. However, over the past two years, the rates had more than doubled, which impacted Mr. Aldax's ranch financially. Mr. Aldax believed that A.B. 144 would assist the ranchers and farmers in Nevada, and he asked that the Committee support the bill.

Kyle Davis, Policy Director, Nevada Conservation League, pointed out that the bill dealt with interruptible rate service. One of the challenges facing Nevada was dealing with its peak power load, and interruptible service allowed the power companies to manage those peak times without worrying about generating capacity. Mr. Davis said that the Nevada Conservation League would support the bill to the degree that it increased the ability for more people to use interruptible service.

Chairman Arberry asked whether there was further testimony to come before the Committee regarding A.B. 144, and there being none, the Chairman declared the hearing closed.

The Chairman opened the hearing on A.B. 510 (R1).

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

Assemblyman David Parks, Chairman of the Select Committee on Corrections, Parole and Probation, explained that A.B. 510 (R1) increased the credits earned by offenders to reduce the length of the sentence that the offender must serve. The increases included:

- The credit for good behavior would increase from 10 days to 20 days.
- The credit for earning a General Education Development (GED) certificate would increase from 30 days to 60 days.
- The credit for earning a high school diploma would increase from 60 days to 90 days.
- The credit for the first associate degree would increase from 90 days to 120 days.
- The credits that could be earned by certain parolees for remaining current with fees to defray the cost of supervision and restitution payments increased from 10 to 20 days.

Mr. Parks stated that A.B. 510 (R1) required the Director of the Nevada Department of Corrections (NDOC) to adopt standards making offenders ineligible for residential confinement if the offender was convicted of a violent felony within the immediate preceding three years, a felony sexual offense, or a Category A or Category B felony. According to Mr. Parks, A.B. 510 (R1) also eliminated certain requirements that an offender must meet to qualify for residential confinement.

Mr. Parks indicated that the date for the application of credits to minimum sentences would be retroactive to July 1, 2000. The legislation would assist with the overcrowding conditions that currently existed within the NDOC's facilities.

Assemblywoman Buckley said she had heard various reports about A.B. 510 (R1), and she asked whether the bill would only allow good-time credits to be applied to the minimum, which would give offenders the opportunity to apply for parole earlier and allow the Nevada Board of Parole Commissioners (Parole Board) to ascertain whether the inmate was a candidate for parole release. Ms. Buckley said it appeared that there would be no "wholesale" release of inmates, and she asked whether that was correct.

Mr. Parks said that was correct. He indicated that the bill made no attempt to shortcircuit established requirements, and the action taken by the respective bodies would occur only after a full review of the offender and the offender's suitability for parole release.

Ms. Buckley said there had been discussion of allowing persons under supervision to enter transitional housing facilities for technical violations of parole or probation and that the transitional housing statutes would be modified so that an offender could be given a "dose" of prison while maintaining employment and living in transitional housing. That would provide additional options and would help ease the overcrowding at the prisons. Ms. Buckley asked Mr. Parks to explain how that provision would work.

Mr. Parks explained that NDOC currently had 400 beds available in its Casa Grande Transitional Center in Las Vegas, as well as the Restitution Center in Reno. The bill would allow those two facilities to be utilized by the Division of Parole and Probation when a person had technically violated the conditions of supervision, rather than revoking parole or probation. Mr. Parks indicated that violators could then retain their jobs while remaining under more intensive supervision for a limited period of time. It was believed that utilizing the transitional housing in that manner would assist with prison overcrowding and also assist the parolee or probationer in remaining in the community.

Assemblyman Marvel asked about the eventual savings within the NDOC anticipated by the bill. Mr. Parks replied that the savings was somewhat of a "moving target." It was difficult to determine the exact number of inmates that would be affected by the legislation, but several estimates indicated that the bill would impact approximately 1,200 inmates initially; he noted that the legislation would produce long-term affects, as well.

Mr. Parks stated that what was really important was that the bill would provide an opportunity for release for inmates who had earned the credits. Mr. Parks indicated that he had received many complaints from offenders who indicated they had lost credits over the years for such things as minor write-ups. The bill would be helpful to inmates in retaining their earned credits.

Mr. Marvel noted that there would also be future budget savings, and Mr. Parks believed that was correct. Mr. Parks indicated that LCB Fiscal Analysis Division staff and staff from the NDOC had run projections, but the range of numbers was broad, and it was difficult to produce precise numbers.

Assemblywoman Leslie noted that the Joint Subcommittee on Public Safety, Natural Resources, and Transportation had recently closed the budget for the NDOC, and the budget closures included funding based on passage of A.B. 510 (R1). The budget closing included 50 percent projected savings in inmate-driven costs and also reserved funding for allocation by the Interim Finance Committee (IFC). Mr. Parks stated that was correct, and the savings were anticipated at approximately $6 million.

Ms. Leslie commented that the Council of State Governments had previously presented testimony to the Committee that money should be reserved and reinvested in the treatment system within the NDOC and also in community treatment programs.

Ms. Leslie also noted that the Joint Subcommittee budget closings also added funding to the budget for the Division of Parole and Probation to address the need for additional officers.

Mr. Parks concurred that funding had been placed in the Contingency Fund under the control of the IFC, and the bill would allow the Division of Parole and Probation to approach IFC to request an increase in funding.

Ms. Leslie stated that it was her understanding that offenders would apply for parole, and each case would be reviewed by the Parole Board, who would then determine which inmates would be released under supervision. Once released, the offender would be under supervision and might actually access treatment in the community that would help the offender reintegrate, thereby reducing the recidivism rates. Ms. Leslie said the potential for long-term savings was tremendous. Mr. Parks concurred that the long-term savings would be substantial.

Assemblyman John Carpenter, District No. 33, indicated that he had read reports that the bill would allow the release of thousands of inmates without supervision, which was not the purpose of the bill. Mr. Carpenter stated that A.B. 510 (R1) would allow offenders to earn additional good-time credits. Mr. Carpenter said if persons in prison were attempting to gain an education, they should be encouraged by earning credits for that education. That might allow the person to be released earlier from prison and placed under supervision. Mr. Carpenter indicated that the Select Committee had heard a great deal of testimony, but it had never considered the release of a large number of inmates without supervision. The bill provided a long-term "fix" that would only help the situation.

Mr. Carpenter pointed out that the NDOC conservation camps were very beneficial to the rural communities, and if additional beds were available in the camps, more inmates could be moved from the overcrowded institutional facilities. Mr. Carpenter said perhaps additional camps should be constructed to allow inmates to work in the community and hopefully build a better life.

Mr. Carpenter emphasized that the bill would not allow the release of a huge number of inmates into the community without supervision. Undoubtedly, there would be inmates who were immediately eligible for parole consideration, but supervision would be provided if those inmates were released.

Justice James W. Hardesty, Nevada Supreme Court, stated it had been his privilege to work with representatives from the NDOC, the Parole Board, and LCB staff in reviewing ways to effectuate an impact on prison overcrowding. Justice Hardesty believed that through A.B. 510 (R1), the Select Committee and those involved in the system had produced a responsible plan to effectuate a reduction in prison overcrowding, done in a way that would produce a staged release for those who had earned the right to seek release.

Justice Hardesty indicated that A.B. 510 (R1) addressed good-time credits going forward, but by allowing good-time credits against minimum sentences only in retroactive consideration increased parole eligibility, which meant that an inmate would have the right to apply for parole. Additionally, through that process, the Parole Board would be in a position to screen each inmate to determine those that might be acceptable for parole consideration, those that might have demonstrated some effort toward rehabilitation, and those that might continue their rehabilitation process after release under supervision.

Justice Hardesty commented that the plan contained in A.B. 510 (R1) had tremendous opportunity, and providing that the Legislature approved funding for additional resources for the Parole Board and the Division of Parole and Probation to supervise the inmates who were released, there would be a staged, systematic release of the inmates from the NDOC.

Justice Hardesty opined that the plan should also include specialty courts, which would be involved in supervising those individuals who were in need of treatment, whether for mental health needs or help with addiction.

According to Justice Hardesty, A.B. 510 (R1) was a very responsible approach by the Legislature, because the approach was careful and took into consideration the rights of victims to comment in cases in which there were victims. Oftentimes, many crimes were victimless in the sense of a third-party victim.

Justice Hardesty said he had spoken with Dr. Carlos Brandenburg, Administrator, Division of Mental Health and Developmental Services, and the judges within the specialty courts, and he believed it was critical that the Division of Mental Health and Developmental Services triage the inmates and provide some input on those cases that would be considered for parole. Justice Hardesty stated that would provide some degree of evaluation and would also determine what type of aftercare might be appropriate.

According to Justice Hardesty, Dr. Brandenburg advised that it was the position of the Division of Mental Health and Developmental Services to evaluate inmates prior to release and to establish a plan for those who were in need of mental health aftercare.

The specialty courts were in a position to conduct evaluations, but Justice Hardesty pointed out that the courts could not provide treatment because of the lack of funding and resources. The aforementioned plan to divert funds into the Contingency Fund controlled by the IFC from the savings realized in the NDOC budget was a very smart approach, and Justice Hardesty

pointed out that would allow the specialty courts to approach the IFC for the necessary resources to effectuate that plan.

Justice Hardesty mentioned three *Nevada Revised Statutes* (NRS) that he believed should be amended to allow the NDOC some additional flexibility in dealing with the issues:

- NRS 209.4887: Amend paragraph (c) of subsection 3, to change the language from "5 years" to "3 years," regarding the eligibility for reentry from the drug court.
- NRS 209.392: Amend subsection 1 to make the requirements prospective.

Justice Hardesty stated that it was almost impossible for inmates to show proof that they had a job when they had been incarcerated, and yet subsection 1 of NRS 209.392 currently required that to be considered for release to residential confinement, an inmate had to show proof of employment. Justice Hardesty pointed out that the language of that statute prevented people from being able to meet the appropriate requirements for residential confinement and residential release.

- NRS 209.392: Delete paragraph (a) of subsection 3, and change the wording in paragraph (d) of subsection 3 to, "Has been convicted in the last three years of:"

That statutory change alone would have a dramatic impact on the residential confinement statute. Judge Hardesty said the statute currently indicated that no inmate who had ever had a threat of violence in his past could ever be considered for residential confinement. That could go back as far as 25 or 30 years to a person's juvenile history, and Justice Hardesty said that by changing the language of the statute to, "Has been convicted in the last three years of:" would give the NDOC greater flexibility in examining those individuals.

Justice Hardesty noted that another issue which had to be addressed was intake. If persons under supervision who committed a technical violation of their supervision or otherwise frustrated the drug court judges could be incarcerated, not in prison for a lengthy prison sentence, but in a facility such as Casa Grande or some other transitional-housing environment for a period of three or four months, which restrained their liberty while allowing them to work, that policy would make a significant difference in gaining the attention of those persons to deal with their addiction problems. Justice Hardesty commented that would result in a huge savings for the NDOC, because it cost NDOC $8,000 to complete the intake process for one individual.

Oftentimes, Justice Hardesty said, the trial judge had already imposed a very harsh sentence, thinking that the court had the individual's attention by having that sword hanging over the person's head. However, quite often the addiction under which a person was suffering was so compelling that the prospect of a harsh sentence did not make much difference. Justice Hardesty indicated that it was when a person's liberty was confined for an extended period of time, such as six months, that the court really had the individual's attention, and that caused the person to be more motivated to address ongoing addiction problems.

Justice Hardesty suggested that the Committee consider his modifications to A.B. 510 (R1), which would accomplish a careful, thoughtful, responsible, systematic release of the prison population.

Assemblywoman Leslie endorsed Justice Hardesty's comments and the suggested changes to NRS. She believed that Justice Hardesty's comments about mental health clients were particularly important, because the Washoe County Mental Health Court had been attempting to coordinate the needs of inmates who were released with the mental health system, and quite often, those people were lost. Ms. Leslie said that when inmates were released without mental health support, they were often released without their medication, they lost their housing, and their families became frustrated with them. Those persons often committed another crime and, because of their lengthy criminal history, would once again be sentenced to prison, which did nothing to help the inmate with mental health needs.

Ms. Leslie said that to reduce the population of inmates with mental health needs, the connection between the NDOC and the mental health system had to be forced, because most of those people would require lifelong treatment. There had to be a connection between release from NDOC and treatment, and the best way to accomplish that connection would be through District Court supervision and by assigning a probation officer who was trained to work with mentally ill offenders, forcing the person to see his psychologist, making sure the person had the appropriate medication, and checking up on the person every day, if that was necessary to keep that person sober and in compliance with the terms of release. Ms. Leslie believed that then the cycle could be broken, which could happen with the prison population as well. There were a significant number of persons in prison with mental health problems, and the savings would be huge if the NDOC used the approach suggested by Justice Hardesty.

Justice Hardesty commented that the concern was not only the coordination between mental health and the district courts and carrying out the long-term supervision but also the availability of resources. There were currently only 75 slots in the Clark County Mental Health Court program. The budget for the Division Mental Health and Developmental Services requested an additional 75 slots, and he hoped that the Legislature added those 75 slots to that budget account. Justice Hardesty admonished the Committee to be mindful that even if the 75 additional slots for the Clark County Mental Health Court program were approved, the program would still be 450 slots below the number of slots that were needed.

Justice Hardesty stated that with the additional 75 slots available in Clark County, the Legislature would have a good test of what the program could accomplish over the course of two years, and during the 2009 Session, the court would again be asking for additional slots.

Justice Hardesty commented that the Legislature had to address the intake portion of the system. The Advisory Commission on Sentencing might be the most appropriate source to evaluate the alternatives, and Justice Hardesty stated that he was not suggesting that the Legislature modify mandatory sentences. Justice Hardesty pointed out that not every case in the criminal justice system was a cookie-cutter case and there were exceptions. Justice Hardesty believed it would be responsible to allow judges to deviate in some cases where special findings had been made and to allow the district attorney and the public defender to appeal those cases for review by the Supreme Court in appropriate circumstances.

While that might not be possible during the 2007 Session, Justice Hardesty hoped that the Advisory Commission on Sentencing would look at that process. If the Legislature failed to address the intake issue, it could not accomplish

the necessary reduction in the prison population. Justice Hardesty opined that prison overcrowding was not simply an issue of release, but was also a front-end issue.

Howard Skolnik, Director, NDOC, stated that with the modifications to the bill that had been discussed during the current meeting, the NDOC would thoroughly support A.B. 510 (R1). Mr. Skolnik believed that without some type of intervention, the NDOC was "a train wreck looking for a spot to happen." The NDOC population could not continue to grow at the current rate. Mr. Skolnik said he was also a citizen of Nevada, and he would like to see other services funded within the State besides the NDOC. The legislation provided for a long-term impact on the system without "dumping" inmates into the community; he pointed out that the Parole Board would provide the safety net under the modifications discussed earlier in the meeting.

Florence Jones stated that she had initially spoken out against A.B. 510 (R1), and she wanted to recant her previous comments. She stated that with the comments from Justice Hardesty and Assemblyman Parks, it appeared that the bill would truly help the NDOC get on the right track.

There were two issues Ms. Jones would like to address, and the first was that mandates of the bill would only apply to inmates sentenced after 1997. She wondered whether those sentenced prior to 1997 would benefit from the bill.

Chairman Arberry instructed Ms. Jones to discuss the aspects of the bill with Assemblyman Parks.

Larry Struve, representing the Religious Alliance in Nevada (RAIN), said that A.B. 510 (R1) was the third bill in a trilogy that RAIN had supported: A.B. 416 (R1), A.B. 508 (R2), and A.B. 510 (R1). The RAIN organization applauded the efforts of the Select Committee on Corrections, Parole and Probation in beginning the process. Mr. Struve said the faith communities sensed that a paradigm shift was beginning in Nevada to take a serious look at the back end of the prison system.

Mr. Struve indicated that 97 percent of the people in prison would ultimately be released, and currently many of those released from prison reoffended, which was not acceptable to the faith community. The $1.9 billion in spending facing the State for new prison construction over the next ten years was also unacceptable to the faith community. Mr. Struve said that by considering bills such as A.B. 510 (R1) and working with the Supreme Court, the NDOC, and community support groups, which were an important component in the supervision of offenders, the Legislature would help offenders released on supervision find jobs and remain in the community.

Ultimately, Mr. Struve said, the State would need the assistance of community support groups to help offenders released on parole find employment. Mr. Struve noted that simply using government programs would be quite expensive, and RAIN hoped that there would be continuing discussions with legislative leaders, the NDOC, and the Supreme Court so that groups like the faith community involved in RAIN could begin an educational process of how to better address the issue of offenders released on parole. Clearly, what was currently being done was not working.

Mr. Struve stated that RAIN would support the amendments offered by Justice Hardesty, and RAIN hoped that the Committee would act favorably regarding A.B. 416 (R1), A.B. 508 (R2), and A.B. 510 (R1) and begin the paradigm shift.

Chairman Arberry noted that Mr. Struve stated in his comments, that offenders who were released to the community often reoffended and that the State would need the assistance of community groups. He asked whether the faith communities associated with RAIN would help offenders secure employment, which appeared to be a major roadblock in successful supervision. Chairman Arberry noted that offenders often lied on an application for employment and indicated that they had never been arrested so they could be hired and could take care of their families.

Mr. Struve said his comments referred to testimony he had heard before the Senate Committee on Finance during its consideration of an appropriation to help the Ridge House program, which did not yet exist in southern Nevada. Mr. Struve stated that the Ridge House program began from a faith-based organization and had evolved into a program in which released inmates could receive job counseling and other support services that were not provided through the Division of Parole and Probation. Of the approximately 100 inmates who had utilized the program over the past few years, there had been only a 9 percent recidivism rate.

Mr. Struve explained that such programs often involved people from faith communities who worked one-on-one with offenders in an attempt to reestablish some type of a community-support system. Mr. Struve noted that RAIN had not explored the potential of the Ridge House program, but RAIN was aware that employment was a significant problem.

Mr. Struve indicated that one of his after-session projects was to contact the faith communities represented in RAIN to explain the opportunities available to those communities in making a difference in the lives of offenders attempting to reenter society.

According to Mr. Struve, the Ridge House program offered job counseling, health and treatment options, and referrals for offenders attempting to reenter their communities. Mr. Struve stated that was the model that RAIN believed held promise for involving faith communities and involving others in establishment of community-support systems.

Assemblywoman Weber stated that with all the collaboration, the legislation had the momentum to start capacity building, and it would take the government, the faith communities, and nonprofit organizations to address the needs. Ms. Weber indicated that southern Nevada relied on the Community Interfaith Counsel, which was assisting the City of Las Vegas, and she believed that if everyone continued to work together, positive steps forward would be realized.

Assemblyman Denis asked whether the inmates who earned the extra credits would, upon release, be more responsible for their family obligations. Mr. Denis noted that there were also social issues involved that were quite costly to the State, and he wondered whether A.B. 510 (R1) would help those inmates better accept their responsibilities.

Mr. Struve said the best response to Assemblyman Denis' inquiry was that the legislation would help offenders be more responsible for their family obligations. Mr. Struve said the question on which the legislation regarding prison reform was based was how to deal with the offenders who were released and whether state and community entities would make a conscious effort, as a matter of policy, to reintegrate offenders into the community. If the answer to that question on the part of the State was yes, Mr. Struve believed that the community would have to respond in a positive way.

Mr. Struve noted that when the community reached out and provided a very strong reason for offenders to discard their past behavior and become responsible members of society, the offenders would often take their family responsibilities more seriously and become self-sufficient. Mr. Struve said that the community had to encourage offenders who chose that path to continue on that path and not raise barriers that would prevent offenders from continuing down that positive course.

Mr. Struve pointed out that it was a significant problem and the proposed legislation included small, initial steps in addressing those problems, but those steps had to be taken to avoid the consequence of spending $1.9 billion on future prison construction and continuing to incarcerate thousands of citizens, believing that doing so would solve the serious problems.

John Emerson stated that he represented three agencies of the United Methodist Church involved in social justice advocacy. Mr. Emerson stated that his organization was very much in favor of A.B. 510 (R1).

By way of background, Mr. Emerson indicated that he had worked with community support groups that assisted offenders upon release. He stated that he had been active in the Kyros Prison Ministry Program for many years, where teams of persons worked regularly to help bring transformation to the lives of inmates. Mr. Emerson explained the workings of the Kyros program to benefit inmates and to offer support upon release to the community. Mr. Emerson stated that he had played a part in launching the Ridge House program in Reno, which assisted offenders in reentering society.

For the reasons stated by Assemblywoman Leslie in her earlier comments, and the testimony given by Justice Hardesty, Mr. Emerson stated that his organization was very supportive of A.B. 510 (R1), along with A.B. 508 (R2) and A.B. 416 (R1), which he believed were the three missing pieces in the correctional system "jigsaw puzzle."

Mark Woods, Acting Deputy Chief for the Division of Parole and Probation, indicated that with the recommended changes, the Division was in full support of A.B. 510 (R1).

Dorla Salling, Chairman of the Nevada Board of Parole Commissioners, stated that the Parole Board was in support of A.B. 510 (R1). Ms. Salling pointed out that there would be 1,200 additional inmates eligible for parole consideration, which would cause a possible fiscal impact for the Board. Ms. Salling advised the Committee that the Parole Board might need to approach the Interim Finance Committee (IFC) for additional funding to deal with the additional caseload.

Tonja Brown of Carson City, discussed the credits available in the legislation, and asked about credits for partial days. Chairman Arberry explained that the method of crediting days would be determined by the policy committee. The Committee on Ways and Means discussed the fiscal impact of the bill.

Patricia Hines of Yerington, Nevada, asked that members of the Committee review Exhibit D, "Amendment for A.B. 510 (R1)," which referenced page 6, section 4, and page 7, section 5. She discussed the bill and the credits that should be provided to inmates. Ms. Hines believed that A.B. 510 (R1) was to rectify the credits that had not been given to date.

Chairman Arberry stated that the Committee on Ways and Means did not establish policy, but rather looked at the fiscal impact of the bill. Any question regarding the contents of the bill should be discussed with Assemblyman Parks.

Ms. Hines believed that when the bill was being considered by the Committee on Ways and Means, that Committee became the decision-maker. Ms. Hines stated that perhaps the NDOC should be asked whether or not it intended to rectify the problem, and she believed that question should come from the Committee.

Donald Hinton, representing the Spartacus Project, which was an advocacy program for inmates in Nevada, stated that the Committee was in receipt of is testimony and proposed amendments, Exhibit E. Mr. Hinton stated that he would like to add his voice to those that had spoken earlier in support of A.B. 416 (R1), A.B. 508 (R2), and A.B. 510 (R1). Mr. Hinton complimented those persons who had worked very diligently on the bills.

Mr. Hinton said that he had been involved in prison and parole reform since 1969, and one of the things addressed in the bill was the $21 that was given to an inmate upon release, regardless of the number of years the inmate had spent in prison. Mr. Hinton believed that should be addressed, as $21 was simply not sufficient.

Mr. Hinton explained that the prison system took approximately 80 percent of the money that was sent to inmates from their families for institutional fines, and he believed that should also be addressed.

Mr. Hinton opined that an oversight committee was sorely needed, because the prison system and parole system should be brought under control. Mr. Hinton said he was disgusted with the action taken by the State, not only to inmates, but also to taxpayers.

Constance Kosuda stated that she was a retired trial lawyer, advocate, and activist for inmates and their families. Ms. Kosuda voiced support for A.B. 510 (R1) and applauded those who had testified earlier in favor of the bill.

Ms. Kosuda believed that the mental health treatment system should also apply to inmates while they were incarcerated, because the NDOC had a constitutional obligation to provide medical treatment to inmates, which included treatment for mental illness, drug addiction, and alcoholism. Ms. Kosuda also believed that treatment programs should be in place within the communities to help people remain in the community rather than being initially sent to prison.

Ms. Kosuda indicated that inmates should be able to earn the right to obtain education credits and good-time credits for working. For inmates to do that, the NDOC had to provide adequate educational programs so the inmates could earn the credits.

Ms. Kosuda referenced a letter dated April 6, 2007, from John Witherow, inmate in the NDOC, regarding good-time credits and her statement for the record, Exhibit F, which she provided to the Committee.

Chairman Arberry informed persons who had questions about the contents of A.B. 510 (R1) that Assemblyman Parks, Chairman of the Select Committee, would be happy to address any and all concerns after the current meeting of the Committee on Ways and Means was adjourned.

Raymond Flynn, Assistant Sheriff, Las Vegas Metropolitan Police Department, also testifying on behalf of the Nevada Sheriffs' and Chiefs' Association, said that many of the earlier comments made both organizations a bit more comfortable with the bill. Mr. Flynn explained that the organizations were not against good-time credits, and were in favor of rehabilitation, but what was troubling was the retroactive date to 2000. Mr. Flynn believed that the retroactive date would produce a "surge" of parolees entering into the communities, which would impact not only law enforcement entities, but also social services entities.

Lieutenant Tim Kuzanek, Washoe County Sheriff's Office, echoed the concerns voiced by Mr. Flynn, in that the law enforcement community in northern Nevada was certainly taxed at the present time and resources were limited. Lt. Kuzanek stated that he wanted to express the concerns of the law enforcement community regarding the possible "surge" of inmates entering the communities.

Assemblyman Parks assured the law enforcement community that there would not be a "surge" of inmates entering the communities; there would not be an "opening of the gates" to allow a wholesale departure of inmates from the NDOC. Mr. Parks emphasized that every inmate would be reviewed by the Parole Board, and for those granted parole, the proper paperwork would be completed and the inmate evaluated prior to release. Mr. Parks stated that, while there might be an increase in the number of parolees entering the communities, there definitely would not be a "surge."

Gayle Farley stated that she was present for personal reasons and on behalf of the Alliance for Victim's Rights. Ms. Farley said that earlier testimony talked about the fiscal impact that A.B. 510 (R1) would have on the State, but she wanted to talk about the cost of a person's life, and there was no monetary value that could be placed on a person's life.

Ms. Farley indicated that, currently, the Parole Board reviewed inmates for parole 12 months prior to expiration of sentence, and the bill would allow that review to occur 18 months prior to expiration. Ms. Farley stated that offenders could rob, steal, commit domestic violence, or endanger a child, and now with A.B. 416 (R1), that offender would be rewarded with additional credit.

Regarding the mandates of the Open Meeting Law, as contained in A.B. 416 (R1), Ms. Farley said she was unable to sleep when she heard about the bill. She asked whether Committee members thought about retribution from the families of future parolees against the victim or the surviving family members of the victim. Ms. Farley indicated that she had already suffered

retribution from the family of the man who murdered her daughter, which continued to this very day.

Ms. Farley asked that when she appeared at parole hearings to inform the Parole Board why she believed the man should not be paroled, whether the Committee believed her statement should become public record and that her daughter's murderer had a right to hear her testimony.

Ms. Farley stated that the man who murdered her daughter showed no remorse, nor did his family. She asked the Committee to think about the retribution to the family members of the victim should the inmate be released on parole. Ms. Farley said that such things occurred in real life and not simply on television.

Ms. Farley indicated that she always believed that when a person broke the law, that person lost his rights, but it appeared that prisoners had more rights than citizens. She stated that today's enabling society was flowing into the prison system. Ms. Farley commented that prisoners were released before serving their sentences, and the man who murdered her daughter had been placed on probation several times prior to committing the murder. He was a walking time bomb, but because the system enabled such people, they still walked the streets and were released from prison early. Ms. Farley commented that she had a friend who was murdered a few years ago by a jealous ex-husband who was a sterling member of his church.

In 2001, Ms. Farley stated that she was one of many persons who successfully fought for an amendment to change the statute pertaining to assault with a deadly weapon. The offense was a misdemeanor at that time, and it was changed to a felony offense. Ms. Farley stated after her daughter was murdered, she fought very hard for that amendment. Had that law been amended in 1999, Ms. Farley said she might still be talking to her daughter on the phone every night. Before that change, the *Nevada Revised Statutes* (NRS) were very lax in certain areas, and many innocent people had been murdered by persons who had been paroled or persons who had never served a day in prison because of prison overcrowding.

Ms. Farley stated that if the Committee determined to lessen the time that inmates had to serve in prison, she believed they should first serve the full minimum sentence. Ms. Farley did not believe that the legislation would serve the public and law enforcement officers who put their lives on the line every day to put offenders in prison and protect the public. Nevada currently had the highest rate of crime in its history, and it would be totally irresponsible for the Committee to pass A.B. 510 (R1).

Ms. Farley realized that the bill was directed at minor offenders, but what type of offenders—wife or husband beaters, robbers of senior citizens, drug offenders, child abusers—were considered minor offenders. Ms. Farley believed that if such offenders were released before they had sufficient time to understand their crime and the damage that the crime inflicted, the offender would simply adopt the same attitude, because most offenders had no conscience.

Ms. Farley said that until a person served the sentence handed down by the courts, rather than looking for an earlier out, the punishment should be taken seriously. Ms. Farley stated that she was also concerned about parole supervision.

Ms. Farley stated that she was a mother who had survived her beautiful, loving, and talented daughter, and the grandmother of her daughter's son, who was left behind, and she respectfully asked Committee members to please take a moment and put themselves in her shoes.

Ms. Farley indicated that the offender who murdered her daughter would be eligible for parole consideration in two years, and if he was released, she would forever be "looking over her shoulder." Ms. Farley said that she and her grandson were victims along with her daughter, and she asked why the Committee would again victimize her and her grandson by passage of the legislation.

Chairman Arberry asked Ms. Farley to submit the written testimony from Cathy Atchian, and her written testimony, for inclusion in the record of the meeting. Ms. Farley submitted Exhibit G, written testimony from Cathy Atchian.

Sandy Heverly, Executive Director and Victim Advocate for Stop DUI, explained that she had been involved in the anti-drunk driving movement and had worked with thousands of DUI victims, along with other crime victims, for over 24 years. Ms. Heverly stated that Stop DUI opposed passage of A.B. 510 (R1) because it did not believe that additional good-time credits should be available to anyone who caused death or injury to innocent victims. Ms. Heverly said Stop DUI was also concerned about the effect that A.B. 510 (R1) would have on truth-in-sentencing statutes.

Ms. Heverly said she would soon be in Carson City to attend a parole hearing on behalf of one of Stop DUI's victim families. The offender killed a father and son with his 3,000 pound "weapon" while he was driving under the influence. The offender was sentenced to 8 to 20 years, but in reality, the offender would serve less than one-half of the 20-year maximum. Ms. Heverly emphasized that Stop DUI did not believe that additional good-time credits should be applicable to offenders who caused such death, injury, and carnage to families in Nevada's communities.

Chairman Arberry asked whether there was further testimony to come before the Committee regarding A.B. 510 (R1), and there being none, the Chairman declared the hearing closed.

[Exhibit H: Letter of May 22, 2007, opposing A.B. 510 (R1) submitted by Bill Parker for inclusion in the official record.]

Chairman Arberry announced that the sponsor of A.B. 613 had asked the Committee to reschedule the bill; therefore, the Committee would not hear testimony on A.B. 613 at the present hearing.

The Chairman stated that he intended to hear further testimony on A.B. 416 (R1) at the end of the agenda.

Chairman Arberry opened the hearing on A.B. 614.

Assembly Bill 614: Makes an appropriation to Build Nevada for career and technical programs. (BDR S-1449)

Danny Thompson, Executive Secretary-Treasurer, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), indicated that Committee members were in receipt of Exhibit I, "Build Nevada Technical Academy:

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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.

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May 22, 2007

To: Members of the Select Committee for Corrections, Parole and Probation

Re: AMENDMENTS FOR AB 510

Clarify which Board is referenced, the Board of Parole Commissioners or the Board of Prison Commissioners in the following locations (there may be more):

Page 6 Section 4 line 44, page8 line1,page 9 line 39 page

DELETE Section 10 page 11 lines 5 through 8 One of the reasons for the request for this bill was to rectify inaccurate figuring of credits earned (NRS 209.4465) NOT to start a new procedure from July 1, 2007. **This act is meant to be retroactive**.

Section 11 This act should be effective July 1 2007. The intent is to rectify a wrong in place for years. IF DOC needs more time to correct the numerous inmate accounts involved HIRE MORE STAFF. IF Probation and Parole needs more manpower to supervise an expected deluge of releasees needing supervision HIRE MORE STAFF . This correction has been denied and ignored long enough.

Committee on Ways & Means
Date: 5-22-07 Exhibit: D
Submitted By: Patricia Hines

YAHOO! MAIL Print - Close Window

Date: Tue, 22 May 2007 02:13:21 -0700 (PDT)

From: "Evelyn Murphy" <murphynv@yahoo.com>

Subject: AB 416 testimony from Donald Hinton, Spartacus Project

To: ckosuda@yahoo.com

May 22, 2007 PLEASE MAKE PART OF PUBLIC RECORD

VOTE YES FOR AB #416

Sec. 5. 1. THE POLICY ADVISORY COMMISSION ON CORRECTIONS and AUDIT must be approved for the following reasons:

1. Inmate's families are sending in money and the NDOC is taking 80% from one family's money and 60% from another. ONLY ALLOW THE NDOC TO TAKE MONEY FROM WHAT THE INMATE EARNS NOT WHAT THEIR FAMILY AND FRIENDS ARE ABLE TO SCRAPE TOGETHER TO SEND IN FOR THEM TO BUY SHAMPOO AND TOOTHPASTE AT THE INFLATED CANTEEN PRICES. There is no one for inmates and their families to speak to regarding what the NDOC is doing. At lease The Policy Advisory Commission would be able to look into what the NDOC is doing behind the walls of the prison where there is no transparency or sunshine.
2. WHERE DOES THE MONEY PROFITS FROM PRISON CANTEEN SALES GO? Colored TV sells inside the prison for $180 and according to a canteen worker the prison only pays $65.29 for the same colored TV. Does this money go into the budget for the NDOC? These same issues existed when I did my first Spartacus Report over 10 years ago. I want the NDOC to account for the money they are making on inmates. The Audit called for in Sec. 3 of AB 416 will help to bring some light on what happens to the money?
3. AGAIN I ASK WHERE DOES THE MONEY PROFITS FROM PRISON CANTEEN SALES GO? The smallest example of inflated prices are in top Ramón soup. An inmate pays 25 cents each, the average price for the same soup is 7.5 cents each in the free market.
4. Who says only KEEFEE CORPORATION can supply the prison canteen store? The Director of Canteen Purchasing that's who. Where is the open competition so that the Keefee Corp. does not just have a monopoly on prison canteen sales?
5. Where are the tag plant profits going? 50cents on each license plate goes to the NDOC. The profit has been estimated between 1.5 and 2 million dollars a year. NDOC Director Skolnik has said publicly that he sees the NDOC just as a business. Maybe part of the reason the NDOC staff is attending so many legislative hearings and testifying to keep inmates in prison as long as possible is to keep the BUSINESS BIG.
6. How do inmates live in Northern Nevada State Prison in a condemned building? The NDOC received 3.5 million to redo plumbing in the cell house. Where did the money go? Currently there are 250 inmates using 8 showers. On the 3rd and 4th floors there are 2 toilets per groups of 40 inmates. Health and building codes for dorm living are being seriously violated. NO MONEY THE NDOC CLAIMS.

Where did the money for the new sidewalks come from? Maybe the NDOC can

Committee on Ways & Means
Date: 5-22-07 Exhibit: E
Submitted By: DONALD HINTON

fix the plumbing next time instead of pouring more concrete.
I was disgusting to hear that an inmate was charged $8.00 each time they went to see even a nurse and were given an asprin. Now the inmates are being charged $8.00 even if

YAHOO! MAIL

Print - Close Window

Date: Tue, 22 May 2007 01:20:17 -0700 (PDT)

From: "Evelyn Murphy" <murphynv@yahoo.com>

Subject: AB 416 testimony for Don Hinton for 5/22/07

To: ckosuda@yahoo.com

May 22, 2007

SUPPORT FOR AB #416

PLEASE MAKE PART OF PUBLIC RECORD

Donald Hinton
Spartacus Project
1919 Hallwood Drive
Las Vegas, NV

REGARDING THE FISCAL IMPACT OF AB 416

1. I SUPPORT SPEAKER BUCKLEY'S SUGGESTION that inmates the parole board is going to grant parole to be sent the paperwork saying, "PAROLE GRANTED" with the release date noted. This would reduce the need for many of the camp inmates to be transported to the closest prison for a video conference parole hearing.
2. If the parole board had worked to conform to the Open Meeting Law by making an auditory recording, having one of the secretaries take minutes and allow everyone who wanted to speak, who was behaving their three minutes rather than EXPEND hundreds of State of Nevada employee man hours testifying in 2003, 2005 and now in 2007 to persuade the legislature to codify their practice of NOT FOLLOWING THE OPEN MEETING LAW the fiscal impact would have been more than covered.
3. The litigation costs incurred by the taxpayers of the State of Nevada fighting the two Open Meeting Lawsuits from inmates Stockmeir and Witherow, that the inmates won, I believe would far exceed the amount it will take for the parole board to follow the Open Meeting Law and be above board. **The Parole Board releases sex offenders back into society.** It is imperative that the public have the right to a correct accurate record of all parole board hearings.
4. Parole Board Chair Dorla Salling's claims of 3 million dollars for the Parole Board Hearings to follow the Open Meeting Law is somewhere between fiction and nonsense. The cost for a court reporter steno in Clark County Nevada whose pay scale is higher than the State of NV is $36,000 with entry level experience and $60,000 at the top of the pay scale. With 10% benefits to hire two

so each Parole Board group would have a qualified reporter would be less than $150,000 and well
worth it to know what the Parole Board is doing.

PLEASE MAKE PART OF PUBLIC REORD

JOHN WITHEROW
Nevada State Prison
P.O. Box 607 - #29313
Carson City, NV 89702

April 6, 2007

DAVID PARKS, Assemblyman
Legislative Building
401 S. Carson St. Rm. 4115
Carson City, NV 89702

RE: Prisoner Good Time Deductions

Honorable Assemblyman PARKS:

I am again writing to bring to your attention a problem with the prisoner good time statutes in Nevada.

Prisoners are "eligible" to earn extra good time to be deducted from their sentences for working at jobs and participating in education classes. This is known as "work good time". The problem is that there are not enough jobs or education classes available for all prisoners that want to work or attend classes. Bias, prejudice and favoritism predominate the selection of prisoners for jobs and education, which is a denial of due process and equal protection of law.

Waiting lists for jobs and education should be established and followed; and the work good time statutes should be amended to provide that any prisoner with his/her name on the waiting list is entitled to the extra work good time from the date his/her name is on the list. The alternative is to fund and establish sufficient jobs and education classes for all prisoners to participate.

A final thought. Prisoners attending college classes are not entitled to work good time. Why not? Ask the NDOC.

Thank you for your time and consideration in this matter.

Respectfully,

John Witherow
JOHN WITHEROW

cc: File

Committee on Ways & Means
Date: 5-22-07 Exhibit: F
p. 1 of 2 Submitted By: Constance Kosuda

Sent: May 14, 2007 1:27 PM
To: ffipffip1@cox.net, esalsa@cox.net, ckosuda@yahoo.com, redressinc2@yahoo.com, charisma@oasismoving.com, r.rampton@cox.net, renocitizen@gmail.com, JPHines854@aol.com, michelleravell@cox.net, mehester0329@earthlink.net, marcialucey@aol.com, lkear@aol.com, lamelarry@earthlink.net, Kelleencota@aol.com, galacticmidwife@yahoo.com, edbejune@cox.net, steele@ccpef.org, Gcr3542@earthlink.net, buds1033pal@sbcglobal.net, ddavis-rimmey@cox.net, santi6@sbcglobal.net, jforakerthompson@doc.nv.gov, jforakert@verison.net, tonjamasrod40@aol.com
Subject: TESTIMONY TODAY 5/14/07 AT 9AM ON AB 416/AMENDMENT 380

PLEASE MAKE PART OF THE PUBLIC RECORD

Dear Chairman Arberry, Members of the Committee, and fellow advocates and friends:

The point I was trying to make in the Public Comment portion of today's Hearing is, I believe, completely pertinent to the Bill being proposed.

All of us have wondered how in the name of all that is holy did our NDOC budget become so grossly overinflated? How come so many other essential services required by Nevada taxpayers get such short shrift from our governmental entities?

I believe part of the answer can be found in the "Pyramid of Hate" developed by the Anti-Defamation League to deal with escalating levels of violence in our classrooms, and in our cities.

In their words, it always begins with a small seed of bias that went unnoticed, or has been ignored. As a participant in Hearings since the ACR 17 Hearings commenced, it is obvious to any bystander that the NDOC and Parole and Probation fuel all of their remarks with biased references to inmates, hoping that this will justify their ever-growing demands for money, and the lack of due process afforded inmates and their families.

As the Anti-Defamation League points out, to allow biased remarks to stand without confronting them gives permission to people to continue and perhaps add their biases, moving from one level of the pyramid to the next. This is why, in these Hearings, I can not and will not allow remarks of bias, prejudice, and cruelty on the parts of the NDOC, or Probation and Parole to go unchallenged.

The pyramid escalates from "acts of bias" to "prejudice and bigotry" to "discrimination" (including discrimination in housing, employment, and education, or the "have nots" in the words of Dr. Austin, who one day graduate to criminal behavior) to "violence" to "genocide" and as to the latter, there are many concerned citizens who are of the reasoned opinion that a genocide of young black men is already upon us, as 1 out of every 3 young black men is or will be in prison.

This is a national disgrace, and I believe it is important to realize that these dreadful and shameful events do not happen in a vacuum, but rather are deliberately instigated, and allowed to come into fruition, unless actions are taken to stop them.

I believe that that is what AB416 will accomplish in some small measure, and as it is a beginning, and long overdue, we soundly support it.

Thank you.

Constance Kosuda
PO Box 621303
Las Vegas, NV 89162

702 454 4053

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

Gayle Farley

From: Cathy Atchian [catchian@carson.k12.nv.us]
Sent: Tuesday, May 22, 2007 7:17 AM
To: gaylefarley@sbcglobal.net
Subject: Fw: Victim Statement

----- Original Message -----
From: Atchianmom@aol.com
To: gaylefarley@sbcglobal.com
Sent: Monday, May 21, 2007 9:11 PM
Subject: Victim Statement

For the record... My name is Cathy Atchian. My friend, Gayle Farley will be reading my statement. It is with deep regret I am unable to present this statement in person. I am recently recovering from a serious illness, and having missed so much work, being a single mother of three, I am unable to take off any more time.

My purpose here today is to testify how strongly I appose bills AB510, and AB416.

Nearly seven years ago, on August 5th, 2000, my brother, Rick Albrecht was murdered in his own home. Although time may help some things, I can assure you, the pain felt over this horrific crime does not soften. The only assurance my family can rest with is his murder's conviction... Life without parole. The thought of these criminals possibly being released early because of "good behavior" absolutely horrifies me. Our legal system worked to put this man away because of his behavior. I truely believe it would be a travesty to do otherwise.

In passing bills AB510 and AB416, it would be a grave injustice to those of us who have endured our pains, and trusted the legal system for any type of justice. I ask, with all my heart, that the passing of these two bills would absolutely not be considered.
Thank you for your time.
Sincerely, Cathy Atchian

See what's free at AOL.com.

Committee on Ways & Means
Date: 5-22-07 Exhibit: G
Submitted By: Gayle Farley

AB416 TESTIMONY – GAYLE FARLEY

AB416 –
The fact that we are letting out parolees 12 moths before their parole date is bad enough – but to make it 18 months – what are we saying to these criminals? You can rob, rape, steal, commit domestic violence, neglect your child, endanger a child, and now we are going to reward you for this????

As for the open meetings, I have been unable to sleep when I heard about this bill. Have any of you ever thought of the retribution from the families of the "future parolees" to the victims or the survivors of the victims? I have already suffered from retribution from the family of the man that killed my daughter and that was just from the last hearing of the murder trial. If I go in and tell the parole board why I don't think this man can be paroled, do you think this should become public record? And that the killer has a right to see my testimony? He had no remorse, nor did his family. Can you imagine the retribution from the family if the prisoner doesn't get out? Think about it. It's not just on TV – it's in our real life – today.

I always thought that when you broke the law you lost your rights. Today, a prisoner has more rights than we do. We are becoming an enabling society and it is flowing into the prison system. That is why the prisons are full – because, we let them out before their sentence is served. I will tell you that this monster that killed my daughter NEVER served time and was always being placed on probation. He was a walking time bomb and because our system enables these people they still walk the streets and they are let out from prison early. It's a joke with these people "Yeah, no

problem, I may get 5 years, but, I'll be out in 2" this is the mind set of these people.

The religious factor is becoming very popular – but, how popular is it when these crimes are committed? You hear and read about these people all the time. I have a good friend that was murdered a few months after my daughter by a jealous ex-husband who was a "sterling member of his church".

In 2001, many of us successfully fought for an amendment to the change the statute for "Assault With A Deadly Weapon. It was a misdemeanor and we made it a felony. It was passed unanimously. But, only after my daughter was killed and I fought very hard for this. If this law would have been intact in 1999, I may still be talking to my daughter on the phone every single night. Before this law was changed this statute was very lax in certain areas and many innocent people had been murdered by citizens that have been paroled early or never served a day in prison "because we just didn't have the room".

I will shorten this up- if you decide to lessen the time for parolees get out – I really believe that they need to serve the full "minimum" sentence. I do not think you are serving the public or the policemen and woman that put their live on the line every day of their life to protect us. At this time we have the highest rate of crime we have ever had in Nevada and to pass this is just total irresponsibility.

I realize this bill directs itself to minor offenders- but, what type of offenders? Wife or husband beaters, robbers of senior citizens (so prevalent these days) have "a little dope"- but not enough to really charge and take them in", child abuse (a very big one now). Are these the minor criminals?

If they are and you release them early before they have had enough time to understand what they did and the damage it has left behind – they just have the same attitude they did before – they will just be more careful not to get caught this time, but, in the end they will, and more people will have been caught up in their game and hurt – just because we let them go – everybody has a story and these people are the best.

Until, a person serves the sentence that the judge gives them, instead of looking for an earlier out and we continue to support this – our punishment is not taken seriously. Look at other countries, they sure don't have the problems that we do with crime. You do the crime, you pay the FULL TIME.

I as a mother and survivor of my beautiful, loving, and talented daughter, and the grandmother of her wonderful son that was left behind, I respectfully ask you to please take a moment, hold your breath, and put yourselves in my shoes.

If the killer of my daughter knew anything about what I say at his parole hearing, and the first hearing is only in 2 years, I will never be able to quit looking over my back. My daughter didn't do anything wrong, neither did her son, my grandson, nor I. Why would you vote to victimize us again?

Please, take a quiet moment and pretend you were me.
How would you vote?

Respectfully Submitted,
Gayle Weaver-Farley
(775) 721-7747

Bill Parker
P.O. Box 13801
Las Vegas, NV 89112
(702) 245-6447

May 22, 2007

Assembly Ways and Means Committee
401 South Carson Street
Carson City, NV 89701-4747
(702) 486-2626

Subject: Opposed to A.B. 510

Dear Sir,

The concept of earning credits for time off of sentences for good behavior is as old as history in our nation's penal history, and I would agree that it provides incentives to make sure that offenders do NOT re-offend when they re-enter society. However, I must take exception with the concept of doubling the amount of good time/behavior credits a(n) inmate could earn due to the fact that it does not (in my opinion) take into consideration each matter on a individual basis, but rather it seems as if an across the board reform is being considered by this committee.

As someone who has been the victim of crime on more than several occasions (assaults, burglary, vandalism, etc), this bill adds insult to injury when it states that the inmate's restitution payments must be current (in most cases, inmates are paroled without ever paying their full restitution to their victims of violent crime), and usually the restitution amount is either ignored or simply discharged, leaving the violent crime victim yet again holding the empty bag.

I would urge this committee not to pass this legislation unless the requirements are severely re-examined to prevent abuses from occurring in the parole and probation system and to make sure that the rights of crime victims are upheld in all matters which are being considered by parole and probation.

Sincerely,

Bill Parker

Committee on Ways & Means
Date: 5-22-07 Exhibit: H
Submitted By: Bill PARKER

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?

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

CHAIR AMODEI:
If any Committee members need information prior to voting, this is your opportunity to ask staff to provide those answers. I would like to know:

• The savings the record indicates for retroactive good time credits.

• What budgets were increased within the Department of Public Safety as a result of those savings, including the Division of Parole and Probation and specialty courts.

• The exact sentencing specifics in A.B. 510 that did not come from this Committee, which is basically all of them.

• What the specific discussion was regarding the release of 1,600 offenders as the appropriate number.

• The time frame of the expected releases, the communities they are expected to be released in and what arrangements are being made in those communities.

• Was there any testimony that occurred on recidivism for an unconditional release like this?

• What precedent it sets for purposes of further legality.

• What it does to the proposed work of the Advisory Commission on Sentencing.

• Whether anything was done regarding judicial discretion in statute as a result of this.

SENATOR WIENER:
My concern is about the wholesale release of prisoners on July 1 and what we do. They still go through the process of parole and consideration of records so not everyone would be sent out into the streets on July 1.

Evidently, there are two other companion bills. This trio of bills supposedly respond to reinvestment issues. I am not aware of anything regarding the juvenile justice part which is a concern for Senator Horsford. Other issues not addressed were processed in this Committee.

CHAIR AMODEI:
Mr. Wilkinson, will you find the companion bills and make sure the Committee members know what they are so we can review them?

SENATOR HORSFORD:
I would like clarification because I am not fully apprised. What about the bill we were to move out of this Committee dealing with policy issues on juvenile and adult corrections?

CHAIR AMODEI:
We can still request the bill draft, but bills are apparently being moved with policy provisions in them. There is nothing for juveniles of which I am aware, but all the adult ones are being moved out of the money committees.

SENATOR HORSFORD:
I understand that, but this Legislature is not controlled by one or two committees, is it? We have a say in corrections and judicial matters.

CHAIR AMODEI:
My intent in asking questions was to allow you to be fully informed on issues you think are important since those bills will go to the Senate Floor and not through this Committee. When they get to the floor, you need to be a fully informed and effective participant in the debate.

SENATOR HORSFORD:
I appreciate that very much.

CHAIR AMODEI:
If you think an amendment is appropriate, certainly as a member of the Senate, all of those items are open to you as well as to other Committee members.

SENATOR HORSFORD:
And I respect that. You went out of your way to ensure we had several hearings with input from multiple stakeholders so we could flush out essential

questions to important policy matters. To now rush and bring amendments on the floor, knowing what this process turns into over the next ten days, is troubling for me.

There is nothing on the record around juvenile justice. We asked several questions about what type of assessments—alcohol, mental health, drug abuse—would be done on the individuals who will receive good time credits. Will we be able to impose a state law that requires supervision? Under the process, will they be discharged with no requirement for supervision? What types of housing issues have been discussed? Has any additional funding been allocated to address those issues?

I recognize the immediate answer is to let these offenders out because we cannot afford to house them, but to send them into the communities, where they may continue to commit crimes or do other things harmful to the community, causes more significant costs to society. I am personally committed to this because when you look at the map provided from the Regional Justice Center, the top three zip codes in Clark County where we expend $5 million to $8 million a year are in my district. My constituents deserve to be heard on this matter and to flush out policy considerations. I hope they do not just get flushed out and away by the money committees.

CHAIR AMODEI:
I do not disagree with anything you have said. I apologize for apparently wasting everybody's time with three or four hearings, including this one. Once you get whatever information is relevant to what was done in a policy sense, if the Committee has an appetite to propose a Committee amendment on the floor, I would certainly be happy to participate based on the pleasure of the Committee.

SENATOR CARE:
In our letter to the money committees, I would ask:

• What felonies, if any, will apply to good time credits and whether there will be any one-shot, good time credits. I think vocational training was mentioned in testimony.

• 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)

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.

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

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.

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!

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.

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

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.

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.

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.

SENATOR HORSFORD:
Assemblyman Parks, I understand another 2,000 inmates under supervision would also be available for retroactive good time credits and ultimately be discharged. What is the impact of that and have any additional funds been provided to the Division of Parole and Probation to address their assessment, review or whatever they do to move the offenders?

ASSEMBLYMAN PARKS:
We hope funding that might be required for those large numbers would come out of a contingency fund of approximately $3 million to take care of the bulge in the python's stomach. I defer to the Director of the Department of Corrections relative to the numbers.

JUSTICE HARDESTY:
My understanding is good time credits will relieve some of the pressure on the Division of Parole and Probation's staff commitments. Good time credits will be afforded those who are currently being supervised. Additional officers have also been added.

SENATOR HORSFORD:
I respect that; however, with all the new officers and convictions, it will not be a drop, just an initial shift, then hold steady. There is a large caseload now, particularly in probation. Research from The Council of State Governments said it needs to be improved. I am concerned if additional resources are not provided, 50 percent will be coming back to prison.

MR. SKOLNIK:
Discussions to date indicate retroactive time credits will be applied, not only to parole but also probation. Those individuals will expire; therefore, whether there are resources to transition them is not part of the issue. They will have completed their sentences and be back in the community as citizens who will either do well or not. Three social workers have been added to the Division of Parole and Probation budget to assist with the transition that came as a result of these discussions.

SENATOR HORSFORD:
When discharge is complete, two-thirds of those released will come to certain communities and zip codes that I represent in Clark County, and Senators Mathews and Washington represent a large portion of those

communities in northern Nevada. Other than the Division of Parole and Probation and the Department of Corrections, what community resources can effectively help those individuals reenter the community, obtain employment and housing and do what they need to do in order to not commit another crime and return to the system? What is the answer to that piece of the puzzle?

MR. SKOLNIK:
The Going Home Prepared program has continued to be funded. Hopefully, it will have a northern Nevada component added during the course of the next biennium. We worked with a number of community agencies in that program to provide assistance to offenders in the community. The problem is—if all those organizations devote their energy to our released population—it still would not be enough. That is the reality across the board. The infrastructure in Nevada has not kept up with state growth, which includes community organizations.

JUSTICE HARDESTY:
There is a big hole at the moment, which is an issue that needs to be addressed. We need to be mindful of the fact these individuals have been under supervision and performed well. They only receive good time credits if they perform well. People are not discharged if they have not performed well on probation and parole. In fairness to them, they earned the right to be discharged and proceed as citizens. An important aspect of this is to reach out to the faith-based community. Other people have expressed interest in this issue and want to make a contribution in these areas. I hope the retooled ACOS can begin coordinating some of these activities with groups that are not government-related but want to help make the transition happen.

SENATOR WIENER:
We do not want to overlook juvenile justice in diverting and preventing juveniles from getting into the system. Professionals from juvenile justice testified several times on their part of this puzzle. Approximately 60 percent of my first four Legislative Sessions was spent on juvenile justice. How would that be incorporated into what you are doing? It is a front-end piece that should not get lost.

JUSTICE HARDESTY:
I suggest a technical amendment to add that topic to those listed in A.B. 508. You are correct it is an important piece that should be addressed. I am sure the

members of the ACOS would be cognizant of juvenile justice, but adding it emphasizes the point.

CHAIR AMODEI:
Mr. Wilkinson, if there is no objection to adding that technical amendment by the maker and seconder of the motion, please put it under the correct paragraph in A.B. 508.

ASSEMBLYMAN PARKS:
A number of appropriation bills still in play, both in the Senate Committee on Finance and Assembly Committee on Ways and Means, may appropriate funding to support therapy programs and/or help released inmates to find employment as well as seek treatment the Legislature neglected to fund for their confinement in prison.

CHAIR AMODEI:
When good time credits are enacted on minimums for individuals who performed well in prison, the record should reflect that the Legislature discussed and expressed concern about discharged inmates being allowed back into the community. The record should also reflect the inmates earned their release, they were screened and a value judgment was made in terms of resources available to them after release. We want to avoid a public misconception that the Legislature passed a law and "let 'em all out."

MR. SKOLNIK:
To put everyone more at ease, Nevada has one of the highest rates of release of parolees of over 50 percent in the nation as well as one of the lowest rates of recidivism of 26 percent, as defined by a return to the Department of Corrections within three years of release. In spite of all its failings and issues, the system does a good job of judging who will succeed. Individuals out on parole will probably succeed anyway; therefore, allowing them to come off supervision early will not have a significant impact in the community.

SENATOR WIENER:
The Council of State Governments briefings indicated Nevada had done well in those areas; however, we learned we are failing on the probation side. Will that be a priority?

JUSTICE HARDESTY:
There are caseload issues. The intensity of supervision and the ability to address issues quicker will make a difference in responding to supervision concerns. There is need for additional staff and reduction of caseloads. It is a key component of what the ACOS must accomplish. In the process, plans will be developed for those who are paroled with supervision; there will be more intensive supervision for a number of them. Part of the process is not just having an inmate come out of prison and report to a probation officer. There are many other issues; assistance in finding employment and housing, mental health and drug treatment are all key components. An attempt has been made to identify financial needs. I anticipate more financial needs and hope reserves in the Interim Finance Committee will be enough; however, I have no confidence in that respect. The Legislature can only do what can be done with funds provided.

SENATOR WIENER:
Another concern was the history on inappropriate management of technical violators. An option might be to utilize Casa Grande, which currently provides space for overload rather than a hard bed in the Department of Corrections.

JUSTICE HARDESTY:
That component is in A.B. 510. We suggested not only what might be characterized as a technical violation but, more importantly, what might be characterized as a drug offender who just does not get it. Giving the sentencing judge the ability to restrain the individual's liberty for two, three or six months without revoking him and sending him to prison are part of A.B. 510. It would be an enormous tool for a sentencing judge. Rather than revoking him, the individual could be placed in Casa Grande or some other confinement. He would still be employed and continue to be tested; however, he would not get to go home and watch television. He must stay where the judge places him. This would make a huge difference in getting his attention about the need to address his problem.

Many times, a sentencing judge will over-sentence a defendant. The judge will say, "To get your attention, instead of 24 to 60 days, I will sentence you 48 to 96 days. Now the sword of Damocles is over your head and I know that will make you perform as a drug addict in drug or diversion court." The realty is he will violate probably six times the first week. If the individual is violated and the only option to the sentencing judge is to revoke—guess what happens?—we

now put the defendant in for a longer sentence. Give me another option as a judge. Let me restrain his liberty for four or six months while he continues to work; do not let him have the freedom and give him a taste of prison without putting him in prison.

CHAIR AMODEI:
Mr. Wilkinson, please provide the Committee members the mock-up of A.B. 510.

JUSTICE HARDESTY:
Changes will be made to A.B. 510 today.

CHAIR AMODEI:
Tomorrow, we can do the same thing with those two measures. You sensitized us to the open meeting issue; therefore, please let us know if there are any other policy issues that need to be highlighted. It has been helpful to have you here to discuss these matters.

JUSTICE HARDESTY:
I am not sure the Assembly Committee on Ways and Means can finish their work on A.B. 510 today. You might consider holding your hearing next Monday or Tuesday because there are many permutations to this. I saw the mock-up of A.B. 510 about an hour ago and already know a section is missing.

CHAIR AMODEI:
We need to start narrowing the issue for the bites we can chew.

JUSTICE HARDESTY:
I have a conflict tomorrow morning; however, if you schedule a hearing for Monday, I will be able to attend.

CHAIR AMODEI:
We will probably start the discussion tomorrow and finish it Monday.

There being no further business to come before the Committee, the hearing is adjourned at 10:38 a.m.

RESPECTFULLY SUBMITTED:

_____
Barbara Moss,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE:_____

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

Seventy-Fourth Session
May 24, 2007

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:08 a.m., on Thursday, May 24, 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
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

COMMITTEE MEMBERS EXCUSED:

Assemblywoman Barbara E. Buckley

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Jeff Ferguson, 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.) 613.

Assembly Bill 613: Makes an appropriation to the Family Development Foundation for domestic violence prevention programs. (BDR S-1450)

Dr. Tracy Cotton, President, Family Development Foundation (FDF), provided the Committee with an overview of Assembly Bill (A.B.) 613. He distributed (Exhibit C) which described the services offered by the Foundation. Accompanying Dr. Cotton were Sherri Sullivan, Director for the Domestic

Mark Stevens, Assembly Fiscal Analyst, Fiscal Division, Legislative Counsel Bureau (LCB), presented a brief review of Senate Bill (S.B.) 346 (R1) to the Committee for their consideration. The bill provided an appropriation of $9,900 for travel and expenses for the working group to study the methamphetamine problem in Nevada.

Chairman Arberry noted the methamphetamine bill was not passed and was unclear whether this bill was still necessary.

Assemblywoman Leslie pointed out that S.B. 346 (R1) contained the money to fund the working group headed by the Attorney General. Ms. Leslie stated she was the Assembly representative for the group, and Senator Joseph Heck represented the Senate. The group met monthly and would present recommendations at the end of the 2007 calendar year. Although Ms. Leslie believed the $9,900 was more money than necessary, the balance would be reverted.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS S.B. 346 (R1).

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Buckley was not present for the vote.)

Chairman Arberry requested the Committee consider S.B. 454 (R1).

Senate Bill 454 (1st Reprint): Revises the dates upon which certain uncommitted funds from prior appropriations must be reverted. (BDR S-1070)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Division, Legislative Counsel Bureau (LCB), presented a brief review of Senate Bill (S.B.) 454 (R1) to the Committee, noting the bill dealt with room tax dollars allocated by the Senate in the 2005 Legislative Session. The Commission on Tourism was to transfer a portion of the proceeds of the room tax to the Interim Finance Committee (IFC) for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan. The tax proceeds were not to be committed for expenditure after June 30, 2007, and would be reverted on or before September 21, 2007. Work had not been completed on the project and an extension was requested. Senate Bill 454 (R1) would extend the reversion date to June 30, 2009.

Responding to Chairman Arberry, Mr. Stevens noted that although there was no new money included in the bill, money was approved from room tax receipts by the 2005 legislative Session for the projects.

Chairman Arberry stated that the bill would be put on hold pending a discussion with Senator William Raggio.

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Division, Legislative Counsel Bureau (LCB), stated that Assemblyman Parks was not available to present the review of Assembly Bill (A.B.) 510 (R1). Mr. Stevens presented (Exhibit J), a mock-up of the bill to the Committee.

The amendments were not included correctly, but Mr. Stevens wanted to explain the intent of the amendments to the Committee. Senate Judiciary was waiting for the legislation if the Committee on Ways and Means approved the bill. If the Committee approved the bill, it could be amended on the Assembly floor and voted on within 24 hours.

The amendments were intended to allow retroactive "good time" credits, from 10 to 20 days per month, and increase program credits for completion of a GED, earning a college degree, or successfully completing a drug treatment program. The increase in "good time" credits was retroactive to July 1, 2000, only on the minimum sentence. That would move the parole eligibility date forward. The Parole Board would review those cases and approve cases appropriately.

The second area allowed the "good time" credits to apply the increase from 10 to 20 days and the additional program credits to apply to both the minimum and the maximum sentence for individuals sentenced after July 1, 2007.

The "good time" credits for those on parole and probation would be granted retroactive to July 1, 2006.

The impact of the changes would provide relief in the State prison system. The system was currently 1,300 to 1,400 inmates over emergency capacity, and this bill was designed to relieve the overcrowding issues but not allow release without the offender first going before the Parole Board.

There was also cleanup language provided in the bill which addressed Chapter 209 of the *Nevada Revised Statutes* (NRS).

Mr. Stevens deferred to Assemblyman Parks for additional information.

Mr. Parks noted that Justice James Hardesty had received a copy of (Exhibit J) and asked for a provision for drug court reentry. Mr. Parks suggested the retroactive provisions must be included for those persons on probation.

Mr. Stevens further explained that the increased "good time" credits and the retroactive application of those credits would be for C, D, and E felonies and not for A and B felonies.

> ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 510 (R1).
>
> ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

Assemblywoman Weber inquired whether the dates were correct on line 25 of mock-up (Exhibit J).

Mr. Stevens responded that the dates were at the request of the Department of Corrections. The Department was not able to fill Casa Grande Transitional Housing facility and had requested the language to increase the number of individuals that could be incarcerated at that location.

> THE MOTION PASSED. (Assemblywoman Buckley was not present for the vote.)

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

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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.

MOCK-UP

PROPOSED AMENDMENT 4171 TO ASSEMBLY BILL NO. 510 FIRST REPRINT

PREPARED FOR ASSEMBLYMAN PARKS
MAY 24, 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. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

(b) ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

Committee on Ways & Means
Date: 5-24-07 Exhibit: J
Submitted By: Assem. David Parks

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ *(b)* Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ *(c)* Has ever been convicted of:

(1) Any crime ***that is punishable as a felony*** involving the use or threatened use of force or violence against the victim ~~[; or]~~ ***within the immediately preceding 3 years;***

(2) A sexual offense ~~[;]~~

~~[(e)]~~ ***that is punishable as a felony; or***

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; ***or***

~~[(f)]~~ *(e)* Has escaped or attempted to escape from any jail or correctional institution for adults , ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ ***the*** offender has:

~~[(1)]~~ ***(a)*** ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

~~[(2)]~~ ***(b)*** ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

~~[(3)]~~ ***(c)*** Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime. ~~[;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the

provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ ***20*** 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]~~ ***60*** days.

(b) For earning a high school diploma, ~~[60]~~ ***90*** days.

(c) For earning his first associate degree, ~~[90]~~ ***120*** 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, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 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]~~ ***Except as otherwise provided in subsection 8, credits*** earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence;

and

(b) Apply to eligibility for parole. ~~[unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.]~~

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime involving the use or threatened use of force or violence against the victim;

(b) A sexual offense;

(c) A violation of NRS 484.379, 484.3795 or 484.37955; or

(d) A category A or B felony,

➥ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ ***20*** days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. **NRS 209.448 is hereby amended to read as follows:**

209.448 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]~~ ***60*** 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.

Sec. 6.4. **NRS 209.449 is hereby amended to read as follows:**

209.449 1. An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~[30]~~ ***60*** days from the maximum term of his sentence for the ***successful*** completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~[30]~~ ***60*** days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has ***ever*** been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony;***

(e) Has ~~[committed an act of serious violence during the previous year;]~~ ***, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the

Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.5. **NRS 213.120 is hereby amended to read as follows:**

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ ***Except as otherwise provided in NRS 209.4465, any*** credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act apply ~~[only]~~ to credits earned by an offender ~~[on or after July 1, 2008.]~~ **:**

(a) Except as otherwise provided in paragraph (b), on or after July 1, 2000, but before July 1, 2007.

(b) On or after July 1, 2006 but before July 1, 2007, if the offender is on parole on July 1, 2007, but such credits must be deducted only from the maximum term imposed by the sentence.

(c) On or after July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

Sec. 11. This act becomes effective on July 1, ~~[2008.]~~ **2007.**

H

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

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):
I have read the bill carefully and based on my experience, this bill goes a long way on the recommendations of the Subcommittee from A.C.R. No. 17 of the 73rd Session and the proposals from Dr. Austin and Dr. Richard L. Siegel of the American Civil Liberties Union of Nevada.

This is a law and order bill that will save Nevada millions of dollars. A change is called for in our prison system. It has been noted that we cannot act surprised when the crisis reached unmanageable proportions. If I may quote our now-deceased and former President Ronald Regan, "Status quo, you know, is Latin for 'the mess we're in.'" I urge you to pass A.B. 416.

TONJA BROWN:
I am in favor of A.B. 416. I would like to add information on the Open Meeting Law. There have been inmates who should have appeared before the Parole Board but, due to medical conditions, were unable to appear and denied parole. If we had the Open Meeting Law, this situation could not happen.

It is my understanding that since 1996, family and loved ones have not been able to speak on behalf of the incarcerated, only the victims could speak; this needs to change.

RICH LAMB:
I am in support of A.B. 416 and A.B. 510 and have testimony (Exhibit E).

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

DONALD HINTON (The Spartacus Project of Nevada):
Assembly Bill 416 and A.B. 510 are bills that will provide an avenue to help rebuild men and women who are incarcerated through fair play. Assemblymen Munford and Parks and Ms. Jones are to be complimented for the time and effort they put into these bills.

A couple of amendments to A.B. 416 address confiscation through the kangaroo courts and the Department of Corrections of the monies sent in by loved ones. I also requested an amendment for the Parole Board to suspend their $30 to $35 per month supervision fee and the $21 gate money for a

person released from prison who does not have the time to get a job, find housing, put themselves into a situation where they can have a meal and pay $35; this needs to be rescinded.

There has been some talk about the secrecy of how the Parole Board and the Department of Corrections operate. If you were to write to the prison system or the Parole Board asking for information on your loved one, you are not getting a response; no one is that busy. As far as Dorla M. Salling, Carson City, Chair, State Board of Parole Commissioners, Department of Public Safety, stating that $3 million will be an extra expense on the part of the Parole Board is ludicrous. Assembly Bill 416 and A.B. 510 are cost-saving bills and need to be discussed. If Ms. Salling is a bad administrator, maybe she should be replaced with one who is fiscally responsible to the taxpayers of Nevada.

I am offended by many things the Parole Board and the Department of Corrections put out as fact; much of it is myth and it all relates to job security. It is time to make a change. The prison system in Nevada is a failed system. I want to know what my tax dollars are buying and what programs have been successful; are they being continued and has the federal government stopped funding? I do not see results for my dollar.

The test of a prison system is changing attitude, behavior and action of a man or woman incarcerated; there is no change. We have been lucky not to have some disappointed prisoners come back with violent acts against our government.

The Parole Board and the Department of Corrections make their own rules as to what happens to a prisoner once he is sent into the system. They make their own rules on what the judge has said to favor the direction they want. Those who testified today said everything that needs to be said on this bill. It should be passed, and it is overdue.

PAT HINES:
I have a copy of the fiscal note Exhibit D. We should reconsider what Dr. Austin said about improving. The Division of Parole and Probation is willing to do more supervision, and money can be saved through the Department of Corrections budget despite the inflated fiscal note. It costs less money to supervise someone using Parole and Probation than it does within the prison system.

I have passed out a sheet (Exhibit F) with some added language in paragraph 2 that speaks to Parole Board hearings and its secrecy and what can be done to save money for the Parole Board.

It is hard to understand why, in this age of technology, the Parole Board does not have laptops; this would save them time and money. In bold letters, paragraph 2 of Exhibit F says "that the closed hearing should be ... ." There is a case where an inmate received the notice of his hearing—

CHAIR AMODEI:
I am sorry to interrupt, but we do have another bill to consider.

MS. HINES:
For years, the Parole Board has given its decision on a parole hearing 7 to 14 days later. The Parole Board is eagerly awaiting the implementation of new language which states that written notice should be given within ten days.

Getting back to a point, an inmate had a hearing but received another two years. His hearing was on May 8, and he received his results on May 22; this is good news.

In paragraph 3 of Exhibit F under recommendation, it says "Place the Board's standards and procedures as regulations ... ." Ms. Jones said that the Parole Board is reviewed upon reappointment every four years. Paragraph 3 will allow for monitoring and a place to report. Paragraph 3 continues to state "I believe the Legislative Commission process calls for ... ."

This seems to be the way most divisions in our government work, but not the Parole Board; I ask that you consider this. I am in favor of an advisory committee for the Department of Corrections. If the Nevada Board of Prison Commissioners would have time for public comment from people, some of these administrative regulation discrepancies would be cleared.

We could go to the Parole Commissioner and give some input 30 days prior to the hearing and after the hearing. There has to be some type of monitoring and supervision with the Parole Board.

SENATOR WIENER:
Senate Bill (S.B.) 367 does more fine-tuning with administrative regulations. Could we find out how many times the Division of Parole and Probation has brought regulations to the Legislative Commission for approval?

LARRY D. STRUVE (Religious Alliance In Nevada):
The Religious Alliance In Nevada (RAIN) has been interested in this issue; we support both A.B. 416, A.B. 508 and A.B. 510 (Exhibit G). These bills are trying to address a problem that raises concern to our faith communities.

Nevadans must keep 3 facts in mind: 97 percent of the 13,000 inmates in Nevada are going to be released—about 3,500 per year. Many are going to re-offend. The Director feels the recidivism rate is lower than what we have been told—about 27 percent—but nationally, the rate may be as high as 80 percent. As far as RAIN is concerned, 27 percent is a high enough rate to be concerned.

Within the next 10 years, we are going to spend $1.9 billion to build prisons to accommodate inmates entering the prison system. My organization is concerned about a system that is not working and who we are letting out of prison.

How are they being prepared to reenter society? There is emphasis every Legislative Session on how to get tough on crime by increased sentences and keeping them away from society, but most of them are coming out. It is a matter of serious public policy as to what we are doing to prepare them.

The three bills Exhibit G discusses have provisions that return the ability to the judges to determine how much additional time needs to be added for certain types of crimes.

Former Justice Rose spoke before the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation and said there are cases where unjust sentences have been given because the judge had no discretion on entering an order to double a sentence where the facts did not justify the sentence. This adds to the years a defendant serves, which in turn leads to overcrowding.

The advisory committee will oversee the prison, but if an Advisory Commission on Sentencing also does oversight, we might want to consider combining these agencies. My statement is Exhibit G. This is my only opportunity to speak for these three bills that RAIN supports.

MS. JONES:
How the Parole Board is working with their parole standards and regulations is important. In 1999, the Parole Board doubled their guideline on how much time an inmate would have to serve before being considered for parole. It went from looking at the actual time to an amount of time to serve by setting a top and bottom. The least amount was never used and most of time served is at the top number; this regulation has no oversight. The Parole Board has the authority to apply this under *Nevada Revised Statute* 213 as created in *Nevada Administrative Code* 213; it is clogging our system.

I placed an amendment for A.B. 416 to upgrade the regulations and incorporate changes into law. Truth in sentencing was enacted and now we are stuck paying for a system that does not work. The peer review spoken of by Mr. Helling is imperative in the Department of Corrections; wardens and above must be reviewed. As it stands now, no one oversees them.

Technical violations are of concern. The $35 per month a parolee is required to pay causes most of our technical violations. It is the reason 40 percent of the people return to our system; it costs $8,000 to process a new inmate. Parolees who are out could neither get work nor enough money to pay rent, then when they do not appear for an appointment, it causes a violation.

I agree with Senator McGinness that the Parole Board reviews and retries a case each time by showing pictures. The Parole Board needs to be proactive with the parolee. In our Parole Board system, there are two divisions, a southern and northern. I have countless inmates who have been heard by the southern board of three members who agree to grant parole. The Parole Board in the north with four members often overrides the Parole Board in the south. We need consistency.

CHAIR AMODEI:
We will recess the hearing on both A.B. 510 and A.B. 416 and put them on the following Monday.

ASSEMBLYMAN HARVEY J. MUNFORD (Assembly District No. 6):
I want to show my appreciation for taking the time to hear A.B. 416. I have had strong support on this bill.

CHAIR AMODEI:
I have some bills that require a concur or not concur. The first bill is S.B. 132.

SENATE BILL 132 (1st Reprint): Makes various changes concerning the liability of landowners, lessees and occupants of land to persons using premises for recreational activities. (BDR 3-212)

This is a trails bill; our Committee voted out the version of the bill that was not what the proponents and the Nevada Trial Lawyers Association had worked out. It went to the Assembly and came back with amendments that are agreeable by the proponents.

SENATOR WIENER MOVED TO CONCUR WITH AMENDMENT NO. 670 TO S.B. 132.

SENATOR WASHINGTON SECONDED THE MOTION.

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

* * * * *

CHAIR AMODEI:
The next bill up for a vote is S.B. 195. For the record, the proponents have indicated they are satisfied with the amendments to the bill.

SENATE BILL 195 (2nd Reprint): Enacts provisions governing the operation and use of a recreation area. (BDR 40-492)

Amendment 787 made a word change in section 10 that says "provide warnings about dangerous conditions and potential hazards." The Assembly

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

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.

Roll following amendments 5/24/07 am into AB510 from AB416 Passed to no fiscal impacts

AB 510 Senate Judiciary

AB 416 Mentioned in Senate Finance

The Asm. Ways and Means Committee,
Case Manager Reba Coombs (775) 684-8591
Chairman Morse Arberry (775) 684-8587;
Vice Chair Sheila Leslie (775)684-8845;
Speaker Barbara Buckley (775)684-8537;
Mo Denis (775)684-8583;
Heidi Gansert, (775) 684-8837;
Tom Grady (775)684-8507;
Dr. Joe Hardy (775) 684-8857;
Joe Hogan (775)684-8541 Asm. Hogan sat with Asm. Munford during the public hearings
in Las Vegas summer of 2006
Ellen Koivisto, (775)684-8597;
John Marvel (775)684-8851;
Kathy McClain (775) 684-8835;
Dave Parks (775) 684-8821 [Chairman of the Select Committee on Prisons, Parole & Probation
Debbie Smith (775) 684-8841
Valerie Weber (775)684-8833

Even though Chairman Arberry called me tonight repeating what Ms. Coombs told me that AB 416 has fiscal impact--THERE IS NO MONEY-- so the Chairman will not present it for a vote, I am encouraging you to continue to call, e-mail and continue to let them know how important this legislation is to NV. I encourage you to reach on to Governor Gibbons also. I am beginning to get the idea of how powerful the chairman of committees really are.

I asked about the possibility of rolling the parts of AB 416 without fiscal impact into AB 510

1. Sections 26 - 34 the additional penalty for enhancement must be a minimum of not less than 1 year and a maximum t4erm of not more than 10 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime, RETROACTIVE APPLICATION TO ALL INMATES. There would be a positive fiscal impact. No fiscal impact.

2. Section 24 That the Mandatory Parole Release be moved to 18 months to insure inmates have parole supervision. (The Parole Board calls the MPR Mandatory Parole Review NOT RELEASE THEREBY STOPPING UP THE PRISON EXIT MECHANISM.) Possible P&P impact. More time supervised on parole - reduce recidivism

I urge to consider the above being moved from AB 416 to AB 510 which the Parole Board, NDOC and Supreme Court Justice James Hardesty all support. Maybe we can attach a little sunlight to AB 510.

Sec 23 #3

3. Parole Board and Pardons Board may not ask or take into consideration whether or not an inmate has any pending appeal ~~litigation~~ pending against the State.

Add DNA testing for all convicted if they pay for it. Amendment requested 5/22/07

No fiscal above.

EXHIBIT E Senate Committee on Judiciary
Date: 5-25-07 Page 1 of 3

F/O Jones (707) 250 0179

BILL SUMMARY: Revises the provisions of N.R.S. 176.0917 and N.R.S. 176.0918 pertaining to DNA Testing.

PROPOSED AMENDMENT ~~AB 116~~ AB 510

N.R.S. 176.0917 (ADD, or genetic marker analysis testing can be conducted by an independent forensic laboratory outside the State of Nevada at the petitioner's request. If the Court finds in favor of the petitioner who has received the Death Penalty the Department of Corrections incurs ~~all costs no matter where the testing is conducted.~~)

Sec. 1. The board of county commissioners of each county shall designate a forensic laboratory ADD: (or petitioner may request and pay for an independent forensic laboratory outside the State of Nevada.)
Sec. 2. (a) Must be operated by this State or one of its political subdivisions ADD: (or an independent forensic laboratory outside the State of Nevada at the petitioner's request and cost.)

N.R.S. 176.0918

Sec. 2. #1 A person convicted of a crime DELETE: (and under sentence of death) who meets the requirements of this section may file a post conviction petion requesting a genetic marker analysis of evidence within the possession or custody which may contain genetic marker information relating to the investigation or prosecution ADD: (or the exoneration) that resulted in the judgement of conviction, DELETE: (and) ADD: (or)sentence of death. The petition, ADD: (if sentence is death) must include, without limitation, the date scheduled for the execution if it has been scheduled.

Sec. 6. The court shall order a genetic marker analysis if the ADD: (petitioner requests and incurs all costs or the) court finds that:

Sec. 7. #1 Be operated by this State or one of its political subdivisions, ADD: (or an independent forensic laboratory outside the State of Nevada at the petitioner's request and petitioner incurs all costs.)

Sec. 7. (c) [2] Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the Court ADD: (or the petitioner requests and the petitioner incurs all costs.)

Sec. 9. ADD: (If) the Court shall dismiss a petition filed pursuant to this section DELETE (if) ADD: (the petitioner may request for genetic marker testing and the petitioner incurs all costs:)

Sec. 10. For the purpose of a genetic marker analysis pursuant to this section, a person under sentence of death ADD: (or any crime)

Sec. 11. The expense of analysis pursuant to this section is a charge against ADD: (the county where the petitioner was convicted in. Unless the Court denies petitioner's request for genetic marker testing then the petitioner incurs all costs.)

Sec. 12 DELETE (and under sentence of death.)

no fiscal impact

Contact: Tonja Brown
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

HISTORICAL INFORMATION

1. **From: The Legislative Counsel Bureau**

To: Legislators
Sent: Thu 8/31/2006 8:46 AM

Subject: Research Request: Post-Conviction DNA Testing

<<NCSL post-conviction DNA testing.pdf>> <<Washington Code 10.73.170.pdf>> <<Tennessee Code 40-30-301 et al..pdf>>

MEMORANDUM

DATE: August 31, 2006

TO: Legislators

SUBJECT: **Post-Conviction DNA Testing**

This memorandum is in response to your request for information on whether or not any states allow persons not on death row to request a DNA sample.

According to the National Conference of State Legislatures (NCSL), 35 states currently have a set of procedural rules for post-conviction relief. Since 2000, due to the advancement of DNA technology, many states have updated their post-conviction DNA testing procedures.

Of the 35 states that have rules regarding post-conviction relief, 32 allow persons not on death row to request a DNA sample. Three states currently limit the ability to petition a court for post-conviction DNA testing to individuals who are convicted and sentenced to death. Those states include: Kentucky, Nevada, and Pennsylvania.

In 2001, two states amended their post-conviction DNA testing statutes to include persons other than those sentenced to death. Tennessee's definition now includes any offender convicted of and sentenced for any criminal offense. Similarly, Washington's definition now allows any incarcerated felon to petition the court for post-conviction DNA testing.

Attached is a summary of post-conviction DNA testing procedural rules compiled by NCSL, the Washington statute related to DNA testing requests (*Revised Code of Washington* 10.73.170), and the Tennessee "Post-Conviction DNA Analysis Act of 2001" (*Tennessee Code Annotated* 40-30-301 through 40-30-313).

MEMBERS OF THE RELIGIOUS ALLIANCE IN NEVADA

Roman Catholic Church

Epscopal Church

Evangelical Lutheran Church in America

Presbyterian Church (USA)

United Methodist Church

Corporate Office: Faith Lutheran Church, 2075 W. 7th St., Reno, NV 89503 (775) 747-3246

Advocates for social justice in Nevada

May 25, 2007

To: Senate Judiciary Committee

From: Larry Struve, RAIN Advocate

Re: AB 416, AB 508 and AB 510 Addressing Current Conditions in the Prison System Administered Through the Department of Corrections

The Religious Alliance of Nevada (RAIN) has supported the efforts of the Select Committee on Corrections, Parole, and Probation to begin a process of examining the policies and procedures that have resulted in overcrowded conditions in Nevada's prison system. Three bills have resulted from their deliberations.

AB 416 would create a Policy Advisory Commission on Corrections to be informed on issues and developments relating to correctional institutions and to submit semiannual reports to the Governor and Legislative Commission on the status of correctional institutions in this State. This bill would also make more prisoners eligible for consideration to be placed in correctional programs run by the Division of Parole and Probation. Also included is a requirement that prisoners be provided with the reasons why they are denied parole; and the statistics on the number and percentage of the decisions concerning parole when prisoners are not released would be submitted to the Director of the Legislative Counsel Bureau at the beginning of each legislative session. Finally, AB 416 makes changes to the sentencing laws of Nevada, so that judges have some discretion to decide how much additional time to add to a sentence for aggravated circumstances in the commission of a crime rather than mandating the doubling of a sentence by statute before the facts of a particular case are known by either the judge or jury.

AB 508 reconstitutes the Advisory Commission on Sentencing created by NRS 176.0123 and would specifically mandate this Commission to review the current effectiveness of sentences for drug crimes, as well as the efficiency and effectiveness of the Department of Corrections, the State Board of Parole Commissioners, and specialty court programs with specific emphasis on whether such programs limit or preclude or promote the reentry of offenders and parolees into the community. With projected spending for the prison system over the next ten years estimated at $1.9 billion dollars, such a review is essential to help legislators understand whether the expenditure of such a large sum of money will be cost effective and necessary in promoting both security and social justice in this State.

Finally, SB 510 makes changes to the laws allowing prisoners to earn credits against time served, encouraging those offenders and parolees deemed suitable for residential confinement to be so treated as well as those being considered for participation in programs of reentry into the community.

RAIN has studied this issue extensively, and several papers approved by the RAIN Board were submitted for the record before the Select Committee on Corrections, Parole, and Probation, including a summary statement from RAIN entitled: "A Dignified and Effective Transition from Prison to Society (A Statement of RAIN on Prisoner Re-Entry, February, 2007)," which has been submitted for the record.

The time has come to deal responsibly with the current situation in Nevada's prison system. As the attached Statement indicates, the judicatories of RAIN believe more focus is needed on the 97% of the people now in prison who will be released back into society. Will they be ready to reenter our communities without reoffending or will they continue to repeat their criminal behavior, thereby causing the budgets for both the criminal justice system and the State's prisons to escalate beyond all reasonable measure? RAIN supports the 3 bills noted above as a first step in getting a handle on this important matter.

LDS

Larry Struve, RAIN Advocate

MINUTES OF THE SUBCOMMITTEE OF THE SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
May 28, 2007

The subcommittee of the Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:02 a.m. on Monday, May 28, 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.

SUBCOMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Mike McGinness
Senator Terry Care

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Constance Kosuda
Donald Hinton
Patricia Warren
Juli Alexander, Redress, Incorporated
Andrea Muir
David Wilkinson
Cindy Haney
Consuela F. McCuin, Prison Watchdog
Marnita Y. Smith
Sharon Samson

CHAIR AMODEI:
We will begin with Assembly Bill (A.B.) 416 and we are limiting the testimony because it is my understanding A.B. 416 will not be sent over from the

Assembly Committee on Ways and Means. I want to devote as much time as possible to A.B. 510 which we will get and is germane for purposes of potential amendments from A.B. 416.

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

ASSEMBLY BILL 510 (2nd Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

CHAIR AMODEI:
I will read an e-mail from Constance Kosuda (Exhibit C) for our record.

I will defy anybody—in the three sessions that I have chaired this Committee—to point to an instance in the record where I have threatened anybody with perjury whether they are in government or out. I will not speak for other committees in other Houses, but that is not the way we do it here. I will defy you to argue with me if this is not the most transparent Committee in the entire Legislature, which is why I just said it is my understanding that A.B. 416 is not going to be processed. That may be a controversial statement, and it ultimately may be wrong, but transparency is not an issue for purposes of this Committee.

CONSTANCE KOSUDA:
Thank you, sir; I am Constance Kosuda. I was not referring to the functioning of your Committee but rather the Assembly Committee on Ways and Means and also what transpired in the A.C.R. No. 17 of the 73rd Legislative Session hearings when these things did occur. Thank you for the way you are handling the Senate Committee on Judiciary hearings.

We support A.B. 416 and A.B. 510 and specifically support amendments to A.B. 510 which would include the prison oversight committee or whatever name it receives. The Department of Corrections cannot police itself as there are substantial breakdowns. We also object—and we will be filing a Freedom of Information Act—to what we perceive to be conflicts of interest by The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court. As a member of the judiciary, Justice Hardesty, advised members of the Legislature to not pass a bill that has been under discussion for at least six to seven years

with the direction of Assemblyman David R. Parks and Assemblyman Harvey J. Munford.

DONALD HINTON:
Six or seven years ago, you and I had a history when you were on the Governor's Study Committee on Corrections; today, we find ourselves—under A.B. 416, A.B. 510 and A.B. 508—still talking about the very same thing. This has been swept under the table to the point where it is absolutely disgusting.

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

This morning, I submitted a letter (Exhibit D) which contains disturbing facts for your Committee to read. There will be no problem seeing a need for change. We have our own Guantanamo Bay right here in Nevada.

PATRICIA WARREN:
My concern over the early release of my 76-year-old husband stems from his numerous medical problems not being addressed. The attitude has been, "You are in prison, what do you expect?" or more frequently, "You are just getting old." My husband must buy items from the inmate store in addition to what the state provides just to maintain a modicum of health. My small social security check supplies the funds necessary for supplements and skin care products to provide for my husband's health issues.

Our prison system, already filled beyond capacity, is causing unrest and security concerns among staff and inmates. The situation will only become more difficult as overcrowding continues to grow.

This overflow of inmates creates a lack of openings to programs and jobs for the inmates. With no work and program credits off their sentencing, you see the domino effect of restricted yard and visiting privileges. Stress levels remain high due to this constant shifting and moving of inmates to lower levels. It is not the inmates' fault there are not enough jobs or programs available, but they are being punished by not having them.

There are daily difficulties between inmates in finding safe areas to function. The present conditions of overcrowding lead to dangerous situations and confrontations. This leads to constant arguing, restlessness and anger because

there is just not enough space or time to accommodate the needs of so many inmates. With a shortage of qualified staff and the extreme overcrowding of inmates, security for staff is now an issue of great concern. Overcrowding is becoming a health issue for staff and inmates equally with severe consequences. In 2006, the Health Division demanded a second tuberculosis (TB) test for the year when an inmate with active TB was found working in culinary. The overcrowding and close proximity of inmate containment is a veritable petri dish of optimum conditions for breeding disease.

Since inmate wellness has not been a first priority, please turn your attention to the staff; these possible diseases are taken home to their families, friends and, therefore, to the public. We need immediate relief of the overcrowded conditions. Feasible plans must be put into place for ongoing release of inmates to thwart the staggering amount of money required to keep building more and more prisons to warehouse these offenders.

I realize there are no pat answers to all of the problems incarceration creates. As a society, we need to understand the solution is not in warehousing alone. It has been estimated well over 30 percent of our prison inmate population could be released without any danger to society. Action must be taken now. We need an independent committee of qualified citizens to interact with the State Board of Parole Commissioners. This would encourage the Parole Board to stop acting as though they have judicial authority. The courts put in a low and a high on sentencing meant to make it easier for those having done good time to be paroled on their minimum time. It is not for the Parole Board to give more or less time, unless the inmate has not displayed good behavior. Alas, our Parole Board thinks it is not only a judiciary arm of the court, but that they often know better than the court.

We can continue to talk and argue and never come to an agreement. We need to stop talking and take concrete action to deal with these time-sensitive issues. If we do not, the federal government will step in and hand us a much higher price tag than we can ever get out from under.

JULI ALEXANDER (Redress, Incorporated):
As of the end of today, I will have in hand a court decision on behalf of inmate Jack McClinton. He was granted a writ of habeas corpus by the courts dated March 23, 2007 indicating the Parole Board could no longer hold this person as he actually expired his sentence in March 2006. Mr. McClinton went to the

Parole Board on April 17 with his court order and was told—and this is hearsay because I was not present—that the Parole Board did not care what the courts had ordered. He should have been released; instead, they gave him a two-year dump. In addition, after he had filed his complaint to the courts, the Parole Board apparently instituted a grievance against him, found against him and punished him for abusing the grievance process by taking away his store rights for 30 days. A short time later, the court upheld his case: therefore he was punished for no reason.

We have two other cases of the same nature we plan to file on Tuesday. Because we have stare decisis, we know those cases must win. In testimony, the Parole Board talked about they could not afford the Open Meeting Law as it would cost too much money to comply. We are wondering how much money in the Attorney General's budget is going toward defending cases that are indefensible based on the stare decisis. This unlawful imprisonment is a serious crime being committed by the Parole Board. There is no accountability in government if the Parole Board is allowed to act as a judiciary and impose additional sentences for no reason. They are willing to thumb their nose at our court system by holding somebody for an excessive number of years and also usurping the legislative process by granting itself Open Meeting Law privileges never granted to them.

We are describing a rogue agency. This type of behavior means the buck stops nowhere and any government agency does not have to answer to the other branches of government. A citizens' government exists to serve the people, and it is our duty as citizens to try and hold an errant government in check.

It has been suggested by another activist that Dorla M. Salling, Chair, State Board of Parole Commissioners, be removed from her position even though her commission does not expire until 2008. Behavior of this kind does not just verge on the criminal but appears to be quite criminal. We need Dorla M. Salling on a silver platter. As head of the Parole Board, she is responsible for their behavior which is truly criminal. If we report this behavior to an entity such as the Legislature, and let them know criminal acts are being committed by a government agency, there is federal law. Under misprision of felony, failure to take action when duly reported makes those who we report to part of the criminal setting. We are asking that somebody in Legislature get involved on the Jack McClinton, Rickey Tolton, and Melvin Ware cases because the Parole Board is completely out-of-bounds.

CHAIR AMODEI:
Would you repeat those last three case names and ID Numbers?

MS. ALEXANDER:
They are Jack McClinton, ID Number 46873; Rickey Tolton, ID Number 78951; and Melvin Ware; Number ID Number 76234.

CHAIR AMODEI:
Will you provide any information regarding those cases to Mr. Wilkinson so he can look at them? Also, I would appreciate whatever information you have regarding someone who expired their sentence and had a court order so our legal staff can check it out. Will that be alright with you?

MS. ALEXANDER:
Absolutely, as soon as I have the court order in hand, I will fax it to Mr. Wilkinson.

ANDREA MUIR:
My concern is with the Open Meeting Law. A couple weeks ago in one of my classes, we watched a documentary called Investigative Reports: *Parole Board-Nevada* where the Parole Board conducted themselves quite professionally and admirably. It was shocking because the Board displayed behavior quite different than my junior high experience in 2004 where a few board members had an attitude towards our family and my stepfather who is incarcerated. They were quite unprofessional. They act differently in front of people who might have influence. This has been a horrible experience.

DAVID WILKINSON:
I have been made aware of some of the improprieties of A.B. 416 and the development of A.B. 510. I am here to support Assemblyman Harvey J. Munford in his quest to help reform issues related to the Open Meeting Law and the creation of a Policy Advisory Commission on Corrections.

CINDY HANEY:
I am here as a citizen of Nevada for over 20 years. My son is incarcerated at High Desert State Prison. I am strongly in agreement with A.B. 416 and A.B. 510. I was privy to the Open Meeting Law when my family was asked to leave during my son's parole hearing while the victim's family was allowed to

testify. I disagree with that action. Anyone should be allowed to stay the entire time at a public hearing. My son is also a victim because he had completed every requirement necessary for release with the minimum time served, including all of his programming and schooling. He had a total points score of 0, statistical risk assessment of re-offending at -3 points and no prior record. Not only did the Parole Board deny him, but they also expired him to expiration.

The Parole Board is not acting properly. I have written numerous letters to Assemblymen, the Governor, Senator Valerie Wiener, Senator Dennis Nolan and several other people asking assistance for this to be rectified. I strongly support Assemblyman Munford and A.B. 416 and A.B. 510.

SENATOR CARE:
What is the offense for which your son was convicted?

MS. HANEY:
It is manslaughter with a deadly weapon. He took a plea bargain.

CONSUELO F. MCCUIN (Prison Watch Dog):
I am here to support A.B. 416 and ask you adopt A.B. 510 with all of its amendments.

MARNITA Y. SMITH:
I am here representing my husband Kevin Smith, ID No. 14527, currently incarcerated at Southern Desert Correctional Center. My husband was originally convicted of robbery in 1979. He has been in and out of prison due to parole violations. He was released, and because of an error by the court system, he was returned to prison and required to expire.

I am here to support both of these bills because my husband has done more than enough time. He has completed all required programs, but because of the Parole Board and the inaccuracy of calculating credit time served, he is being forced to stay in prison until the end of this year. He has missed his son's graduation, and he will miss his daughter's graduation in June because he has not received the proper good time credits.

Things need to be cleared up regarding inmates' good time credits. I am not alone. You have heard about other inmates in the same situation. Something needs to be done. Proper credits of inmate times are not correctly allocated.

This is a continuing problem as you will see if you compare my husband's back number with other back numbers. In 1979, he was sentenced to 15 years for robbery. He has served in excess of 20 years. I hope it does not take another two years for good time credits to be properly applied to this inmate.

SHARON SAMSON:
If A.B. 416 does not pass this session, I ask that the proposed committee be kept alive so the 2009 Legislature can look at it again. A myriad of problems within the Department of Corrections and with the parole commissioners cannot all be changed or corrected this session. It is obvious these two rogue agencies need to be brought in line. We would appreciate active investigations on the issues we have testified to and give us something to assist with new developments coming forward for the next session.

CHAIR AMODEI:
We will adjourn at 9:26 a.m.

RESPECTFULLY SUBMITTED:

_____
Lora Nay,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE:_____

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

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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.

YAHOO! MAIL

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Date: Sun, 27 May 2007 17:49:24 -0700 (PDT)

From: "Constance Kosuda" <ckosuda@yahoo.com>

Subject: PROPOSED REMARKS FOR INCLUSION ON THE RECORD FOR MONDAY 5/28/07 ON AB 416 AND AB 510

To: marberry@asm.state.nv.us, sleslie@asm.state.nv.us, bbuckley@asm.state.nv.us, mdenis@asm.state.nv.us, jhogan@asm.state.nv.us, ekolvisto@asm.state.nv.us, kmcclain@asm.state.nv.us, dparks@asm.state.nv.us, dsmith@asm.state.nv.us, hgansert@asm.state.nv.us, jhardy@asm.state.nv.us, jmarvel@asm.state.nv.us, vweber@asm.state.nv.us

We are most upset that there appears to be a lack of transparency in our Legislative Proceedings, and that different standards are applied to different testifying witnesses, to wit:

if public citizens and taxpayers can be admonished with the warning/threat that lying to the Legislature is a prosecutable offense,

and if the testimony of vested business interests such as those of the DOC/P&P is not taken under oath, and is accepted without substantiation or proofs, then we believe that the Rule of Law to be created and then dispensed by this Legislature will never be respected, will never be followed by those in elite positions of power, and will never be perceived to be fair, just, and equitable, and will further lead to societal and ethical breakdowns.

That is not what we want, as taxpayers, citizens, and concerned advocates, and we ask for you to intervene, and see that these bills are passed. (AB 416 and AB 510).

Thank you.

Constance Kosuda, retired NJ trial lawyer
PO Box 621303
Las Vegas, NV 89162

702 454 4053

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

Plain Text Attachment

PLEASE MAKE PART OF THE PUBLIC RECORD

CONSTANCE KOSUDA

PO BOX 621303

LAS VEGAS, NV 89162

702 454 4053

WE, THE CONSTITUENTS OF THE VARIOUS INMATE ADVOCATES AND ADVOCACY ORGANIZATIONS, THEIR FAMILIES, FRIENDS, LOVED ONES, FAITH BASED ORGANIZATIONS, AND PUBLIC CITIZENS AND TAXPAYERS, STRONGLY SUPPORT AB 416 AND AB 510 , AND IN PARTICULAR, AS IT RELATES TO AB 416, WHICH HAS BEEN DISCUSSED AND STUDIED FOR 5 PLUS YEARS IN VARIOUS COMMITTEES AND GROUPS, WE WISH TO POINT OUT THE FOLLOWING:

EXHIBIT C Senate Committee on Judiciary
Date: 5/28/07 Page 1 of 7

1. EVEN THOUGH PROBATION AND PAROLE MAY BELIEVE TO THE CONTRARY, IN FACT, THERE IS NO SUCH THING AS A QUASI-JUDICIAL BODY IN NEVADA, AND EVEN IF THERE WAS, THE PAROLE BOARD WAS NEVER GIVEN THIS TITLE, AND IS NOT A QUASI-JUDICIAL BODY.

IT IS NOT EXEMPT FROM THE RULE OF LAW. IT MUST OBEY THE LAW.

IT HAS NOT BEEN OBEYING THE LAW. IT HAS BROKEN THE LAW FOR (6 PLUS) NUMBERS OF YEARS.

WHAT WILL THE DULY AUTHORIZED SANCTION BE FOR ACTING ABOVE THE LAW - FOR BREAKING THE LAW - FOR MAKING IT UP AS IT GOES ALONG?

2. WE BELIEVE THAT THE BEHAVIOR OF MORSE ARBERRY HAS MADE A MOCKERY OF THESE PROCEEDINGS, AND IS AN INSULT TO THE PUBLIC CITIZENS AND TAXPAYERS OF THIS STATE.

THERE IS NO SUCH THING AS THE FIRST AMENDMENT IN NEVADA'S LEGISLATIVE PROCEEDINGS WHEN PETTY TEMPER OUTBURSTS CAN KILL LEGISLATION THAT IS INTENDED TO RESTORE DUE PROCESS AND THE RULE OF LAW TO THE INMATES OF THIS STATE, AND THEIR FAMILIES, AND WHICH IS FURTHER DESIGNED TO REIN IN THE EVER-SWELLING BUDGETS OF THE DOC AND P&P. (and their related business cartels).

3. WE, THE CITIZENS AND TAXPAYERS OF THIS STATE, ARE MAKING A DEMAND FOR THE PRODUCTION OF DOCUMENTS HEREIN, TO WIT, ANY AND ALL REPORTS/LETTERS/RECOMMENDATIONS MADE TO THIS LEGISLATURE BY JUSTICE HARDESTY TO KILL AB 416. WE BELIEVE THAT WE HAVE THE RIGHT TO REVIEW ALL SUCH DOCUMENTS, AND BELIEVE THAT THEY WERE IMPROPERLY SUBMITTED, SO AS TO MAKE A SHAM AND A MOCKERY OF THESE LEGISLATIVE PROCEEDINGS, AT A COST TO THE LEGAL AND FISCAL RIGHTS OF THE CITIZENS AND TAXPAYERS OF THIS STATE WHICH CAN NOT BE TOLERATED.

4. IT IS TIME FOR THE TESTIMONY OF THE DOC/P&P TO BE TAKEN UNDER OATH - IF THERE IS AN ASSERTION, FOR EXAMPLE, THAT A VERY SIMPLE THING WILL COST THEM "3 MILLION DOLLARS" THEN DOCUMENTATION AND SUBSTANTIATION OF THIS CLAIM MUST BE PROVIDED. IT IS AN INSULT AND AN OUTRAGE TO THE CITIZEN AND TAXPAYER FOR THEIR GREED-BASED ASSERTIONS TO BE TAKEN AS FACT WITHOUT PROOF BEING DEMANDED OF THEM.

OUR STATE'S BUDGET IS BEING DERAILED BY PRIVATE BUSINESS INTERESTS, AND AS OUR TAX DOLLARS FUND THEIR ENTERPRISE, OUR FIRST AMENDMENT FREEDOMS IN THESE PROCEEDINGS, AND RELATED PROCEEDINGS MUST NOT BE CHILLED, QUASHED, OR OTHERWISE INTERFERED WITH.

AS TO THE DOC/P&P CARTEL -

CLEARLY, THEY ARE NOT ABOVE THE LAW -

THEY ARE NOT IN COMPLIANCE WITH THE LAW,

AND THIS CAN NOT AND WILL NOT BE PERMITTED TO CONTINUE.

THANK YOU.

YAHOO! MAIL

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Date: Mon, 28 May 2007 06:12:45 -0700 (PDT)

From: "Constance Kosuda" <ckosuda@yahoo.com>

Subject: Re: PROPOSED REMARKS FOR INCLUSION ON THE RECORD FOR MONDAY 5/28/07 ON AB 416 AND AB 510

To: "Consuelo McCuin" <esalsa@cox.net>

flo has apparently been misinformed, according to Parks - we are not giving up on 416 - and parts of it could be added to 510 - she is being told what she is being told, why????

Consuelo McCuin <esalsa@cox.net> wrote:

> Constance 416 is dead Flo states "it's locked Arberry's desk drawer". This what she was told. We need to put all of our weight behind AB510 with ALL of it's AMENDMENTS. C

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

YAHOO! MAIL

Print - Close Window

Date: Mon, 28 May 2007 02:00:59 -0700 (GMT-07:00)

From: "FM Jones" <skierflo@earthlink.net>

To: "Constance" <ckosuda@yahoo.com>

Subject: Amendments to AB 510 for Don Hinton

SENATE JUDICIARY COMMITTEE

AMENDMENTS TO AB 510

STOP THE MONTHLY FEE charged to inmates on parole. Dr. Austin reported that 40% of new prisoners are technical violations of parolees. When the parolee does not have the money to pay the monthly service fee of $30 charged by the Parole and Probation Department they do not report and soon receive a technical parole violation. cost $8000 to re-enter the prison system

The Mandatory Parole Release be moved to 18 months to insure inmates have parole supervision when released. (The Parole Board calls the MPR Mandatory Parol

COMMENTS ON AB 416

PLEASE MAKE PART OF THE PUBLIC RECORD

CONSTANCE KOSUDA

PO BOX 621303

LAS VEGAS, NV 89162

702 454 4053

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COMMENTS ON AB 416

AS IT GOES ALONG?

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COMMENTS ON AB 416

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AND THIS CAN NOT AND WILL NOT BE PERMITTED TO CONTINUE.

THANK YOU.

SPARTACUS PROJECT OF NEVADA
DONALD HINTON, DIRECTOR
1919 Hall wood Drive, Las Vegas, Nevada 89119 (702) 740-0402
Spartacus_Project@hotmail.com

May 27, 2007

Senator Mark Amodei
Chairman, Judiciary Committee
Carson City, Nevada

Re: Prison Bills: AB416, 508, & 510

Chairman Amodei:

I am writing in regards to the above listed bills. These bills are extremely important to me personally, and to a good many other citizens in the State of Nevada. The continual denial of a reasonable look at the Nevada Parole Board Commission and the Nevada Department of Corrections is a outrageous disgrace to every tax-payer, and thinking person in this state, and will not go unnoticed in the future. This august assembly owes it to each and every citizen to do the right thing–for the right reason. In the immediate cause of action: the right thing to do–is to bring these two out of control government agencies under the immediate supervision of the legislature, and make binding provisions to continually monitor their behavior. Anything less--is a blight on this assembly.

Those of you on this committee that believe the representatives that appear before you, representing the commissioners and prison administrators, are giving you an honest projection of things to come–have not asked them to document their claims. I, personally, find their claims of disaster--childish, ludricrous and, and quite frankly, nothing more than job security and public baiting to those who see only doom & gloom. When respectful men like professor James Austin, Superior Court judges, James Hardesty & Bob Rose, and other intelligent men & women of this community--state more realistic prison detention and reform platforms–why would anyone listen to those who will profit by the status quo of a failed system.

The very nature of the disgraceful prison system of today, administrated by the very people appearing before you, asking for more money for more of the same failures they have administrated to in the last many years–is beyond belief. The changing of the name from Nevada Department of Prison to Nevada's Department of Corrections is in it's self a lie. Show this committee the corrections that have been made by this failing agency. As a tax-payer, I want to see some of their examples of success in changing actions and behaviors of prison inmates. I don't want fluff–I want solid examples of their claims. I don't want to hear a bunch of hyped up propaganda that insults any free thinking Nevada adult. In my opinion, their free ride should be over. And, sure as hell, we don't need a director of prisons, who refers to his charges as "RATS." This man should be fired and replaced by an individual that is trained in psychology or social reforms. Not a man that has spent years renting prison industry space to outside companies. Actually, from a real estate person to prison administrator--is quite a jump.

I would like to address the parole board, and the parole board commissioners, as having anything but a disasterous scheme played out to this committee, as to their

insight to any meaningful program that they might be putting forth that would be helpful to the State of Nevada, except their knowledgeable expertise in human failures. If that thought doesn't send up flares on your radar screen--I don't know what will.

The parole board chairperson has been in public saftey all her adult life. She is jaundiced in her perspective of human existence. Her role, and claim to fame, has been to seek out and destroy the heart of a bad person, by becoming the dark advenger for the state of Nevada. This person lacks compassion and, as seen by others, as being a hater of prisoners. On a personal note, this committee has been witness to her persona as it relates to her thoughts on releasing prisoners. She has set herself up as being the Omnipotent One for knowing who is ready for parole--or not. To many in this room, she is not a healthy person. To continually challenge the legislature, and the Nevada Supreme Court, as to how her committee will operate--is a sure sign that this Board needs a complete overhaul--and an oversight committee to continually monitor this secret organization. I know, in America, we should not have absolute authority dictating to us--by an appointed servant of the people. In truth, that is what we have in the Parole Board Chairperson. As a citizen, I am appalled by this arrogrant authority. I thought, as an American, I would never see a Guantanamo Bay in Nevada. I was wrong. It is here and has been for years.

When any organization can come before a legislative committee, and challenge the figures of another committee chairman, and there is an $11,000,000.00 discrepancy--there is an organization that needs to have their remedial math course revisited. The figures of $3,000,000.00 have been placed before this committee without one shred of proof these figures are even in the realm of reality. When a chairperson can sit before a legislative committee and tell the committee, as it relates to the Open Meeting Law--and I quote: "...unless we get the stay, no one is getting out of prison." This rank, arrogant, civil servant--needs to be replaced. She no longer represents the good people of the State of Nevada. Her agenda is now one of power over any other voice of reason. Committee members, it is time this person be relieved of her position--for the good of the State of Nevada and it's citizens. She no longer represents the Nevada citizens--she represents herself and her agenda. The parole board commissioners, who have been given no guidance over the years, and left to their own thoughts and actions--have left a blight on this state. As legislators, you need to set the rules--and the parole board commissioners need to follow them. The time is now. Lives of inmates, and families of immates, are being destroyed because of this overly abusive board. Is this what the State of Nevada envisioned when they created this board? I think not...

I haven't even covered the abuse the State of Nevada's correctional system has placed on it's convicted inmates. It isn't something you would be proud to say--you contributed to it's continuance. Any time this committee, or any committee in Nevada, would care to hear the abuse of Nevada's inmates, I'd be pleased to inform you, as would many others, in a truthful manner. Jack Nicholson's once said in a movie and I quote: "The truth, you couldn't handle the truth." I challenge you to hear the truth, not the rhetoric put out by a self-serving entity--driven by a wraped sense of rightousness. As a tax-payer, I cannot afford any more self absorbing moralistic hyperbole. Also, I'm not comfortable with NDOC's projection of $300 million today & $1.9 billion in the coming years for prisons. That would be just a drop in the bucket for the true costs of this experiment. It is time to get real & explore the alternatives to prisons. Respectfully.

STEVE FALCONE
Opinion editor
775-788-6383 ■ sfalcone@rgj.com

775-788-6317 ■ wmcrimes@rgj.com

THE OPINION OF THE RGJ EDITORIAL BOARD

Keep state parole proceedings subject to Open Meeting Law

The Nevada Board of Parole Commissioners should remain subject to the state's open meeting laws, as is every other public commission, board and agency.

The state Supreme Court said as much twice last year when the justices answered the parole board's claim that it would cost too much and slow the decisionmaking too much to hold open hearings and that it acts as a judicial body to which the Open Meeting Law does not apply.

Lawmakers should not yield to the proposal before it (Senate Bill 496), which aims to exempt the board from compliance with the law and which has potential to favor finance over fairness. Fairness and the high court's rulings undoubtedly make up much of the reason why the Assembly has its own bill (AB61, which was rolled into AB416) that affirms the Supreme Court's rulings that the board is subject to the Open Meeting Law.

SNAPSHOT

TOPIC: Senate Bill 496

OUR VIEW: Government works best under principles of openness and transparency.

Dorla Salling, chairwoman of the Nevada Board of Parole Commissioners, received a chilly reception to the proposal to exempt the board from Nevada's Open Meeting Law.

LISA J. TOLDA/RGJ FILE

'Unless we get the stay, no one's getting out of prison.'

DORLA SALLING ■ Chairwoman of the Nevada Board of Parole Commissioners

Not one of the board's protests are justification for secrecy.

Open Meeting laws are a protection for the public and for government. The fairness and justice issues, which the laws aim to preserve, can be particularly significant in parole decisionmaking, when it is possible that an inmate who has not served the full time but may have earned freedom.

The principle on which public meetings are based is that openness and transparency make for the best kind of government. It seeks to keep government honest and encourage the public's trust. Anything besides openness leaves room for inadvertent, or even deliberate, abuses and it incurs suspicion.

The parole board already moved in that direction when it shut down all parole hearings in response to the high court's ruling last fall. The board's chairperson, Dorla Salling, was quoted as saying, "Unless we get the stay, no one's getting out of prison."

In effect, the board held hostage the high court, the inmates and the state. It slowed the rate at which deserving inmates were released and pushed the prison population to near-maximum capacity. Perhaps that is why Salling's reception by the Assembly Select Committee on Corrections, Parole and Probation has been described as "cool."

There is a lot at stake in following the Open Meeting Law. The public, including inmates, has a right to know that evidence is accurate and appropriately presented and that deliberation also is appropriate. Cost, certainly, is an issue that often determines how public entities are operated. But making justice dependent on cost? What a terrible principle to set.

Further, government should not have to labor under the burden of suspicion. The only way to ensure that fairness, honesty and justice are in place is to mandate openness.

It is amazing how often public panels, commissions and agencies must be held to account because they want to meet behind closed doors while making decisions that affect the public good. In the end, most of their arguments only communicate that government is easier — and possibly less costly — if officials are allowed to do what they want without public oversight.

The parole board is subject to the state's Open Meeting Law, as the Supreme Court said.

The Legislature must do nothing to dilute the ruling.

<<Back

lasvegasnow.com EYEWITNESSNEWS

Jonathan Humbert, Legislative Reporter

Governor Seeks Solution to Overcrowded Prisons

May 3, 2007 03:21 PM

It's a $300 million dilemma that Governor Jim Gibbons wants to solve. Nevada's prisons are overcrowded and bursting at the seams, and that is leading to a dangerous stalemate over funding.

The conditions aren't good. The governor saw old, overcrowded cells lined one after the other. But the prisoners he talked to said this isn't an issue of incarceration. It's an issue of safety.

Tucked away behind steel and glass, they wait for their time to be released. It's the smell of too many people in too tight a space. But for the thousands of inmates in Nevada's prisons, inmates like Steve Wheeler, these jammed conditions are all they have.

"Oh, it's hell, this many people crowded in this small area," said Wheeler. "We put up with each other. It's real stressful. There's a lot of arguments."

Wheeler is a three time DUI offender. He's locked up for six more years and deservedly so by his own admission. But his room, designed for two people, is now filled with four. Danger hangs over their heads, as a mess of power cords and cables dangle right under a heater vent.

Governor Jim Gibbons wants to improve these conditions. "Our prison population is going to continue to grow. We have to address that, and there's just no other reality."

Wheeler says the massive overcrowding has made this minimum-security facility much more tense and unsafe. It's the governor's hope to end the neglect. With a $110 million funding shortfall, prisons have been the main target for downsizing, but Gibbons says no deal.

"There is no reason for the state of Nevada to still be a for-profit government," said Gibbons.

Prison director Howard Skolnik says unique and drastic measures may need to happen. "We've seriously talked about the possibility of using tents for some of the overflow until our new facilities are built."

But Skolnik doesn't have too much sympathy for the inmates. He says less crowding means less conflict, because as he put it, you put a bunch of rats in a small space and they start to eat each other.

And that potential for riots and violence is the worst case scenario Gibbons, Skolnik, and Wheeler never want to see.

"It's not very nice," said Wheeler. "There's a lot of tension around here."

Whether Thursday's arranged photo-op is going to change hearts and minds at the legislature is still unclear. But Gibbons again reaffirmed his stance that he'll veto any tax increase, even if one could help the state emerge in the black instead of the red.

Email your comments to Legislative Reporter Jonathan Humbert.

WorldNow

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SPARTACUS PROJECT OF NEVADA

DONALD HINTON, DIRECTOR
1919 Hall wood Drive, Las Vegas, Nevada 89119 (702) 740-0402
Spartacus_Project@hotmail.com

May 19, 2007

Letter to the editor
Las Vegas Review Journal &
Las Vegas Sun

SKOLNUT, PRISON DIRECTOR/ RAT KEEPER.

I have deliberately waited for a few days before writing to see the outrage Nevada Citizens would express with the calling of Nevada's inmates "RATS", by the newly appointed Director of Prisons, Howard Skolnik. It is unbelievable that this insult to every person living in this state would go unchallanged. Nevada citizens have lived for so long under the threat of "Law & Order"– they don't know when they are being scammed out of their tax dollars, for the benefit of prison & parole administrators, and are desensitized by such blatant irresponsible rhetoric. Remember Nevada–in the 1920's, Adolph Hitler's climb to power was the theme: "Law & Order."

In this state it isn't necessary to be guilty of a crime–it is just a crime when you can't afford to properly defend yourself in front of some of the most restrictive judges any state could appoint or elect. And, the luck of the draw is one of the state paid public defenders, or court selected attorneys, are appointed to defend you. You usually see this defender minutes before your trial is to start–while sitting in the jury box. Justice is truly blind in Nevada, & the Nevada judicial system likes it that way! Especially those employed in this state's judicial system. For them: "Crime Pays." And, as a tax payer--you pay & pay & pay. Not to rehabilitate, or redirect an inmates erring ways, but to warehouse human beings. Do you really think this is the way to change habits--or instill a hatred for everyone that has voted and paid to keep an inmate down that has made a mistake? Maybe as a Nevadan, you should think about that for a minute. After all, these inmate will be your neighbor someday. Don't get yourself harmed, or killed, on the word of some state paid parasite–who tells you time after time–they know what they are doing. If you have lived in this state for any period of time–you should know better!

Why is it that every time the state wants more money for prisoners to be incarcerated for a longer period of time, the threat is always: " if they release some of the inmates–it will only be the violent ones?" Yeah, right. Tell me this isn't the only threat you hear from the prison & parole administrators about releasing inmates? As a citizen of this state, if you haven't caught on to this lie by now–you deserve to keep paying & paying & paying! It is time to see the other side of the coin. Treat these inmates as human beings. Train them to keep a job. Give them education–so that they will not fall back into the same pattern they left upon conviction. Drug users need mental health therapy–not prison, and besides, it is so much cheaper on your pocket book than just incarceration. Let's understand each other. I'm not a bleeding heart liberal, I'm talking about inmates that deserve to be released. Believe me, there are many. Do you really think, in the future, 1.9 billion dollars for prison construction is going top make you safer? Or, more administrators richer? Come on,–think about this one! Want to continue throwing your taxes into a cesspool, that has never produced a positive. Prisons = a failed system. Change it.

The respect you anticipate from a released inmate is what he learns from his incarceration. Mr. Skolnut snouto remember that, but wait a minute–if Skolnut respects inmates, he may be out of a job someday. We wouldn't want that–would we? He just calls them as he sees them: "RATS." As for the parole board, their respect borders on total disrespect towards inmates. Think I'm wrong–look up Darla Saling, parole commissioner, on the internet. That should make your day. Darla's disregard for the truth is outstanding. And still, the governor keeps her. Both Skolnut and Saling should be replaced with professional administrators without a 1920's "Law & Order" mentality. Hitler's day has come and gone, and so should these two arrogrant & inept persons. As a tax-payer–I don't think we can afford them. But the question is: Do you? Demand better for your tax dollars.

Panel backs review of prison sentences

Prison overcrowding prompts measure

THE ASSOCIATED PRESS

CARSON CITY — A Senate committee voted Thursday to support a measure calling for a hard look at crime and punishment in Nevada.

AB508 would revive a state sentencing commission that has not met since 2000, give that board subpoena powers and allow it to bring recommendations to the 2009 Legislature.

The bill changes the makeup of the commission, adding a second representative from law enforcement and an inmate advocate.

The Senate Judiciary Committee voted unanimously for the bill, which needs approval from the full Senate before moving ahead.

The commission, which must meet within 60 days of the end of the legislative session, will revisit sentencing laws passed in 1995 that have contributed to Nevada's overcrowded prisons.

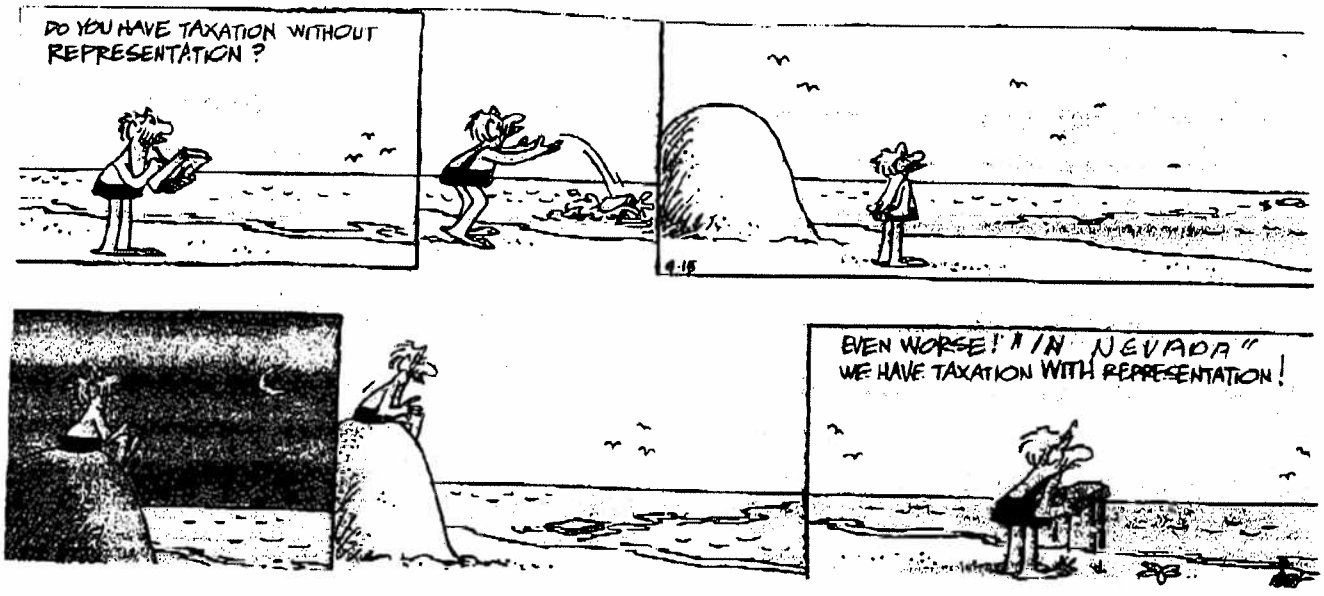
Nevada joined a national trend of states creating tougher, mandatory punishments in the mid-1990s. This year, legislators are reviewing studies showing that the policies have caused the state to house large numbers of low-risk inmates.

Supreme Court Justice Jim Hardesty has criticized the "mandatory minimums" and said they cause skewed sentences for nonviolent, low-level offenders.

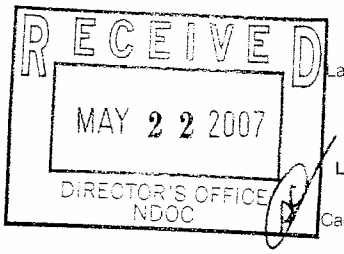
Hardesty and state prisons chief Howard Skolnik told lawmakers again on Thursday that revisiting sentencing guidelines is critical to relieving the state's overburdened prison system.

"We have inhumane treatment of inmates," Hardesty said. "We have risk to corrections officers and inmates. We have risk of riots."

A powerful sentencing commission is critical to getting good information, and allowing the next legislature to make real change, he said.



HARVEY J. MUNFORD



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COMMITTEES:
Education
Elections, Procedures, Ethics, and Constitutional Amendments
Government Affairs

State of Nevada Assembly

Seventy-Fourth Session

May 22, 2007

Nevada Department of Corrections [Hand Delivered]
Attention: Director Howard Skolnik
5500 Snyder Avenue
Carson City, NV 89702

Dear Director Skolnik,

As an Nevada State Assemblyman representing District #6 from Las Vegas, Nevada and sponsor of AB 416 which is before the legislative body, I respectfully request you furnish the following information **to be delivered** to my office in the legislative building #3134 for my use by 5:00 p.m., Wednesday, May 23, 2007:

1. All costs relating to civil litigation including transportation of inmates to and from court, staff overtime, and any other costs directly or indirectly related over the past 10 year period, incurred by the Nevada Department of Corrections for the State of Nevada for all cases including the ones listed below being listed as a defendant or participating in defending the Nevada Parole Commissioners alleged violations of the NV Open Meeting Law and/or parole violations.
    a. Robert Stockmeire vs Psychological Review Panel, Case #42063, 2001 Pershing County, NV case appealed to the NV Supreme Court.. NV. Supreme Court ordered Psychological Panel and arm of the Parole Board of Commissioners to follow the Open Meeting Law. The inmate won.
    b. John Witherow vs Dorla Salling and Susan McCurdy Parole Board Commissioners, Case #42497 through 42500, NV Supreme Court ruled the Parole Board Commissioners are under the NV Open Meeting Law. The inmate won.
    c. Russell W. Crew vs. NV Parole Board Commissioner appeal filed with NV Supreme Court Dec. 5, 2005.

2. All costs of civil litigation including transportation of inmates to and from court, staff overtime, and any other costs directly or indirectly related over the past 10 year period, incurred by the Nevada Department of Corrections for the State of

Nevada for being listed as a defendant or participating in defending the Nevada Department of Corrections in Religious Civil Litigation.

a. Ted Burkett, Nelson Pratt, Dino Barnes, Nolan Klein vs Nevada Department of Corrections (NDOC) and/or NDOC employees, i.e. Wardens at all NDOC institutions.

3. All costs relating to civil litigation including transportation of inmates to and from court, staff overtime, and any other costs directly or indirectly related to or settled over the past 10 year period, incurred by the Nevada Department of Corrections for the State of Nevada for being listed as a defendant or participating in defending the Nevada Department of Corrections in retaliation and/or excessive force civil litigation.
   a. Nolan E. Klein vs. Warden McDaniel @ Ely State Prison. American Civil Liberties Union (ACLU) was appointed counsel on an excessive shooting case in the ESP prison. How much was the ACLU paid in attorney's fees? Civil Litigation

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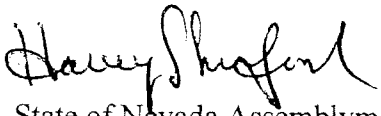
.http://nevadaappeal.com/article/20000712/COMMUNITY/107122991&SearchID=73281847899270

http://nevadaappeal.com/article/20050903/ELECTIONS/109030064&SearchID=73281848809346

Respectfully,



State of Nevada Assemblyman
Harvey J. Munford

M:c

Harvey-
In 2007 federal Judge ruled in favor of Nolan Klein, that this case is going to trial against NDOC

NEVADA APPEAL

Nevada inmate sues prison system over religious freedom

Geoff Dornan
Appeal Capitol Bureau, gdornan@nevadaappeal.com
September 3, 2005

A Nevada prison inmate has accused the Nevada prison system of violating his rights to practice his religion.

Nolan Klein filed the civil rights complaint with the U.S. District Court in Reno charging prison officials are violating his First Amendment rights, breaking federal law and ignoring a May decision by the U.S. Supreme Court by prohibiting his religious practices.

He said prison officials are discriminating against him because he doesn't practice a so-called "mainstream religion."

He alleged that prison rules prohibit the use of candles and incense and other materials necessary to his religious practice. He said inmates are allowed worship once a week as a group, and his beliefs are too distinct to be included with the group.

Klein, serving life with possible parole on a rape conviction, is a Wiccan, which adherents describe as a natural faith somewhat akin to traditional Native American beliefs.

He said in the complaint that Lovelock Correctional Center officials have denied him the right to practice his faith and confiscated his religious property.

Klein charged this isn't the first time the prison administration has violated his rights. He had another federal case making many of the same accusations which he says was resolved by a settlement agreement in September 2000 in which the prison agreed to allow him his religious freedoms.

Klein pointed to the May 31, 2005, decision by the U.S. Supreme Court which ordered the Ohio department of corrections to allow inmates there to practice non-mainstream religious rites. In Cutter v. Wilkinson, the court said federal law mandates "No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution," unless that practice compromises safety and security or there is some other compelling reason.

The court has upheld the right of prison officials in the past to deny inmates religious practices which involve violence, drugs or alcohol.

But the Cutter decision asserts practices such as Wicca are essentially no different than mainstream religious practices which prison officials endorse. It says they can't discriminate against Wiccans, Satanists and others just because they aren't mainstream.

Klein's civil rights complaint asks a declaratory judgment that his rights have been violated and an injunction barring the prison from continuing to deny him his religious freedom.

n Contact reporter Geoff Dornan at gdornan@nevadaappeal.com or 687-8750.

BACK

NEVADA APPEAL

Speech group suing Nevada prisons

Staff reports
July 12, 2000

The American Civil Liberties Union of Nevada filed a federal lawsuit Tuesday, hoping to end an alleged Nevada Department of Prison policy that prevents inmates from receiving the Prison Legal News.

The ACLU said the publication - which boasts a national circulation of 3,500 - has been withheld from inmates in some Nevada correctional facilities.

Nevada Department of Prison Spokesman Glen Wharton said he has not heard of the lawsuit, but said the department policy is not to comment on pending litigation.

According to the civil rights group, systematic refusal of delivery of the monthly journal is a violation of free speech guarantees. It says copies of the publication have been confiscated and discarded.

Prison Legal News features news and analysis of issues in correctional institutions.

The lawsuit was filed in the Federal District Court in Reno.

BACK

NEVADA APPEAL

State pays $300,000 to ACLU lawyers over Ely "birdshot" lawsuit

by staff
January 14, 2000

The state agreed Wednesday to pay $299,500 in legal fees for ACLU lawyers in the Ely prison "birdshot" lawsuit.

The lawsuit, dating to 1994, included a variety of claims, including that guards in the prison were too quick to fire shotguns loaded with birdshot at inmates for relatively minor infractions.

The American Civil Liberties Union filed the lawsuit with 17 claims on behalf of the inmates.

Most of the issues were found to be without merit after extensive investigation, but the "birdshot" allegations and charges that the prison failed to provide adequate mental health care for some inmates were the subject of lengthy litigation.

Solicitor General Mark Ghan of the Attorney General's Office said Warden E.K. McDaniel and Prison Director Bob Bayer made a variety of policy changes that fixed those problems shortly after the suit was filed. That included a new shooting policy and improvements in mental health care.

"They had these changes in the works before the ACLU came along," he said.

But ACLU lawyers argued they should be paid fees to cover their expenses because it was their lawsuit which forced the changes.

U.S. District Judge David Hagen in Reno agreed, saying, "Defendants supply no evidence to support their claim that all of these significant changes would have occurred without plaintiffs' intervention.

"Plaintiffs, on the other hand, have provided the court statistics which show a dramatic drop in shooting incidents after the initiation of the lawsuit," his decision issued Oct. 14, 1999, says.

Shootings dropped from 50 to just five the year after the lawsuit was filed.

Hagen authorized $374,000 in attorneys fees, but the AG's office negotiated that to the $299,500 figure, which the Board of Examiners agreed to pay Wednesday.

In addition, the board approved a $30,000 payment to Margaret Woods in a sexual harassment claim against the Department of Prisons. The U.S. Equal Rights Employment Opportunity Commission found she was "subjected to sexual harassment, hostile work environment and retaliation" in her job in the prison system from 1992 to 1996.

BACK

NEVADA APPEAL

ACLU backed lawsuit results in censorship guidelines for Nevada prisons

By JIM SCRIPPS, Appeal staff writer
August 17, 2000

Both sides are claiming victory in a lawsuit that pitted the American Civil Liberties Union against the Nevada Department of Prisons.

A federal injunction granted Monday in the 9th U.S. Court of Appeals in Reno guarantees prisoners access to The Prison Legal News if they meet criteria estabalished by prison officials.

The decision by Judge Howard McKibben prohibits prison operators from a "blanket exclusion" from receiving the publication, the decision states.

"This is a message to the Department of Prisons and the (Nevada) Attorney General's Office to be more responsive and more responsible about how to deal with these sorts of issues," said Gary Peck, Nevada ACLU director. "It is not enough to simply demagogue such matters by ranting about frivolous prisoner lawsuits."

The Prison Legal News boasts a national circulation of 3,500 and reports on analysis of issues in correctional institutions. It is edited by an inmate in a Washington state penitentiary.

The publication, represented by ACLU attorneys, was named as the plaintiff in the suit. They alleged that prison operators violated prisoners' free speech rights by prohibiting them from receiving the periodical.

Senior Deputy Attorney General Joe Ward handled the case and showed little objection to the suit made by The Prison Legal News. He said his office was satisfied with Judge Howard McKibben's decision.

"This would have been an easy accommodation to make outside of the courtroom," he said. "The first contact we had with this case was through this lawsuit."

In a response to the ACLU injunction request, Ward wrote that his office consents to the request, "provided they be allowed to control Prison Legal News publications and correspondence in a manner consistent with Thornburgh v. Abbott."

The Thornburgh decision, referenced in McKibben's two-page decision, allows prison operators to "properly review and appropriately censor individual issues of Prison Legal News within the guidelines set forth by the United States Supreme Court."

The injunction was brought before the court July 10.

The next step, Ward said, is to create standards for allowable censorship under U.S. Supreme Court guidelines. He also said his office is requesting a meeting to explore the possibility of recouping attorney's fees.

"We hope to sit down and see if this case can be resolved," he said. Attorneys' fees "may be the major issue."

BACK

HARVEY J. MUNFORD

COMMITTEES:
Education
Elections, Procedures, Ethics, and Constitutional Amendments
Government Affairs

State of Nevada Assembly

Seventy-Fourth Session

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www.leg.state.nv.us

May 22, 2007

Nevada Parole Board Commissioners [Hand delivered]
Attention: Dorla Salling Chairman
1677 Old Hotsprings Road Suite "A"
Carson City, NV 89706

Dear Dorla Salling,

As an Nevada State Assemblyman representing District #6 from Las Vegas, Nevada and sponsor of AB 416 which is before the legislative body, I respectfully request you furnish and **deliver** the following information to my office in the legislative building office #3134 for my use by 5:00 p.m., Wednesday, May 23, 2007:

1. All costs related to civil litigation including all transportation, overtime, man hours and copy costs incurred by the Nevada Parole Board of Commissioners for the State of Nevada, and any other costs directly or indirectly related over the past 10 year period on all cases including the ones listed below for being listed as a defendant or participating in defending the Nevada Parole Commissioners alleged violations of the NV Open Meeting Law and/or parole violations.
    a. Robert Stockmeire vs Psychological Review Panel, Case #42063, 2001 Pershing County, NV case appealed to the NV Supreme Court.. NV. Supreme Court ordered Psychological Panel and arm of the Parole Board of Commissioners to follow the Open Meeting Law. The inmate won.
    b. John Witherow vs Dorla Salling and Susan McCurdy Parole Board Commissioners, Case #42497 through 42500, NV Supreme Court ruled the Parole Board Commissioners are under the NV Open Meeting Law. The inmate won.
    c. Russell W. Crew vs. NV Parole Board Commissioner appeal filed with NV Supreme Court Dec. 5, 2005.

Respectfully,

Harvey J. Munford

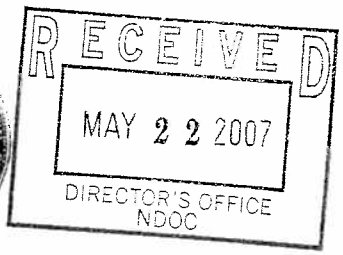
Assemblyman Harvey J. Munford
M:c

For Parole Commissioner

Anita Kerr
5/22/07 730 15

RECEIVED
MAY 22 2007
ATTORNEY GENERAL
CARSON CITY, NEVADA

HARVEY J. MUNFORD



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COMMITTEES:
Education
Elections, Procedures, Ethics, and Constitutional Amendments
Government Affairs

State of Nevada Assembly

Seventy-Fourth Session

May 22, 2007

Attorney General Catherine Cortez Masto [Hand Delivered]
100 North Carson Street
Carson City, NV 89701

Dear Attorney General Masto,

As an Nevada State Assemblyman representing District #6 from Las Vegas, Nevada and sponsor of AB 416 which is before the legislative body, I respectfully request you furnish and **deliver** the following information to my office in the legislative building office #3134 for my use by 5:00 p.m., Wednesday, May 23, 2007:

1. All costs of civil litigation including attorney's fees for both plaintiffs and defendants court costs and awards incurred by the Attorney General's Office for the State of Nevada for the past ten years on all cases including those listed below and any other litigants against the Parole Board Commissioner and/or the Nevada Department of Corrections for defending the Nevada Parole Commissioners alleged violations of the NV Open Meeting Law and/or parole violations.
    a. Robert Stockmeire vs Psychological Review Panel, Case #42063, 2001 Pershing County, NV case appealed to the NV Supreme Court.. NV. Supreme Court ordered Psychological Panel and arm of the Parole Board of Commissioners to follow the Open Meeting Law. The inmate won.
    b. John Witherow vs Dorla Salling and Susan McCurdy Parole Board Commissioners, Case #42497 through 42500, NV Supreme Court ruled the Parole Board Commissioners are under the NV Open Meeting Law. The inmate won.
    c. Russell W. Crew vs. NV Parole Board Commissioner appeal filed with NV Supreme Court Dec. 5, 2005.

2. All costs of civil litigation including attorney's fees for both plaintiff and defendants court costs and awards incurred by the Attorney General's Office for the State of Nevada for the past ten years on the following cases and any other litigants dealing with Religious violations against the Nevada Department of Corrections.
    a. Ted Burkett, Nelson Pratt, Dino Barnes, Nolan Klein vs Nevada Department of Corrections (NDOC) and/or NDOC employees, i.e. Wardens at all NDOC institutions.

3. All costs for civil litigation including attorney's fees for both plaintiffs and defendants court costs and awards incurred by the Attorney General's Office for the State of Nevada for the past ten years or have been settled within the past 10 years on the following retaliation and/or excessive force civil litigation cases:
    a. Nolan E. Klein vs. Warden McDaniel @ Ely State Prison. American Civil Liberties Union (ACLU) was appointed counsel on an excessive shooting case in the ESP prison. How much was the ACLU paid in attorney's fees? Civil Litigation

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.http://nevadaappeal.com/article/20000712/COMMUNITY/107122991&SearchID=73281847899270

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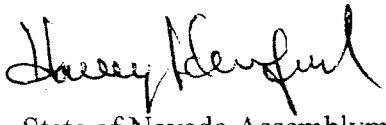
Respectfully,



State of Nevada Assemblyman
Harvey J. Munford

M:c

(2 of 2)

From: FM Jones <skierflo@earthlink.net>
To: "Sen. Mark Amodei" , "Sen. Valerie Weiner" , "Sen. Nolan" , "Sen. Maurice Washington" , Sen. Mike McGuinness@unspecified-domain, mmcguinness@sen.state.nv.us, "Sen. Terry Care" , "Sen. Steven Horsford"
Cc: "Consuelo F. McCuin" <esalsa@cox.net>, "Chatbratstar@aol.com" <Chatbratstar@aol.com>, Constance <ckosuda@yahoo.com>, Sharon Samson wk <ssamson@qbc-law.com>, Tonja Brown <TONJAMASROD40@aol.com>
Subject: Amendment for AB 510- by Florence Jones (702) 250-0129
Date: May 27, 2007 1:57 AM

Honorable Senate Judiciary Committee

Please accept the following amendment for AB 510 for consideration in your worksession.
Thank you, Flo Jones

-----Forwarded Message-----
>From: FM Jones <skierflo@earthlink.net>
>Sent: May 11, 2007 6:01 PM
>To: marberry@asm.state.nv.us
>Cc: rcoombs@lcb.state.nv.us, "Asm. Harvey Munford" <hmunford@asm.state.nv.us>
>Subject: - by Florence Jones (702) 250-0129
>
>
NRS 213.130 ADD: A parole applicant should be considered for parole under the parole standard guideline recommended month figure being used at the time of their sentencing. A parole applicant provided with this assurance will have a sense of reasonable fairness in the parole process. However under the current Parole Board practice when a parole applicant reaches the figure under their original sentence guideline the Parole Board changes the Parole Standards and applies the increased time retroactively. To many inmates with long sentences this has happened four times. The Parole Board is the release mechanism for the prison system. When the board uses the discretionary power granted it by the legislature to increase Parole Standards and Guideline Recommended Months the effect is prison overcrowding and unfairness in parole practices. ADD: The regulations used by the Parole Board of 1995 as the Parole Standards to apply to all inmates. This will immediately eliminate overcrowding.
>
> The following quotes from a 2001 news article and information gleaned in 2007 from the parole board supports the need for these amendments. "FAIRNESS SOUGHT IN PAROLE FORMULA Board cites inequities after previous changes in system written Friday, October 12, 2001 by Kim Smith, Las Vegas Sun reporter which states, "Citing inequities in the way murderers and sex offenders are being treated at parole hearings, the state [NV] Board of Parole Commissioners agreed Thursday [October 11, 2001] to make some changes.

> After legislators in 1995 decided to increase the penalties for first and second-degree murderers and sex offenders, the commissioners in 1999 changed the formula they were using to determine parole eligibility. [Changed again in 2004 now known as Parole Standards and commonly called the Recommended Guideline Months (PBFORM-PS 9REV.12/10/04)]
> As a result, murderers who committed their crimes prior to 1995 were being accessed the same way more recent murderers were being accessed despite the fact that their minimum prison sentences differed by 10 years.
> On Thursday, [October 11, 2001] board [Parole Board] members agreed they would adjust their formulas to take into consideration what the minimum sentence was at the time the inmate was incarcerated."
>SIX YEARS LATER MAY 8, 2007 Dorla Salling Chairman of the Parole Board referred to parole board systems analyst and Pardons Board Executive Secretary David Smith the question from Florence Jones an advocate for social and prison reform. Ms. Jones asked, "What adjustments have been made by the Parole Board to their formulas to take into consideration what the minimum sentence was before 1995? In 2001 it was publicly reported by the Las Vegas Sun that the board was going to make such an adjustment." Mr. Smith's response was that NO ADJUSTMENTS have been make to the Parole Board formula. As pointed out in 2001 there is an unfair system being used by the Parole Board.
> The Parole Standards increased and doubled in some categories in 1999 and again in 2004. These new parole standards are being retroactively applied in violation of ex-post facto law unfairly to all inmates even those who have been incarcerated since before the 1995 Truth In Sentencing Law changes.

Fairness sought in parole formul

Board cites inequities after previous changes in system

By Kim Smith

LAS VEGAS SUN

Citing inequities in the way murderers and sex offenders are being treated at parole hearings, the state Board of Parole Commissioners agreed Thursday to make some changes.

After legislators in 1995 decided to increase the penalties for first and second-degree murderers and sex offenders, the commissioners in 1999 changed the formula they were using to determine parole eligibility.

As a result, murderers who committed their crimes prior to 1995 were being accessed the same way more recent murderers were being accessed despite the fact that their minimum prison sentences differed by 10 years.

On Thursday, board members agreed they would adjust their formulas to take into consideration what the minimum sentence was at the time the inmate was incarcerated.

Commissioner Tami Bass voted against the change, noting that commissioners have always had the ability to deviate from the guidelines. She said she could not remember a time when she didn't parole someone she thought worthy — regardless of the score they may have achieved.

David Smith, a management analyst for the board, said no statistics are available to show how many, if any, prisoners were denied parole based solely on the formula changes implemented by the board in 1999.

The board also voted Thursday to give credit to all potential parolees for each time they successfully completed a term of community supervision in the past — whether it was parole, probation or some other type of supervision program.

The members also voted to deduct points from prospective parolees who were on parole in other states when they were convicted and imprisoned in Nevada.

They also voted to deduct points from another class of inmates who have failed community supervision in the past — those who are still technically inmates, but who are currently serving their time on the streets. They include certain DUI offenders and other non-violent offenders.

Up until Thursday, no credits were given for the successful completion of community supervision, and not all prospective parolees had points deducted for failures.

In addition, the board voted that prospective parolees who were "dishonorably discharged" from community supervision in the past will have points deducted.

Offenders can successfully complete their probation or parole, have their probation or parole revoked or be dishonorably discharged.

The board voted to lo disfavor on dishonorab charges despite the fact vision of Parole and Pr counts them as successfi pletions when writing tence investigation report

Commissioner James said he doesn't believe th its and deductions will the number of prisone leased. Instead, it will ma formula the commissione more "valid."

The board is required t ute to complete a compreh review of its parole sta every two years. The cl made Thursday were mad ing that review.

Kim Smith covers courts Sun. She can be reached at 455-4844 or by e-mail at k ly@lasvegassun.com

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Fax (775) 687-6736

DORLA M. SALLING, Chairman

STATE OF NEVADA

KENNY C. GUINN
Governor

LAS VEGAS OFFICE
3601 E. Sahara Avenue
Las Vegas, Nevada 89104
(702) 486-4370
Fax (702) 486-4376

BOARD OF PAROLE COMMISSIONERS

May 18, 2005

To: Chairman Bernie Anderson
Assembly Committee on Judiciary

From: David M. Smith, Management Analyst III

Subject: Additional information related to Senate Bill 423 DMS

During the May 12th hearing on SB 423, a concern was raised related to the Open Meeting Law (OML) and parole hearings.

The Parole Board has requested changes to NRS 213 to clarify the intent of the Legislature with regard to the applicability of the OML on parole hearings. Currently, the Parole Board operates under the advice of the Attorney General that parole hearings are not subject to the OML.

It is important that the Parole Board operate under a clear mandate of statute. The Board does not have the resources to conduct parole hearings under the provisions of the OML and the operation would be severely impaired if such a change was made without adequate resources.

Parole and clemency hearings are currently open to the public (see NRS 213.130(3)) and are clearly judicial in nature. SB 423 would make it abundantly clear that "judicial proceedings," like parole and clemency related hearings, are exempt.

During the 2003 legislative session, the Parole Board with the assistance of the Attorney General's office requested an amendment to a bill related to the OML. It was late in the session and that bill died due to the nature of some of the other language presented. 11/28/05 Sec Jn

Nothing is attached in Legislative Counsel Bureau Records

Attached is a copy of that letter which outlines arguments in favor of making it clear that parole and clemency hearings are not subject to the OML.

I hope this information is helpful in supporting the passage of this bill from your committee.

ASSEMBLY JUDICIARY
DATE: 5.20.05 EXHIBIT D PAGE 1 OF 1
SUBMITTED BY: David Smith

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BOARD OF PAROLE COMMISSIONERS

May 18, 2005

To: Chairman Bernie Anderson
Assembly Committee on Judiciary

From: David M. Smith, Management Analyst III

Subject: Additional information related to Senate Bill 423 DM

During the May 12th hearing on SB 423, a concern was raised related to the Open Meeting Law (OML) and parole hearings.

The Parole Board has requested changes to NRS 213 to clarify the intent of the Legislature with regard to the applicability of the OML on parole hearings. Currently, the Parole Board operates under the advice of the Attorney General that parole hearings are not subject to the OML.

It is important that the Parole Board operate under a clear mandate of statute. The Board does not have the resources to conduct parole hearings under the provisions of the OML and the operation would be severely impaired if such a change was made without adequate resources.

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During the 2003 legislative session, the Parole Board with the assistance of the Attorney General's office requested an amendment to a bill related to the OML. It was late in the session and that bill died due to the nature of some of the other language presented.

Attached is a copy of that letter which outlines arguments in favor of making it clear that parole and clemency hearings are not subject to the OML.

I hope this information is helpful in supporting the passage of this bill from your committee.

ASSEMBLY JUDICIARY
DATE: 5/19/05 EXHIBIT M PAGE 1 OF 4
SUBMITTED BY: Board of Parole Commissioners

(NSPS) Rev. 1-05

May 28, 2003

To: Scott Wasserman, Chief Counsel
Legislative Counsel Bureau

From: Joe Ward, Jr., Senior Deputy Attorney General
Litigation Division

Subject: Senate Bill 229, Section 4.5

It was good talking with you this morning. I am counsel for the bodies addressed at Chapter 213 of the Nevada Revised Statute (NRS). Regarding Section 4.5 of Senate Bill (S.B.) 229, the proposed amendment to Chapter 213 of the Nevada Revised Statute (NRS), reads as follows:

> Except as otherwise provided in this chapter, the provisions of chapter 241 of NRS do not apply to a public body conducting a meeting or hearing that may result in a recommendation or final decision to grant, deny, continue, or revoke the parole of a prisoner, certify a prisoner pursuant to NRS 213.1214, commute a sentence, remit a fine or forfeiture, restore a persons civil rights or grant a pardon or reprieve.

Pursuant to our discussion, the following additional sentence could be added: "Notwithstanding, all such meetings or hearings, except for hearings pursuant to NRS 213.1214, shall be open to the public." Alternatively, the last sentence could read: "Notwithstanding, all such meetings or hearings shall be open to the public." Such fine-tuning would address the concern from members of the media and public who may want to attend the hearings or meetings.

The Pardons Board, Parole Board and Psych Panel hearings are currently open to the public. Specifically, parole hearings, under NRS 213.130(3) are "open to the public." But, that's as far as the Legislature went in 1983. Chapter 213 of NRS is silent on whether the Pardons Board, and the Nevada Department of Corrections' Psychological Review Panel (Psych Panel) created by NRS 213.1214, are required to open their hearings to the public. In any event, as we discussed, parole and clemency related hearings are clearly judicial in nature.

Besides the judicial nature of the proceedings addressed in the proposed amendment that can effect whether an inmate will remain confined during the entire sentence term handed down by the court, there are other reasons to embrace the proposed amendment. There is an increasing use of Chapter 241 of NRS by prisoners as a tool in their inmate litigation arsenal. Also, there is the concern for victims and the possible fiscal impact.

M-2

Addressing the judicial nature of the subject proceedings, this is an opportunity to make it abundantly clear that "judicial proceedings," like parole and clemency related hearings, are exempt. *See* NRS 241.030(3)(a).[1] Parole hearings are exempt from the open meeting law, but still required by NRS 213.130(3) to open parole hearings to the public. *See* NRS 241.030(3)(a) and NRS 213.130(3).[2] The executive, judicial and legislative governmental branches cannot be viewed with blinders. The U.S. Supreme Court recognized that you cannot simply seal off of the three branches of government. It stated the following:

> [I]t is also clear from the provisions of the Constitution itself, and from the Federalist Papers, that the Constitution by no means contemplates total separation of each of these three essential branches of Government. ... The men who met in Philadelphia in the summer of 1787 were practical statesmen, experienced in politics, who viewed the principle of separation of powers as a vital check against tyranny. But they likewise saw that a hermetic sealing off of the three branches of Government from one another would preclude the establishment of a Nation capable of governing itself effectively.

Buckley v. Valeo, 424 U.S. 1, 121 (1976). Parole and clemency related hearings could effect the inmate's continued confinement for the term of the sentence handed down by the court. Thus, the members of the bodies under Chapter 213 are not like typical executive government officials or school board members. In making parole or clemency related decisions, they act in a judicial fashion as an arm of the sentencing judge. *Cf Sellars v. Procunier*, 641 F.2d 1295, 1301 n.15 (9th Cir. 1981) *cert denied*, 454 U.S. 1102 (1982). Many years ago, the Nevada Supreme Court recognized that the Parole Board exercises judicial power and that a parole hearing is a "judicial function" that could "result in the actual release of the inmates." *Raggio v. Campbell*, 80 Nev. 418, 423 395 P.2d 625, 627 (1964). The same analysis applies to the Pardons Board and the Psych Panel.

Another reason for the amendment is that, as mentioned above, inmates with no chance of prevailing on a proper petition for habeas corpus, have pursued and are pursuing the Parole Board and the Psych Panel in the courts by challenging the validity of their parole related hearings under the open meeting law. Despite these bodies prevailing in the courts, the litigation persists.

Finally, concern for victims has always been paramount. If no parole related or clemency related decision pursuant to Chapter 213 of the NRS could be made without first having public comment, proceedings could turn into Jerry

---

[1] Parole revocation hearings are referred to as "hearings" throughout Chapter 213 of the NRS. Parole hearings are "[m]eetings to consider prisoners for parole." NRS 213.130(3). When this law went into effect in 1933 it referred to parole hearings as "meetings." *See* Statutes of the State of Nevada, 48th Session 1957, Chapter 241 (AB 300) at p. 333. However, NRS 213.128, NRS 213.133 and NRS 213.142 refers to such meetings as hearings. Regardless, "meetings" is broadly defined. NRS 241.015(2).

[2] NRS 241.030(3)(a) provides, "This chapter does not ... apply to judicial proceedings."

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Springer Show type displays. The victims would suffer the chilling effect. Victims, as broadly defined at NRS 213.005(5)[3], should be considered here.[4]

Based on the forgoing, please consider the proposed amendment with the suggested change. The addition of the last sentence would ease any concern from members of the media and public who may want to attend the subject hearings or meetings.

---

[3] 2. "Victim" includes:

(a) A person, including a governmental entity, against whom a crime has been committed;

(b) A person who has been injured or killed as a direct result of the commission of a crime; or

(c) A relative of a person described in paragraph (a) or (b). For the purposes of this paragraph, a "relative" of a person includes:

(1) A spouse, parent, grandparent or stepparent;

(2) A natural born child, stepchild or adopted child;

(3) A grandchild, brother, sister, half brother or half sister; or

(4) A parent of a spouse.

[4] Concern for the victims, not inmates, is paramount. *See* NRS 176.015(3) and (4), 176A.630(5), 213.005, 213.1075, 213.108(5)(a)(6), 213.1099(2)(e), 213.130(4).

M-4

135 P. 3d 220 (2006)

122 Nev., Advance Opinion 50

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT L. STOCKMEIER,
Appellant
vs.
PSYCHOLOGICAL REVIEW PANEL AND WARDEN CRAIG FARWELL,
Respondents.

No. 42063

FILED

JUN 01 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY [signature]
CHIEF DEPUTY CLERK

Proper person petition for rehearing in an appeal from a district court order denying and dismissing appellant's writ petition. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

Petition granted; affirmed in part, reversed in part and remanded with instructions.

Robert Leslie Stockmeier, Lovelock,
in Proper Person.

The real reason AG Ward wanted Needed the Parole Bd exempt from the Open Meeting Law NRS 241 is To win his case against I/M Stockmeier

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MAURICE SILVA, *Member*

NEVADA BOARD OF PAROLE COMMISSIONERS

April 27, 2007

To: Flo Jones

From: David Smith, Management Analyst III

Subject: Request for Statistics

You requested historical statistics on the number of sex offenders who have been granted parole. Parole statistics relative to offense type only go back to FY 2001. The offense type of 'sex' as defined by the Nevada Department of Corrections (where parole data is stored) includes, but is not limited to the following types of crimes:

> Sexual Assault, Statutory Sexual Seduction, Open & Gross Lewdness, Lewdness with a Minor, Child Pornography, Pandering, Incest, Battery with intent to commit Sexual Assault, Prostitution with Aids, Voluntary Sex with a Prisoner, Indecent Exposure, Sexual Conduct by a School Employee or Teacher, Sex Offender Failure to Register and all attempts of these types of crimes.

Please let me know if you have any questions related to these statistics.

Parole Action on Sex Offenders FY01 - FY06 (July 1, 2000 through June 30, 2006).

	FY01	FY02	FY03	FY04	FY05	FY06
Discretionary Parole Hearings	376	412	427	418	442	469
Granted	53	117	133	108	148	137
Percent Favorable	14%	28%	31%	26%	33%	29%
Mandatory Parole Hearings	84	96	102	98	85	98
Granted	10	16	27	30	22	28
Percent Favorable	12%	17%	26%	31%	26%	29%
Total Disc & Mand Parole Hearings	460	508	529	516	527	567
Total Granted	63	133	160	138	170	165
Percent Favorable	14%	26%	30%	27%	32%	29%
PV Hearings	34	36	38	38	38	67
PV's Reinstated	10	15	13	7	12	10
Percent Favorable	29%	42%	34%	18%	32%	15%
Total (all hearings)	494	544	567	554	565	634
Total Favorable	73	148	173	145	182	175
Percent Favorable	15%	27%	31%	26%	32%	28%

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
May 28, 2007

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:25 a.m. on Monday, May 28, 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 Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Tonja Brown
Esther Smith
James W. McCuin

Cotter C. Conway, Washoe County Public Defender
Jason M. Frierson, Clark County Public Defender's Office
Michele Gochenour
Don Holmes
Donald Hinton, Spartacus Project Redress, Inc.
Ken Neil
David Haney
Mark Woods, Acting Deputy Chief, Division of Parole and Probation, Department of Public Safety
Don Helling, Warden, Northern Nevada Correctional Center, Carson City, Department of Corrections
Consuelo F. McCuin
Marnita Y. Smith
Sean Gamble, The Rogich Communications Group
Flo Jones
Rich Lamb
Raymond J. Flynn, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Evelyn Murphy
Cindy Haney
Constance Kosuda
Katy O'Leary
Staci Palovich/Harsh
Pat Hines
Joseph A. Turco, American Civil Liberties Union of Nevada
Patti Edgin

CHAIR AMODEI:
We will continue our hearing on Assembly Bill (A.B.) 416.

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

TONJA BROWN:
I support A.B. 416. It has been surprising to Legislators to learn Nevada is one of three states where deoxyribonucleic acid (DNA) testing only applies to inmates who have received the death penalty. I am asking that a genetic marker analysis testing be conducted by an independent forensic laboratory outside the state at the petitioner's request. If the court finds in favor of the petitioner, the Department of Corrections (DOC) incurs all costs.

I want to add that a petitioner may request and pay for an independent forensic laboratory outside the state at the petitioner's request and cost. If an inmate is willing to incur all costs, they should grant DNA testing. There would be no fiscal impact to the state unless a judge grants their request and the county would incur the costs. The Nevada DOC would incur the costs of DNA testing in death penalty convictions. Also, I would like to add ...

CHAIR AMODEI:
Ms. Brown, is this your testimony? You are giving us specific information.

MS. BROWN:
I provided this testimony last week and you were sent a copy.

CHAIR AMODEI:
We already have that information?

MS. BROWN:
Yes, you have it. Also, every parolee must have supervision of a minimum of six months. No one should leave prison on an expired sentence. This will reduce recidivism.

I would like to go to the Open Meeting Law. The Nevada Supreme Court determined the State Board of Parole Commissioners does not meet the definition of a quasi-judicial body; yet the Parole Board still claims they are quasi-judicial. They do not even meet the test of due process. Each meeting of the Parole Board should allow any citizen who is behaving properly an opportunity to speak; three minutes is the normal time used for most open meetings. They should also be required to have a written record for each meeting. An inmate must be present for the parole hearing to respond and participate in the question-and-answer portion of the Parole Board decision making. Parole Boards have been known to make mistakes. It is

important to adopt procedures preserving the appearance of fairness, thus gaining the confidence of inmates in their decision process. Their treatment in parole hearings will enhance the chance for rehabilitation by avoiding negative reactions.

What will the cost to Nevada taxpayers be when the Parole Board violations of *Nevada Revised Statute* (NRS) 241 concerning Open Meeting Laws are taken on appeal all the way to the U.S. Supreme Court? Accuracy and fairness are essential in proceedings which impinge directly on personal liberty. The interest of both society and criminal offenders are best served when fairness and accuracy are assured at all stages of sentencing and correctional process.

If the Legislature leaves Carson City without applying the Open Meeting Law to the Parole Board Commissioners, the practice of darkness will be alive and well and will follow this Legislature's decisions for years to come. This is one fiscal impact that must not be overlooked. The only foreseeable reason to have no records is that the Commissioners can give any reason; we have no way to check and the reasons change if they are questioned. With no records, we have no checks and balances and they answer to no one.

CHAIR AMODEI:
If I asked you to give me your top three priorities in A.B. 416 to put into A.B. 510, what would they be?

MS. BROWN:
It would be an advisory oversight commission, the Open Meeting Law and the DNA testing is important but so are the credits.

ESTHER SMITH:
I have been a resident of Las Vegas for 54 years. My husband is in the Southern Nevada Correctional Center. There have been changes. I was told everything is being taken away such as televisions, computers and things they can use to learn something, gym and stuff they need for exercises. That is not fair for the inmates. Incompetent prisoners needing treatment should be in an institution where they can get help. Do not put him behind bars and give him bad treatment. That is not doing anything for the inmates.

I do not think that institution is run correctly. They have pickers and choosers. They do not do as good to the inmates that other states do. If one inmate gets into a problem, lock that inmate down or do whatever is necessary. Do not do the whole prisoner system that way.

JAMES W. MCCUIN:
I am retired from the army and support A.B. 416 and A.B. 510.

ASSEMBLY BILL 510 (2nd Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

COTTER C. CONWAY (Washoe County Public Defender):
I specifically support A.B. 416 to the provisions involving putting some discretion back with the judges in sections 26 through 34. With regard to those, my concern has been this, we testified before this Committee on A.B. 63 and we know some of the concerns there. What I am proposing today is very briefly ...

ASSEMBLY BILL 63 (2nd Reprint): Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)

CHAIR AMODEI:
Let me stop you there because apparently what I said on the Senate Floor has left some people with some confusion. This Committee passed out A.B. 63 and supported the return of discretion to sentencing judges. We had some language drafted which was circulated. Before it got to a vote, there were concerns raised by members of the Judiciary regarding that language's application to a fairly recent U.S. Supreme Court case and possible unintended consequences. This is the part where I did not make myself clear. I said we support the concept, but we want another week to work on language which will accomplish the objective without creating the unintended consequences.

If anybody thinks that anything I just said means we are somehow trying to kill A.B. 63, you are incorrect. I would like to thank these two gentlemen for taking up the task of a proposed amendment which accomplished what we want. If anybody leaves the room in the Grant Sawyer Building or the room here in Carson City thinking that A.B. 63 is dead—although I thought I made it clear

earlier, it is not. We are going to put its language into A.B. 510 which accomplishes the objective and does not create unintended consequences. Thank you for your efforts, Mr. Conway, and please proceed.

MR. CONWAY:
I understood what you said on the Senate Floor. In an effort to propose something to meet your concerns, I have submitted language to you (Exhibit C).

JASON M. FRIERSON (Clark County Public Defender's Office):
I would only like to add that I have spoken with R. Ben Graham of the Nevada District Attorneys Association and Assemblyman William Horne. There was language provided to Assemblyman Horne as a result of those discussions to resolve the concerns in A.B. 510 as well as A.B. 63 with respect to the U.S. Supreme Court case of *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

SENATOR CARE:
Are you inclined to give courts discretion to determine the enhancement we have had in statute for several decades?

MR. CONWAY:
I drafted this proposed amendment based on a statute that had survived *Apprendi* out of New York.

MR. FRIERSON:
I will provide you with language that came from discussions last week. Originally, it was worded in a way that appeared to make the enhancement discretionary. We changed that to make it clear the enhancement is required by law so we do not have to have a judge explain why the enhancement is being applied as opposed to explain the level of the enhancement.

MICHELE GOCHENOUR:
I support A.B. 416 and A.B. 510.

DON HOLMES:
I support A.B. 416 and A.B. 510.

DONALD HINTON (Spartacus Project Redress, Inc.):
Since Howard Skolnik, Director, Department of Corrections, has taken over the prison system, it has gotten worse. Infractions written up are not always true and it does not look like Mr. Skolnik is going to approach that problem.

Whole time for people, whether the infractions they are written up for are true or not, sometimes goes into years, and it does not look like Mr. Skolnik is going to approach that problem. At High Desert State Prison, they have removed the books and televisions and almost all reading material, anything to pass the time in the cell blocks. We definitely need that oversight committee.

CHAIR AMODEI:
Let me ask you the same question I asked Ms. Brown. If you could prioritize three things out of A.B. 416, what would be your top three priorities?

MR. HINTON:
The oversight committee would be No. 1; No. 2 is the money that DOC assesses on their kangaroo fines and perhaps the Open Meeting Law.

KEN NEIL:
I am a 30-year businessman in Las Vegas and have a son who has done 22 years in prison. The oversight committee is necessary. There are things that go on that you need to know about.

DAVID HANEY:
I absolutely support A.B. 416 and A.B. 510.

MS. SMITH:
I forgot to say I support A.B. 416 and A.B. 510, and I think we should go into the Parole Board system because our parole members are very rude to the inmates. They do not give them a chance to talk; they say things inappropriate to them and give them a bad spirit on parole date.

CHAIR AMODEI:
Assemblyman David Parks, we will conclude our testimony on A.B. 416 with you and then you can introduce A.B. 510.

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):
I am Chair of the Assembly Select Committee on Corrections, Parole and Probation (P&P). I am confused because I have not had any communication that A.B. 416 is in the least dead. I know section 25 seems to have problems with members in the Assembly, but I would like to emphatically say that without A.B. 416, we are going to have severe budget problems.

Sections 26 through 34 are provisions dealing with an issue partially contained in A.B. 63. This is where major savings will be accomplished, and I would hope to see A.B. 416 out of the Assembly Committee on Ways and Means within the next day. While all the other sections are vitally important, sections 26 through 34 are especially important from a budgetary perspective.

CHAIR AMODEI:
What is your impression of the chance of the proposed advisory commission coming out of Ways and Means?

ASSEMBLYMAN PARKS:
I have not heard. I am only one vote. My confusion is in the fact I have not received feedback from my fellow committee members in Ways and Means on what they like or do not like about the bill. I have to admit I am in the dark.

SENATOR WASHINGTON:
I have a question regarding the advisory commission. I am looking at the membership list. Was there any consideration given to the fact that some of the work could be incorporated by the prison interim committee?

ASSEMBLYMAN PARKS:
Are you talking about the interim committee on prison industries?

SENATOR WASHINGTON:
They are different?

ASSEMBLYMAN PARKS:
There are job descriptions about duties they are statutorily required to perform.

SENATOR WASHINGTON:
I was trying to find another avenue just in case you got bogged down in the Assembly Ways and Means Committee. Will you still have the interim committee on prison industries? Maybe through drafting or some language we can assign those duties.

ASSEMBLYMAN PARKS:
That would probably require some form of an adjustment or a change to the scope of duties of which they are required to adhere.

SENATOR WASHINGTON:
We have both served on that, have we not?

ASSEMBLYMAN PARKS:
No, I have not been on that committee. The thinking of the Select Committee was in part relative to the work accomplished in A.B. 508 would be more into the area of sentencing requirements, but the proposal within A.B. 416 would be to look at issues of concern that you heard this morning. The members attending this hearing from the Grant Sawyer Building have brought up that the Policy Advisory Commission on Corrections in A.B. 416 would look at those particular issues whereas the Advisory Commission on Sentencing would look more strictly at the judicial end of the work.

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

CHAIR AMODEI:
Sections 1 through 6 of A.B. 416 are about the Commission; section 25 is the Open Meeting Law and sections 26 through the end are the various things dealing with sentencing.

ASSEMBLYMAN PARKS:
Yes, you are correct. I would only add that section 21 is also in A.B. 510. The other important section would be section 24 of A.B. 416, which requires certain prisoners not previously released on parole be released 18 months, instead of the current 12 months, prior to the end of their maximum term.

The other part of section 24 that seems to be important to the individuals who have spoken this morning is that a reason for denial must be written every time somebody gets dumped. Most inmates get their notice and do not know why they were not granted parole.

SENATOR WASHINGTON:
In section 25, subsection 6, which is the Open Meeting Law portion of the bill, deals with discretion for the Board to have closed meetings if necessary to protect the identity of a minor, etc. Is that discretion limited to those circumstances within that section?

ASSEMBLYMAN PARKS:
Subsection 6 on page 11 says the Board may hold closed meetings in considering a prisoner for parole when necessary. Yes, there are times when testimony from a witness, especially a victim of crime, could be taken separately because there certainly is a fear factor that continues for many years. We do not want this to be an uncomfortable situation any more than what it already is for those individuals. Whatever the Board does, the important thing is they need to make a notation of it and include it in their findings.

SENATOR WASHINGTON:
How do you envision this working? Who would they notify that the hearing will be either opened or closed?

ASSEMBLYMAN PARKS:
I do not know the exact specifics, but I know they currently do activities along that line at this time.

SENATOR WASHINGTON:
Subsection 8 on page 12 says that the prisoners provide all information which the Board will rely upon considering whether to grant parole. That information sometimes discloses graphic information, such as details of the event. Would photos or graphic information be provided to the prisoner as well?

ASSEMBLYMAN PARKS:
Normally, documents are not provided to the inmate, but the inmate at least has the opportunity to look at those documents. I have heard time and again where an inmate meets with a caseworker, goes through the folder with the documents that are supposed to be submitted to the Parole Board and then

finds out afterwards that the documents never ended up in the folders provided to the Parole Board. These documents include information on good time credits or maybe letters from a member of the clergy supporting the inmate's request for parole. This bill is an attempt to let the inmates know exactly what is in the folder provided to the Parole Commissioners.

Certain offenders may earn a reduction of their sentence through good behavior, educational attainment or by successfully completing an alcohol or drug treatment program. Probationers become eligible for good behavior credits. Assembly Bill 510 increases the deductions from the sentence for a parolee who is current with any restitution and fees to defray the cost of his supervision. The bill also provides for retroactive application of credits to certain offenders. The Director of the DOC must not assign certain convicted sex offenders or offenders convicted of violent felonies to minimum security facilities. The Director must adopt standards making persons ineligible for a program of residential confinement if they are a felony sex offender Category A or a Category B felon or convicted of violent felonies. Parolees or probationers who violate conditions of their parole or probation, respectively, may be placed in certain community or minimum security correction facilities for no more than six months. An offender convicted of a violent felony within the immediate preceding year is ineligible to participate in certain programs of community reentry. The bill becomes effective July 1.

CHAIR AMODEI:
When we are talking about employment and education or rehabilitation, we changed from "established" to "demonstrated." Is that just wordsmithing or is there a different standard? The existing statute in section 3, page 5, says established a willingness or established a position of employment and the change will be to demonstrate a willingness or ability to establish. How do you administrate that?

ASSEMBLYMAN PARKS:
We have made it less specific. Sometimes "established" means there is definable documentation supporting the requirements.

CHAIR AMODEI:
Can you help us understand the demonstrated a willingness or ability to enroll in a program or rehabilitation as opposed to having actually enrolled?

MARK WOODS (Acting Deputy Chief, Division of Parole and Probation, Department of Public Safety):
It is easier for an inmate to let us know they will be able to get a job versus actually having the job before they are paroled. It is rare someone will be guaranteed a job while they are still inside prison.

CHAIR AMODEI:
What about the rehabilitation or education stuff?

MR. WOODS:
It is the same thing. Many inmates are able to get rehabilitation when a bed or position is available, and they do not have control over that. They are willing to enter it as soon as possible.

CHAIR AMODEI:
Therefore, if we approve the change, there are resource issues. They must demonstrate a willingness to enroll in a program as opposed to enrolling. If we do not want the change, we should get rid of it as opposed to saying "demonstrating a willingness."

MR. WOODS:
I can appreciate what you are saying, but if inmates plan to get an education and come out between school sessions, they are not going to be enrolled as they have to go to the educational facility and enroll in person.

CHAIR AMODEI:
What would happen if an inmate comes out between sessions and there is no enrollment? We are not going to revoke them for that are we?

MR. WOODS:
No, unless they choose to purposely stay away from trying to enroll.

CHAIR AMODEI:
Section 3 on page 5 gets rid of "complete successfully the remainder of the program of treatment." I understand the context that forfeits credits. When we get rid of the requirements in section 3, can someone just connect the dots on how that is taking us to the greater good? Also, in section, 7.5, page 11, we have deleted paragraph (f) saying "has not made an effort in good faith to participate in or to complete educational or vocational program or any program of treatment, as ordered by the Director." Why is that being removed?

DON HELLING (Warden, Northern Nevada Correctional Center, Carson City, Department of Corrections):
The requirement was that a person must have a job prior to being released to residential confinement, which is a difficult standard to meet by many offenders. This change will give them more latitude on who can be sent out. Obviously, they will have to have some other resources available while they look for a job, maybe additional family support.

CHAIR AMODEI:
We have in section 7.5, subsection 3, paragraph (c) "has, within the immediately preceding 5 years, been convicted of any crime involving the use or threatened use of force or violence." Can you summarize the discussion for me that led from changing five to one?

ASSEMBLYMAN PARKS:
That came about as a result of testimony and discussions relative to allow inmates the opportunity to avail themselves of these programs.

CHAIR AMODEI:
Was there any statistical basis for the selection of one year? I know we wanted to make it shorter but was there any discussion of substance on selecting the shorter period of time that led to 1 year as opposed to 18 months or two years or whatever?

ASSEMBLYMAN PARKS:
There has been previous discussion of backing that down. The first discussion was that we reduce it to three years; subsequently—apparently from data provided by DOC, the final recommendation was to drop it down to one year.

MR. HELLING:
Just because inmates are eligible does not mean or imply that we will put them out on residential confinement. There would be other factors to consider. Even if they meet all these minimum criteria, there might be some other reason the Department might decide an inmate is not an appropriate candidate.

SENATOR HORSFORD:
I have questions about whether some of this needs to be developed through regulation by P&P because this is pretty broad language. I have concerns about how it will be administered and if it will be administered consistently and equally. If it is not implemented through regulation, who is held accountable if it is not followed?

MR. WOODS:
Parole and Probation is not responsible for the timekeeping of a parolee or inmate. We advise the prison system whether a parolee is complying with the rules. We have never been involved with good time credits.

MR. HELLING:
The DOC has administrative regulations detailing the criteria set forth which will have to be revised and modified. The Department supports this bill as amended, but a couple of caveats need to be added. There are issues about the amount of meritorious time an inmate can earn toward the end of the sentence. There are other statutory requirements about notification. For example, the Department likes to notify victims 30 days in advance of a release. Sometimes, these offenders get meritorious credits at the end of their sentence and all of a sudden they get released the next day. That is an issue, especially with sex offenders. The Department is having difficulty meeting that requirement. Therefore, the Department is considering allowing inmates to take classes but not give them credits.

The Department is caught between the old and new systems and still working on algorithms for the sentence structure of the old system to transfer to the new system. Applying credits to minimum sentencing only gives the Department 30 days. We are depending upon a vendor, and they have had problems in calculating the regular sentence structure; now we are adding additional things, such as minimum sentencing and retroactive credits. We will do what we have to, but it is a huge amount of work.

Another unintended consequence is we will see the education level of inmates coming to prison drop drastically because currently, they often falsify presentence investigation reports (PSI) to make them look good by saying they have a high school diploma. When they go before a judge, they might falsify in the other direction so they can get credits to maximize the least amount of time they will serve.

The Department does not know the total impact or the number of inmates. The Department does not determine who gets released. The Parole Board does. There is no way to predict what another agency is going to do.

MR. HINTON:
I would like the Committee to ascertain from Mr. Helling if he would give us the name of just one inmate who has been released within one day. This Committee is entitled to hear the truth, not rhetoric. I do not know where they are getting this stuff, but I will tell you, you should have heard the moans and groans that came up from here in Las Vegas when he was testifying. They know for a fact it is not true.

MS. SMITH:
He said inmates should have a job. Thousands of inmates are 60, 70 or 80 years old, in bad health and cannot get a job. We can hardly find jobs for those who are 25 or 30 years old. The health of older inmates will not let them get a job so what can we do about that?

CONSUELO F. MCCUIN:
Of all the parolees to come out of prisons, sex offenders are the hardest to place because there are many debits put in front of them. They cannot be within so many feet of a school, cannot be in a neighborhood and this, that and the other. My solution to all of this is provide more money for more parole officers. We have 300 to 400 parolees to 2 to 3 parole officers. Additional officers would better control where they are going, who they are seeing and what they are doing. I am not criticizing the job parole officers are doing. Mr. Helling has only been in his job for a month or two so he has not had time to get his fingers wet and see what is really under programs. He should not be in charge.

MARNITA Y. SMITH:
I am representing Kevin Smith, ID No. 14527. The best resource available to you is the inmate. The inmate knows his time. If he does not, then working with the counselors who work with DOC can move this process along. It should not be a long, drawn-out process because of computer programming. It would be cost-efficient to find out who needs to be released based upon the outline of A.B. 510.

We have supporters for incarcerated family members. We have asked, in writing, for time-management information. I wrote a letter in August 2006 on behalf of my husband. I have not received a response. I wrote another letter in February since I found out there is time that cannot be accounted for that the judge has credited. The system is failing the inmates.

An inmate is sentenced to serve time for his or her punishment. The punishment should not continue beyond the designated release date based on the discretion of one individual. It seems like some of the inmates' rights are violated before they are even released.

In Nevada, a felon cannot get a gaming card and if they do not have a strong work history for the past ten years, they are not going to get a job even though we have industry that is open for individuals who may lack education.

We are carrying the burdens of our loved ones on our backs. Send them home so we can continue to support them.

MS. BROWN:
For the record, I have a copy of the checklist the Parole Board uses (Exhibit D). I have submitted United States District Court, District of Nevada *Nolan Klein v. Don Helling, et. al.* (Exhibit E, original is on file in the Research Library).

CHAIR AMODEI:
How does your testimony relate to A.B. 510?

MS. BROWN:
It relates to A.B. 510 because this is why we need the oversight committee.

CHAIR AMODEI:
Which is in A.B. 416.

MS. BROWN:
But I am asking that A.B. 416 be moved over into A.B. 510 along with the DNA testing. I would like to add more.

CHAIR AMODEI:
I already heard that.

MS. BROWN:
I would like to add more to my submitted testimony because this is going to trial. During the discovery process, court proceedings and deposition, it was learned that DOC decided the attorney, Treva J. Hearne, was not allowed to see her client because she was married to an ex-felon. However, Ms. Hearne is not married and her ex-husband is a prominent practicing attorney in Missouri. The person they were referring to was an ex-felon who had killed his child. Mr. Hearne from Missouri has contacted the Attorney General's Office and the Governor and requested an apology. This has not been done. There is pending legal action. We need an oversight committee so things like this do not happen. Also, the cost is enormous to taxpayers. The American Civil Liberties Union has received in excess of $300,000 in legal fees. If we had an oversight committee, things like this would not happen. We are tired of paying for inappropriate behavior and their retaliation against inmates, family members and now attorneys.

I am also asking the Parole Board not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole. This goes hand in hand with the DNA request. I will tell you this, it is an unwritten policy of the Parole Board that if you have an appeal pending in either state or federal court, you will not be released to the street. So, if a person is maintaining their innocence and appealing their conviction, they will never see the street. If the DNA is available, it would definitely help those people who are fighting for justice to prove their innocence.

CHAIR AMODEI:
We are considering A.B. 510. We already had the hearing on A.B. 416. I asked you what your top priorities are and we know that one of the top priorities is the oversight board. If you have testimony on A.B. 510 that you have not already provided in the context of A.B. 416, please come forward and give that testimony.

SEAN GAMBLE (The Rogich Communications Group):
Assemblyman Harvey J. Munford requested that I speak on his behalf. He asked that I bring forward his three components of A.B. 416 to amend into A.B. 510. The components include the Open Meeting Law, the policy advisory commission, which is the oversight committee, and the inmate merit credits (Exhibit F). He is trying to address overcrowding and allow release of inmates sooner, if they qualify. He feels there are many incarcerated for petty crimes and they can be released. He says 80 percent of the women inmates are in for nonviolent crimes.

CHAIR AMODEI:
We are hearing these bills in anticipation of something coming from the Assembly Committee on Way and Means. There is a rule that says it actually has to pass out of the House of origin before we can do anything with it. In anticipation of one of them passing, we are conducting these hearings to afford you an opportunity to do what you are doing now as opposed to trying to do something on the floor and on the run.

I am not familiar with the open meeting stuff because, traditionally, that jurisdiction is with the Senate Committee on Government Affairs. For that component, I would appreciate brief information in writing within the next couple days on the status of an open meeting with respect to the Parole Board now. Summarize the proposals to change it and make members of the Committee on Government Affairs know that is something we are looking at in case they want to have input or a hearing if appropriate.

FLO JONES:
The Open Meeting Law, NRS 241, is applicable to the Parole Board, which it was, is and has always been. Between 2001 and 2003, they wrote it out of their manual when they revised it. For some reason, they took the authority to drop the language.

CHAIR AMODEI:
If it turns out that your conclusion is the Parole Board is subject to the provisions of the Open Meeting Law, then we do not need to change the law because we should be following it. We will request an opinion from Legislative Counsel.

SENATOR WIENER:
I had requested staff to provide information about how many times we have requested Legislative Commission to provide regulatory changes, updates and revisions. According to staff, it has been six years. If there is an overlap or interactivity required between the *Nevada Administrative Code* and regulations, I would sure like some clarification.

CHAIR AMODEI:
If regulations have changed and they have not come through the NRS 233B process, we would like to know that.

SENATOR WIENER:
Can they do things through Administrative Code that do not require some marriage to the regulatory process?

CHAIR AMODEI:
Is your testimony in the context of open meetings?

MS. JONES:
Yes, NRS 213.130, subsection 8 has been on the books for a long time; it clearly would not be interrupted by NRS 241, which is applicable to all commissions of our state. It does protect, with exact language, the victim's identity during a parole hearing. It also gives the Parole Board the authority to close a session to protect this identity. What it does not allow is the misuse or disallowment of the provisions of the Open Meeting Law—NRS 241—which is what I believe is happening.

SENATOR CARE:
I would like to introduce Hayden Courtney who is with me today who is 11 years old; he is up here for a couple of days doing a report for his school on the Legislature.

MS. JONES:
I want to touch on inmate credits. Fourteen years ago, a day was considered a 24-hour period of time. Somewhere along the line, the DOC developed a formula which they claim how easy it makes their lives. It works in only one specific situation when an inmate gets all of his credits for good time, is able to work and gets all of his work time. For any other situation, the formula is wrong and cheats inmates and taxpayers because we are paying for people to be in longer.

The DOC even puts on inmates' sheets that a day and a merit credit—which is only worth two-thirds of a day—are synonymous. The last time I counted, they are not. To only get two-thirds of a day when you thought you earned a day of good time defeats morale. It also affects education credits. If we allow the DOC to continue to maintain the two-thirds reduction, we are defeating our own purposes.

CHAIR AMODEI:
Where is that language?

MS. JONES:
It is explained in my handout (Exhibit G). These changes will help inmate morale, discourage lawsuits and even stop some of the unrest we have in a situation with so much idle time.

I never heard someone from DOC speak to the fact that the PSI reports could be falsified; however, I must say that has bothered me for many years. We have people writing the presentencing investigation reports who in many cases are overworked, not qualified and certainly are not sworn to tell the truth. Sometimes, those PSI stories look like they are fictional and the inmates do not have an opportunity—nor do their families—to correct any information. I speak of this from a very personal experience. About 26 years ago, information existing in a PSI report was not accurate and we were unable to check it.

I would like to ask that the folks who do PSI reports be sworn, just like anyone who testifies before a parole hearing must under the laws of perjury. I have no problem with victims being able to speak in private. I have every problem with victims being able to embellish—not that their emotion is not a very important factor—the facts of the case.

RICH LAMB:
I approve what Ms. Jones says about A.B. 416 and A.B. 510 and have submitted a handout (Exhibit H).

RAYMOND J. FLYNN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):
Originally, we had major concerns with A.B. 510, but as amended, it will address our needs and I have confirmed that with Director Skolnik.

EVELYN MURPHY:
I am speaking first regarding a proposed amendment to A.B. 510 (Exhibit I) which adds to NRS 193 that the sentencing judge shall have discretion to determine what the enhancement penalty shall be from one to ten years. This Amendment also deletes doubling the enhancement penalty. This is to be applied retroactively.

The other thing I would speak to is credits and the importance of them being properly credited. I have long been involved with reentry programs and have spoken to groups of inmates regarding reentry and street readiness programs. Inmates should be given opportunities for education because it is proved that the greater education they have, the less likely they are to reoffend. There are many inmates who are looking to change their way of life. Availing them—while they are incarcerated—to further education, speaking abilities, vocational programs, etc. will help reduce the prison population in the future by having them ready and giving them the opportunity to earn credits. While I do not know the exact figures, at Warm Springs Correctional Center, there are 64 jobs available for an excess of 300 inmates. These inmates want the opportunity and are willing to participate in whatever necessary to improve their chances for success and reduce recidivism.

CHAIR AMODEI:
On the enhancement you testified to, are you in favor of the enhancements being changed in the context that they appear in A.B. 510?

MS. MURPHY:
That is correct.

CINDY HANEY:
My son, incarcerated at High Desert State Prison, is Jeremy Naylor, ID No. 86930. He has continually been in all the education programs trying to earn good credits. I have been calling time-management keepers continuously to make sure his credits have been applied properly. I was just told he was to get 90 meritorious credits which would equal 9 days for every 15 credits. What got

on his books is 30 days of meritorious credits which only moved up his good time by 18 days when he was expecting 54 days. This is a continual problem. Time management is not getting the proper time reported.

I am also in favor of changing the enhancement penalty. My son is also in there on an enhancement charge. He got sentenced double. There are many changes that need to be made.

MR. HINTON:
I am disappointed that A.B. 416 may not get out of Committee which is unconscionable.

CHAIR AMODEI:
Whether A.B. 416 travels or does not travel, the important thing is the policy considerations relevant to this issue. Whether they have a number A.B. 416 or a number A.B. 510 or whatever number, the important thing is that the policy is addressed or attempted to be addressed. I suggest you watch the policy and not necessarily the bill.

MR. HINTON:
I had made an amendment to A.B. 416, but I do not have the paperwork with me. I believe it was on NRS 209.246 where the institution was permitted some years ago by the Legislature to take money from family, friends, and loved ones who send money in to support their families in prison. Would you accept my mailing it to you as an amendment to A.B. 510?

CHAIR AMODEI:
If you would deliver it to the staff in the Grant Sawyer Building, they will fax it to Brad Wilkinson, Chief Deputy Legislative Counsel, today.

MR. HINTON:
It will be a chore, but I will try and get it done.

MS. MCCUIN:
I support A.B. 510. I concur with everything Flo Jones said. The priority for me is the oversight committee, time credits and enhancements, in that order.

CONSTANCE KOSUDA:
I am concerned that if everything the advocates have testified to is true, specifically that P&P has been violating the Open Meeting Law for at least six years, then some sanctions need to be included for an agency such as P&P. This should not be allowed to happen forever with impunity. We support these bills completely.

ESTHER SMITH:
I support an inmate who is my husband. Why do they not remove the section of the parole program that when an inmate spends 25 or 30 years in prison and comes out on parole, the family pays a parole office to turn in papers once a month? That is another $35 or $40 that he can use to live. Once he does his time, he should be free to go and do whatever he is supposed to do and not pay for it.

CHAIR AMODEI:
On your way out, if you want to give staff the specific question you just posed, they will direct it to Linda J. Eissmann, Committee Policy Analyst, and she will provide a brief answer to you.

KATY O'LEARY:
I am a registered nurse here on behalf of a friend who is in Ely State Prison. My eyes have been opened about the status of prisoners. I am here today to support A.B. 510 and A.B. 416 to transform the prison system to something that can work for the prisoners and their families.

My friend has told me a lot of stories about things that happen. He was up for parole in three months and was attacked by a group of people with a knife. He was put in solitary nine months ago and he is still there. Something is wrong with that picture.

All institutional paroles to consecutive prison sentences should be made by Nevada DOC Offender Management Division. An inmate should be considered for release if he has served the mandatory minimum or bottom number of his sentence less the statutory good time credit days. He should have no additional criminal convictions occurring during the instant term being served. The statutory good time credit day should have the value of a 24-hour period of time and not anything less. Parole Board hearings will be held only for inmates being considered for possible release to the streets. Anyone with no possible release

should not have a parole hearing. This is an incredibly positive savings to the Nevada state budget.

STACI PALOVICH/HARSH:
I will read my written testimony into the record (Exhibit J).

PAT HINES:
I am from Yerington. Credits given erroneously for many years have been visibly overlooked by this Committee and other legislative committees. It is specifically listed in our NRS that one credit is equal to one day's time in prison. I cannot understand how a government department can make this kind of error which is punishment for the people earning credits. If you or I broke an NRS, we would have some kind of punishment. To make this bill only retroactive back to 2000 or 2001 is a disgrace.

Judges need more discretion. They certainly do in comparison to what the Parole Board had without any monitoring, supervision or even approval of their own standards and guidelines.

I just received paperwork on a young man who had his parole hearing denied on May 8 and received the notice on May 22. It is highly unusual for an inmate to get notice within two weeks. Sometimes, decisions are not made for five or six weeks after the inmate's hearing. The paperwork I received said his parole decision was done on May 9. If they can make a decision the day after, they can certainly do their deliberations—if this body decides to make that a law—before the day of the parole hearing and give that decision out the day of the hearing. I would like to see that included and some of these discretions removed.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):
I will speak to a couple of policy issues in both A.B. 416 and A.B. 510. It took me awhile to understand the *Apprendi* problem. The discretions we are talking about had nothing to do with whether enhancements are granted because that is a jury decision. The discretion we are talking about is giving judges a range between one and ten years for enhancements rather than automatically doubling the sentence. Judges will have to explain the reasons for their decisions.

CHAIR AMODEI:
Hearings have taken place over the years where victims have felt just as passionately that a sentence did not do justice. To paint a 360-degree historical picture, we now are going back to this precipice and reexamining our value judgments—the Truth in Sentencing in the mid-1990s was that people testified they did not want the parole folks to have any discretion. Now we are hearing one size does not fit all so we are reexamining those policies.

MR. TURCO:
I know how difficult judges' jobs are and this does require them to do a little bit more homework, although we have proposed adding an appellate layer and a district. The ACLU supports an oversight committee and would ask that Dr. Richard L. Siegel or someone from our organization be included as a civil rights advocate.

Regarding credits, I cannot tell you how many letters and phone calls our office has received. If we did not change any law, Mr. Chair, if we just did the math, we could release I do not know how many hundreds of people today. I have not followed every single complaint to its conclusion, but enormous numbers of people are calling and writing the ACLU saying their credits are being added incorrectly. Is it because they cannot do math, is it deliberate or is it a lack of oversight? I do not know the answer. There are things we could and should do right now without changing any law. I wanted to make that observation; it is anecdotal, but it is significant.

Open meetings are my final policy issue. I get the sense that maybe DOC is a little paranoid. Every other agency and department struggles with open meetings. Nobody is demanding every single thing be wide open. Advocates, sponsors and people who care want some kind of cooperation. I am personally appealing to DOC to give us something more than what we have. Inmates come back into our society, they are one of us and it is all our responsibility to do these things right.

PATTI EDGIN:
I would like to address some of the issues about the Parole Board that have come up today, especially the Open Meeting Law. One of the comments you made earlier about one of the sections on A.B. 510 was whether an inmate had established a willingness to get employment or educational programs. I would let you know, and you may be aware of this, some of the reentry programs

such as Casa Grande Transitional Center have the men and women working so they are able to establish the ability to maintain a job; they are responsible, able to pay restitution and are financially responsible. They are able to demonstrate those skills and abilities. Yet when they come up for parole, they are not always approved for parole even though they have already established they are able to fulfill many of the requirements to make them eligible for parole.

My son is at Casa Grande and is successful in that program. He came up for parole and was not allowed to attend his Parole Board hearing. As a family, we were only allowed to provide letters for the Board to review. Whether they actually read the letters, we do not know. I understand these parole hearings are quick, but the inmate is not even allowed to participate in his own Parole Board hearing. That is not right. Decisions are being made about their lives. They have a right to be at the hearing where things are being discussed and decisions are being made for their lives. Because the Board does not document their meetings, there are no notes, agenda or record other than their decision.

My son's probability score was excellent. He had a score of -3 which means he is going to be successful if approved for parole. He is already working and has established he is a successful person. Not only did they deny his parole, they denied it for two years. The Parole Board needs to be accountable for their decisions. Please do not let them continue to meet in secret, make decisions behind people's backs and not be accountable.

MS. BROWN:
I call the Committee's attention to page 7, Item 15 of Exhibit G while you deliberate. The Parole Board has too much discretion. I will provide an example of an inmate who was recently released after serving additional time for a parole violation. He had been released and was productive and working. He had a girlfriend who was into drugs and visited his home. He called his parole officer repeatedly, but the officer never showed up. He left the situation because he did not want to go to jail, but in doing so, he committed an infraction by cutting off his ankle bracelet. Because of this infraction, it cost him nine additional years in prison. His parole officer testified at his parole hearing, took responsibility and verified the inmate's attempts to contact him. The inmate did not have the proper code because they are changed often. Had the parole officer received the calls, he would have removed the inmate from the situation. Because the inmate had cut off his ankle bracelet, he was returned to prison for nine years. Every time he appeared before the Parole Board, it was a dump.

CHAIR AMODEI:
We will close the hearings on A.B. 510 and A.B. 416. We are adjourned at 11:56 a.m.

RESPECTFULLY SUBMITTED:

_____
Lora Nay,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE:_____

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

Cotter Conway
AB 416/510

193.169. Additional or alternative penalty: Limitation on imposition; alternative allegations

1. ***When it has been found, on the basis of the facts reflected in a jury verdict or admitted by a person, that a person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, or subsection 1 of NRS 193.1685, and when it is of the opinion that the history and character of the person and the nature and circumstances of his criminal conduct indicate that additional punishment will best serve the public interest, the court shall impose the additional term of imprisonment authorized by that provision. In such event the reasons for the court's opinion shall be set forth in the record.***

2. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

~~[2.]~~ ***3.*** A person who is sentenced to an alternative term of imprisonment pursuant to subsection 2 of NRS 193.161, subsection 2 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

~~[3.]~~ ***4.*** This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 ~~[or]~~, 2 ***or 3***.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection ~~[1 or]~~ 2 ***or 3*** and introducing evidence to prove the alternative allegations.

§ 400.20 Procedure for determining whether defendant should be sentenced as a persistent felony offender

1. Applicability. The provisions of this section govern the procedure that must be followed in order to impose the persistent felony offender sentence authorized by subdivision two of section **70.10** of the **penal law**. Such sentence may not be imposed unless, based upon evidence in the record of a hearing held pursuant to this section, the court (a) has found that the defendant is a persistent felony offender as defined in subdivision one of section **70.10** of the **penal law**, and (b) is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct are such that extended incarceration and lifetime supervision of the defendant are warranted to best serve the public interest.

Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent felony offender, and when it is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct indicate that extended incarceration and life-time supervision will best serve the public interest, the court, in lieu of imposing the sentence of imprisonment authorized by section 70.00, 70.02, 70.04, 70.06 or subdivision five of section 70.80 for the crime of which such person presently stands convicted, may impose the sentence of imprisonment authorized by that section for a class A-I felony. In such event the reasons for the court's opinion shall be set forth in the record.

Amend AB 510
ADD:
Sec. 1 THE NEVADA PAROLE BOARD SHALL FOLLOW THE OPEN MEETING LAW NRS 241.

Sec. 2. 1. THE POLICY ADVISORY COMMISSION ON CORRECTIONS IS HEREBY CREATED.

2. THE POLICY ADVISORY COMMISSION ON CORRECTIONS CONSISTS OF 13 MEMBERS:

(a) Three members appointed by the Majority Leader of the Senate, one of whom must be a member of the minority political party.

(b) Three members appointed by the Speaker of the Assembly, one of whom must be a member of the minority political party.

(c) Seven Members who are representatives of the general public, appointed by the Legislative Commission from among written nominations submitted by the general public of persons who have experience, training or a demonstrated interest in issues relating to correctional institutions, including, without limitation, health care, mental health, substance abuse, social work and programs for reentry into the community. To the extent practicable, the members appointed pursuant to this paragraph must be representative of the various geographic areas of this State.

3. The members of the Policy Advisory Commission on Corrections shall select a Chairman from among their membership.

4. Each 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.

5. A vacancy occurring in the membership of the Policy Advisory Commission on Corrections must be filled in the same manner as the original appointments.

6. A majority of the Policy Advisory Commission on Corrections constitutes a quorum and a majority of those members present must concur in any decision.

7. Each member of the Policy Advisory Commission on Corrections serves without compensation. Each nonlegislative member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. Each Legislator who is a member of the Commission is entitled to receive the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207.

8. Each member of the Policy Advisory Commission on Corrections who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the

Commission and perform any work, necessary to accomplish the tasks assigned to the Commission in the most timely maner practicable. A state agency shall not require an officer or employee who is a member of the Commission to make up the time he is absent from work to fulfill his obligations as a member, nor shall it require the member to take annual vacation or compensatory time for the absence. Such a member shall serve on the Commission without additional compensation, except that while he is engaged in the business of the Commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency which employs him.

Sec. 3. 1. The Policy Advisory Commission on Corrections shall:

(a) Be informed on issues and developments relating to correctional institutions;

(b) Submit a semiannual report to the Governor and the Legislative Commission on or before July 1st and December 1st each year on the status of correctional institutions in this State;

(c) Report to the Governor and the Legislative Commission on any other matter relating to correctional institutions that it deems appropriate; and

(d) Meet at least quarterly and at the call of the chairman to review the operational institutions in this state.

2. Members of the Policy Advisory Commisson may enter any correctional institution in this State and examine any prisoner at any time without prior authorization of the Director or the Department.

3. The Policy Advisory Commission may receive testimony from any source, including, without limitation, prisoners and members of their families.

4. Upon request the Director and the Department shall provide to the Policy Advisory Commission on Corrections any information the Commission determines is relavent to the performance of the duties of the Commission

Sec. 4. Except as otherwise prohibited by Federal or State law all books and papers kept by prisons operated by, employees employed by and prisoners held in the custody of the Department shall at all times, on all legal days, be open to and available for the inspection of the members of the legislature.

Sec. 3 AMEND ASSEMBLY BILL 510 INMATE MERIT CREDITS is hereby amended to read as follows:

ADD:

NRS 209.433 Credits for offenders sentenced on or before June 30, 1969.

1. Every offender who was sentenced to prison on or before June 30, 1969 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 for his term a deduction of 2 months in each of the first 2 years, 4 months in each of the next two years, and 5 months in each of the remaining term, and pro rata for any part of a year where the sentence is for more or less than a year.

2. In addition to the credits for good behavior provided in subsection 1, the Board shall adopted regulations for offenders whose diligence in labor or study merits the credits. and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for

educational achievement:
(a) For earning a general educational development certificate, Delete 30 days ADD: 60 days.
(b) For earning a high school diploma Delete 60 days ADD: 90 days.
(c) For earning an associate degree Delete 90 days ADD: 120 days.
ADD: (d) An educational including college, labor or meritorious merit credit day equals a 24 hour period of time.
(e) The awards listed above are to be deducted as earned from the inmates sentence.
Sec. 4 NRS 209.443 is hereby amended to read as follows: Credits for offender sentenced after June 30, 1969, for a crime committed before July 1, 1985,
1. Every offender 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 peaceful manner the duties assigned to him, must be allowed:

(a) For the period he is actually incarcerated under sentence; and

(b) For the period he is in residential confinement,

E a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years and 5 months for each of the remaining years of the term, and pro rata for any part of the year where any part of actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned for actual time served.
2. The credits earned must be deducted from the maximum term imposed by the sentence and, accept as otherwise provided in subsection 5, must apply to eligibility for parole.
3. In addition to the credits for good behavior provided in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study, ADD: including college, merits such credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a General Education Development Certificate, [30] 60 days.

(b) For earning a High School Diploma, [60] 90 days.

(c) For earning an Associate Degree, [90] 120 days.

(d) ADD: An educational labor or meritorious merit credit day equals a 24 hour period of time.

4. Each offender is entitled to the deductions allowed by this section if he has satisfied the conditions of 1 or 3 as determined by the Director.
5. Credits earned pursuant to this section do not apply to eligibility for parole if a statute specifies a minimum sentence which must be served before a person becomes eligible for parole.
Sec. 6 NRS 209.446 is hereby amended to read as follows:

4. Upon request, the Director and the Department shall provide to the Policy Advisory Commission on Corrections any information the Commission determines is relevant to the performance of the duties of the Commission.

(a) Except as otherwise prohibited by federal or state law all books and papers kept by, prisons operated by, employees employed by and prisoners held in the custody of the department shall at all times, on all legal days be open to and available for the inspection for the members of the legislature.

Sec. 3. NRS 209.433 is hereby amended to read as follows:

1. Every offender who was sentenced to prison on or before June 30, 1969, 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 peaceful manner the duties assigned to him, must be allowed for his term of 2 months in each of the first 2 years, and 4 months in each of the next two years, and 5 months in each of the remaining years of the term, and pro rata for any part of the year where the sentence is more or less than a year.

2. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study Credits for offender sentenced for crime committed on or after July 1, 1985, but before July 17, 1997.

1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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, 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 under 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

E a deduction of [10] 20 days from his sentence for each month that he serves.

2. In addition to the credit provided for in subsection 1, the Director ADD: shall DELETE: may allow not more than 10 days of credit each month for an offender who is deligence in labor and study, including college, 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] 60 days,

(b) For earning a High School Diploma, [60] 90 days,

(c) For earning an Associate Degree, [90] 120 days.

(d) ADD: An educational labor or meritorious merit credit day equals a 24 hour period of time.

3. The Director ADD: shall DELETE: 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 to this subsection is entitled to the entire [20] 30 days of credit each month which is authorized in subsections 1 and 2.

4. The Director ADD: shall DELETE: may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture, and restoration of credits pursuant to this section.

6. Credits earned pursuant to this subsection:

(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 which must be served before a person becomes eligible for parole.

(c) ADD: An educational, labor or meritorious merit credit day equals a 24 hour period of time.

Assembly Bill 510
Section 4
2. In addition to the credit provided for in subsection 1 the Director ADD: shall DELETE: may
3. The Director ADD: shall DELETE: may
4. The Director ADD: shall DELETE: may

Section 5
NRS 209.4465 is hereby amended to read as follows:
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 followed:

(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 custody of the Department of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

a deduction of [10] 20 days from his sentence for each month he serves.

(d) ADD: An educational, labor or meritorious merit credit day equals a 24 hour period of time.

2. In addition to the credits allowed in subsection 1, the Director ADD: shall Delete: may allow not more than 10 days of credit each month for an offender whose diligence in labor and study, ADD: including college, merits such credits in addition to the credits allowed to this subsection an offender is allowed the following credits for educational achievement:

4. The Director ADD: shall DELETE: may not more than 10 days of credit each month for an offender who participates in a diligent and a responsible manner in a center for a purpose of making restitution, program for reentry for offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire [20] 30 days of credit each month that is allowed pursuant to subsections 1 and 2.
5. The Director ADD: shall DELETE: may

AB 510
Section 6
2. In addition to any credits pursuant to subsection 1 and NRS 209.447, the Director ADD: shall Delete: may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004 or who is released on parole on or after January 1, 2004 for a term less than life; and

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(b) Whose diligence or labor and study, ADD: including college, merits such credits.

AB510

Section 10 For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act apply only to credits earned by an offender on or after

ADD: July 1, 2007, DELETE: July 1, 2008.

Section 11 This act becomes effective ADD: July 1, 2000, DELETE: July 1, 2008

Honorable Chairman Amodei and members of the Senate Judiciary Committee, the following researched information is being submitted requesting that you:

Amend AB 510
ADD: THE NEVADA PAROLE BOARD MUST HAVE TRANSPARENCY AND OPERATE IN FULL SUNSHINE BY FOLLOWING NRS 241 The Open Meeting Law, and other amendments as noted below in Section 11. This is one of the most important issues that the 2007 legislative body has before it.

THE REAL REASON THE Parole Board DOES NOT WANT TO OBEY THE OPEN MEETING LAW CHAPTER NRS 241 IS THE PAROLE BOARD DOES NOT WANT TO BE SCRUTINIZED. IF THERE IS NO RECORD OF A PAROLE HEARING THEN THE PAROLE BOARD JUST SAYS WHATEVER WITH NO ONE TO ANSWER TO. THIS STOPS ANY QUESTIONS AND GIVES THEM THE POWER OF GOD.

1. Digest: Sec. 1. **NRS 213.130 (8) All personal information . . .which pertains to the victim. . .is confidential. The Open Meeting Law NRS 241.030 (3.a) does not change NRS 213.130 (8) which clearly protects the victim and their information.** Sec. 2. The Parole Board with *David Smith* as a spokesman incorrectly stated 5/25/07 that following the Open Meeting Law (OML) would make the victim and their information public; Sec. 3.The Parole Board followed the OML until 2001; Sec. 4. The Parole Board stopped following the OML after 2003 **with no authorization to BE EXEMPT FROM THE OML from the legislature or the NV Supreme Court;** Sec. 4. 2003 legislative session, SB 229, *David Smith* representing the Parole Board testified to convince the legislature to codify what the Parole Board is doing without authorization; Sec. 5. 2005 legislative session SB 423 *David Smith* representing the Parole Board testified again attempting to convince the legislature to codify what the Parole Board was doing without authorization; Sec. 6. 2007 legislative session SB 496 *David Smith* representing the Parole Board AGAIN testified many times attempting for the third consecutive legislative session to convince the legislature to codify what the Parole Board is doing,[We believe illegally] NOT OBEYING THE OML without authorization [NV Supreme Court Cases of Stockmeire and Witherow both ordered the Psychological Panel and the Parole Board to follow the Open Meeting Law. The Parole Board requested and was granted a stay on Witherow **pending litigation, WHICH PROBABLY MEANS legislative action];** Sec. 7. AB 416 reported to be dead in Asm. Ways & Means. Sec. 8. To comply and obey the OML the Parole Board only must keep video, audio and written records, allow all interested to speak, and inmates must be present during their parole hearing for questions and answers. Sec. 9. Taxpayer money wasted. Sec. 10 Missing memo from Legislative Counsel Bureau on SB 423. Sec. 11. Amendments to AB 510 for Parole Board Hearings, Parole Board Commissioners, and Open Meeting Law relating to changes and corrections. Sec. 14. Sex Offenders are released by Parole Board without following the Open Meeting Law.
Senator Maurice Washington, Vice-Chair of this Sen. Judiciary Committee is quoted Nov. 5, 2005 in the Review Journal in an editorial, "A Victory For Open Government" when the Attorney General said the Sexual Tier Classification Hearings had to comply with the Open Meeting Law. Sen. Washington said, "If we do this [sexual tier classification hearings] behind closed doors, the appearance of safety is 2nd wind." Sen. Mike Schneider concurred with Sen. Washington. However, in the 2007 legislative **session SB 496** was passed by the senate to the

assembly **exempting the Parole Board Hearings from the Open Meeting Law**. So publicly one position is stated by some members of the legislature but when voting in the legislature another negating position is taken.

Sec. 1. **NRS 213.130 (8.) All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential. The OPEN MEETING LAW NRS 241** absolutely protects the rights of everyone including the confidentiality of the victim's personal information. NRS 241 does not change NRS 213.130 (8.).

Sec. 2 *David Smith* Parole Board spokesman who also wears the 'hat' of Executive Secretary of the Pardon's Board was quoted by the NV Appeal 5/26/07 stating that the OML would make a victim and their personal information public. *We believe Mr. Smith's* statement to the press is false and misleading. **NRS 213.130 (8.) requires the Parole Board to protect the confidential personal information of the victim. This is not changed under Chapter 241 of the NRS. nor do we advocate that it does or ever will.** However, NRS does not permit the NV Parole Board to take secret uncorroborated and possible errant testimony from victims in violation of NRS Chapter 241.THE OPEN MEETING LAW.

Sec. 3. The Parole Board Operating Manual of 2001 clearly states that the Parole Board is under and follows the Open Meeting Law. **When the Parole Board reprinted their Operating Manual in 2003 the language was changed to "open and public" with no change in any law nor was there any court case decided.** In fact Attorney General Opinions OMLO 98-02;OMLO 98-10; and OMLO 98-47 all say the Parole Board is subject to the Open Meeting Law NRS 241. OMLO 98-02; OMLO 98-10 and OMLO 98-47 may be found in the Addendum in NV Supreme Court Case #45510 Russell Crew vs the NV Parole Board. Another case costing the TAXPAYERS MONEY because the Parole Board refuses to follow the law NRS 241. ***The Parole Board just rewrote their procedural manual without any authorization effectually changing the application of the OML on their proceedings.*** **Copies of the previous noted Attorney General Opinions were denied to Juli Star Alexander of REDRESS, INC. by Deputy Attorney General Roberto March of 2006.** OMLO 98-47 was reported by a secretary to no longer be available. See REDRESS INC. 'white paper' submitted to the Asm. Concurrent Resolution #17 Interim Sub-Committee stored at the Legislative Counsel Bureau for Affidavit from Juli Star Alexander.

Sec. 4. 2003 Legislative session this same *David Smith*, representing both the Parole Board and the Pardons Board testified on SB 229, which died in the assembly SB 229. He stated that the Parole Board and the Pardon's Board application process both should be exempt from the Open Meeting Law, NRS 241 even though the Parole Board's practices and procedures of claiming exemption under the Open Meeting Law was occurring at that time and still continues to do so.

Sec. 5. 2005 Legislative session **AGAIN** this same *David Smith*, testified for SB 423 still claiming the Parole Board and the Pardon's Board application process should be exempt from the Open Meeting Law, NRS 241. This time *Mr. Smith* claimed that the Parole Board was doing everything correct but they just wanted the law clarified. The Asm. Judiciary Committee Chairman Bernie Anderson and committee members said, we aren't going to codify what the

Parole Board is doing. In fact the committee mentioned that it seemed the Parole Board feared what the next Attorney General might do and that was possibly why they were requesting a change in the law. SB 423 died in the Asm. Judiciary Committee.

Sec. 6. 2007 Legislative session **AGAIN** this *same David Smith* testified for SB 496 to attempt to have codified what they have been doing since 2003 without authorization. SB 496 **AGAIN** died in the Asm. Select Committee for Corrections, Parole and Probation Chairman David Parks and Vice Chair Bernie Anderson. The Select Committee wanted to know why the Parole Board was bringing SB 496 when the Select Committee had their own bill AB 416 specifically stating that the Parole Board is subject to the Open Meeting Law NRS 241. SB 496 was sponsored by Gov. Jim Gibbons to the Sen. Government Affairs Committee and passed from the full Senate to the Asm.

Sec. 7. **AB 416 is still in the Asm. Ways and Means Committee with AN INFLATED UNPROVEN FISCAL NOTE FROM THE PAROLE BOARD OF THREE MILLION DOLLARS**; Asm. Munford stated that he asked Chairman Arberry of the Ways & Means Committee if the obvious inflated and ridiculous figures presented to the legislature by the Parole Board had been verified or checked. Asm. Munford stated that Chairman Arberry said whatever the state agency or commission gives to the legislature is what is used without verification. During a hearing on AB 416 in the Asm. Ways & Means Committee Chairman Arberry closed the hearing in a burst of anger hitting his gavel a few times and stated he might just kill AB 416. Also Supreme Court Justice James Hardesty told a group in the hallway outside ROOM #3137 Asm. Ways and Means that he had sent a written letter to Chairman Arberry suggesting that AB 416 be tabled and held for further study. The issues in AB 416 have been studied for over six years by various legislative committees, Dr. Austin Consultant and advocates. No further study can be productive. **The issues in AB 416 are valid, fiscally responsible and in compliance with the law. Former Chief Justice Robert E. Rose testified before the ACR #17 committee in favor of the issues presented in AB 416.**

THE FISCAL NOTE REPORTED BY THE PAROLE BOARD COMMISSIONERS OF 3 MILLION DOLLARS WE ACKNOWLEDGE. IT IS NOTED THAT THESE REQUIREMENTS MAY ADD ADMINISTRATIVE BURDENS FOR THE LIMITED STAFF OF THE BOARD. HOWEVER, **IT HAS NEVER BEEN AN ACCEPTABLE OPTION FOR THE GOVERNMENT TO ARGUE THAT STATUTORY AND CONSTITUTIONAL REQUIREMENTS NEED NOT BE PROVIDED BECAUSE IT CREATES ADMINISTRATIVE AND FINANCIAL BURDENS.** LABRUM UTAH SUPREME COURT

Sec. 8. The members of the 2007 Asm. Select Committee on Corrections, Parole and Probation spoke to Parole Board Commissioner Dorla Salling and *David Smith* asking how difficult could it be to take minutes and record the Parole Board Hearing of an inmate? Because if there is a questionable issue there is a record if the parole board has the minutes and the recording of what transpired during the hearing. **NOW THE PAROLE BOARD ONLY USES A CHECK LIST**. How much could it possibly cost to fund a person to take the minutes and record the hearing? The committee members ALSO questioned the Parole Board's estimate of THREE MILLION DOLLARS THEIR PROJECTED COST to OBEY NRS 241 AND FOLLOW the OML. WITHEROW decision from the NV Supreme Court DETERMINED THAT THE PAROLE

BOARD DIDN'T EVEN MEET THE DEFINITION OF A QUASI - JUDICIAL BODY. The Parole Board claims THEY ARE QUASI JUDICIAL BUT THEY ARE NOT. They do not meet the test of DUE PROCESS.

The Parole Board must only add one person to accurately take a video, auditory and written record of each meeting, allow any concerned citizen who is behaving properly an opportunity to speak [3 minutes is the norm used in most OML meetings], and inmates must be present for their Parole Board Hearing to respond and participate in the question and answer portion of the Parole Board decision making.

It has been known that Parole Boards have been known to make mistakes. United State Supreme Court Justice Marshall elaborated in the dissent on the parole context in Greenholdtz vs Neb Penal Inmates "In fact researchers in courts have discovered multiple errors in parolee's hearings and files. Including having incorrect identities etc. Labrum UT Supreme Court, " Beyond the issue of accuracy there is always the concern for legitimacy that has always antimated due process in the criminal law" -UT case law quoting Greenholdtz- Justice Marshall described it in Greenholdtz this court has stressed the importance of adopting procedures that preserve the appearance of fairness and the confidence of inmates in the decision process. The chief justice recognized in Morrisey that their treatment in parole [hearings] will enhance the chance for rehabilitation by avoiding reactions to arbitrariness... What will be the cost to Nevada TAXPAYERS be when the Parole Board violations of NRS 241 Open Meeting Law is taken on appeal all the way to the US Supreme Court as in Greenholdt? "Accuracy and fairness are essential in proceedings which impinge directly on personal liberty as parole grant hearings The interests of both society and criminal offenders are best served when fairness and accuracy are assured at all stages of the sentencing and correctional process. An offender's perception of fairness in the criminal justice system is thought to promote rehabilitation. Accurate sentencing and parole decisions also further societies interest in insuring that offenders will be returned to society neither sooner nor later than appropriate." Profession Sandford H. Kadish THE ADVOCATE AND THE EXPERT- COUNSEL IN THE PENO- CORRECTIONAL PROCESS 45 Minnesota Law Review 803 at page 836. *David Smith* said that neither the Parole Board or the advocates were going to win by getting their legislation passed on the Open Meeting Law. But that he was sure the NV Supreme Court would do what is RIGHT! Will the NV Supreme Court overturn Stockmeier and Witherow that then will ultimately lead to appeals to the US Supreme Court? CAN WE THE TAXPAYERS CONTINUE TO AFFORD

THE PAROLE BOARD COMMISSIONER CHAIR DORLA SALLING AND *DAVID SMITH* ONGOING DISREGARD AND VIOLATION OF THE OPEN MEETING LAW SINCE 2003? WE SAY NO!!

Sec. 9. The TAXPAYER funds that have been wasted by the Parole Board since 2003 by testifying before the legislature to gain exemption from the OML thereby attempting to make their unauthorized practice legal MUST BE RECOGNIZED. The TAXPAYER funds that have been wasted by the Parole Board and the Attorney General's Office on the lawsuits of Stockmeier and Witherow **WON BY THE INMATES** MUST BE RECOGNIZED. These wasted taxpayer monies MUST BE USED TO OFFSET THE NEGATIVE FISCAL IMPACT BEING CLAIMED BY DORLA SALLING CHAIRMAN OF THE PAROLE BOARD OF COMMISSIONERS

regarding the Parole Board obeying the law NRS 241 all to satisfy the ego of DAG Joe Ward to win the STockmeire case in Pershing County.

Sec. 10. **CASE OF THE MISSING MEMO FROM THE LEGISLATIVE COUNSEL BUREAU**

May 19, 2005 a memo from the *same David Smith* to the Assembly Committee on Judiciary dated May 18, 2005 was submitted by Board of Parole Commissioners Exhibit M page 1 of 4 Subject: Additional information related to Senate Bill 423 initialed DM

"Currently, the Parole Board operates under the advice of the Attorney General that parole hearings are not subject to the OML.. . . During the 2003 legislative session, the Parole Board with the assistance of the Attorney General's office requested an amendment to a bill related to the OML. Attached is a copy of that letter which outlines arguments in favor of making it clear that **parole** and clemency hearings are not subject to the OML."

Attached **was** a May 28, 2003 memo from Joe Ward Jr. Senior Deputy Attorney General Litigation Division, to Scott Wasserman, Chief Counsel Legislative Counsel Bureau [now a Deputy Attorney General] Subject: Senate Bill 229, Section 4.5 "Pursuant to our discussion, the following additional sentence could be added:. . .Such fine-tuning would address the concern from members of the media and public who may want to attend the hearing or meetings.. . this is an opportunity to make it abundantly clear that "judicial proceedings" like parole and clemency (pardon's board applications) related hearings, are exempt See NRS 241.030 (3) (a). . .If no parole related or clemency related decision pursuant to Chapter 213 of the NRS could be made without first having public comment, proceedings could turn into Jerry Springer Show type displays. . . The addition of the last sentence would ease any concern from members of the media and public who may want to attend the subject hearings or meetings.

May 20, 2005 The memo of May 18, 2005 Subject: Additional Information related to SB 423 initialed DM now changed to exhibit D 1 of 1 **WITH NOTHING ATTACHED** *Submitted by: David Smith*

NOW MISSING FROM THE LCB RECORDS is the 2003 memo from AG Joe Ward to Scott Wasserman. WHY WOULD *DAVID SMITH* CHANGE THE EXHIBIT LETTER, the NUMBER OF PAGES AND SIGN HIS NAME RATHER THAN THE Parole Board of Commissioners and TAKE THE 2003 MEMO OUT OF THE LCB RECORDS? Is there something in the 2003 memo from AG Joe Ward to Scott Wasserman that *David Smith* decided should not be public? Has something wrong been done by *David Smith? The NV Supreme Court in Stockmeier and Witherow ruled that because of procedural deficiencies and failure to protect the rights of parole applicants that the NV Board of Parole Commissioner do not even reach the status level of "quasi-judicial". This Supreme Court decision clearly denounces the claims or lies of David Smith in attempting an end run to have legislative codification of the parole board actions which violate the OML*

Sec. 11. Amend AB 510 NRS 213 ADD:
1. The following suggestion from Asm. Speaker Buckley that the Parole Board shall just notice

an inmate who is being granted a parole with his release date in writing with no formal parole hearing would be a complete violation of NRS. This action Speaker Buckley speaks of would save Parole Board Hearing time and is reflective of the true parole mechanism in place at this time. Which means the parole decisions are made long before the parole hearings are ever made and its is a complete farce and a sham. No need for hearings when the decision has already been made. Inmate Billy Bob was listed in the NV Appeal being denied parole one week prior to his actual parole hearing. THIS MANDATES THE NEED FOR THE OPEN MEETING LAW IN NEVADA. We believe that these are unwritten policies of the Parole Board that must be STOPPED.
2. All institutional paroles to consecutive prison sentences shall be made by the NV Department of Corrections Offender Management when the inmate has served the mandatory minimum or bottom number of his sentence less the statutory good time credit days with no additional criminal convictions occurring during the instant term being served. A statutory good time credit day has the value of a twenty four hour period of time Parole Board Hearings will only be held for inmates being considered for possible release to the streets. This is a positive fiscal impact.
3. The Parole Board Commissioners MUST announce at the start of each Parole Board Hearing that ALL interest individuals are entitled to speak under the Open Meeting Law Chapter 241. and provide a sign in sheet. The speakers must be able to speak to the character both positive and negative of the parole candidate. All speakers are subject to the perjury laws of the State of Nevada and the NRS. asm Wm. Horne Chair of the ACR #17 has supported inmates having the right to provide their own representative at their Parole Board Hearings at their own expense.
5. All Parole Board Commissioners shall furnish the personnel division with a certified copy of their college transcripts.
6. The NV Board of Parole Commissioners shall afford the parole applicant the timely disclosure of contents of their files or reasonable summaries thereof prior to conducting the grant parole hearing. The inmate applicant must have reasonable opportunity to know what the decision making process is based upon for possible rebuttal and or correction.
7. Any denial from the Parole Board shall clearly give the inmate the objective reasons for denial and positive written objective comments and direction to improve.
8. The Mandatory Parole Release be moved to 18 months to insure inmates have parole supervision when released. (The Parole Board calls the MPR Mandatory Parole **Review** NOT RELEASE THEREBY STOPPING UP THE PRISON EXIT MECHANISM.) EVERY PAROLEE MUST HAVE PAROLE SUPERVISION OF A MINIMUM OF SIX MONTHS--NO ONE SHOULD LEAVE PRISON ON AN EXPIRED SENTENCE this will reduce recidivism.

9. In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.

10. STOP THE MONTHLY FEE charged to inmates on parole. Dr. Austin reported that 40% of new prisoners are technical violations of parolees. When the parolee does not have the money to pay the monthly service fee of $30 charged by the Parole and Probation Department they do not report and soon receive a technical parole violation. cost $8000 to re-enter the prison system

11. Technical parole violators are not to be returned to prison unless they commit and are convicted or another crime.

12. The only information to be considered by the Parole Board during a hearing for parole must

have been accepted by the trial judge. Inflammatory reports and pictures not part of the original trial record shall not be in the inmates prison and parole file nor shall it be produced for the record. Sen. Mike McGinness who served on the ACR #17 commented to this Sen. Judiciary committee regarding this serious infraction of retrying the case at each parole hearing.

13. The inmate is to be given all the information being consider by the Parole Board to grant or deny him for parole 30 days prior to his Parole Board Hearing date. The Parole Board must give written reasons for their action for either granting or denying. In case of a denial the Board must provide the inmate with written positive direction for future improvement.

14. The NV Board of Parole Commissioners shall use in considering a parole applicant the Parole Standard "Guideline Recommended Months" in effect at the time the parole applicants crime occurred.

15. See attachment from Attorney Treva Hearn for clarification on Parole Standards including the Guideline Recommended Months "GRM"
Codify into NRS, NAC 213.520
ADD: from Likelihood of Success Factor Worksheet created by the Parole Board
(a) Prior convictions shall only be convictions prior to and other than the active conviction and sentence the inmate is serving.
(b) Delete: Enhancements or weapons use because the entry is listed twice and counted twice by the Parole Board thereby doubling an inmate's points for calculating his crime severity level number.
©) Incarcerations: prison -- each time an inmate earns a parole another prison sentence is listed and counted against him, increasing his negative score by two points each time he earns a parole. If an inmate has four counts in his sentence each time he is paroled the Board adds two more negative points increasing his score higher and higher and making earning another parole more difficult even though the inmate IS DOING WELL ENOUGH TO EARN A PAROLE in
the first place. **This is counter productive.** See attached letter from Reno Attorney Treva Hearne to Governor Guinn. Deputy Attorney General Daniel Wong said in November of 2006, the way the Parole Board is completing the Likelihood of Success Factor Worksheet is correct just because he says so even though double counting negative points is another factor stopping up the Parole Board's release mechanism of inmates thereby causing a serious negative fiscal impact which must be factored into the figures being provided to the legislature on AB 416.
(d) ADD: Positive family or positive community support for an inmate on the Parole Success Likelihood Factors Worksheet. Follow the recommendations from Dr. James Austin, consultant. NV Dept. of Correction's staff shall be permitted to make written or oral statements in evaluation of a parole applicant. The only staff who gets to make the report sees the inmate only every 6 months The staff members have the most interaction with the parole applicant
Caseworker only see once every 6 months but you see staff you work for and housing officer daily. job supervisor and teacher they interact with any staff with whom the parole applicant has interaction with should be who the parole board gets their information from. Over ride the NDOC rule of only caseworker can give information.
16. The Parole Board's decision to grant or deny shall be based on a majority vote of the Parole

Board Commissioners who are present at the inmate parolee's parole hearing in which the inmate appeared.

Sec. 12. The HISTORY of the OPEN MEETING LAW

Since 2001 the Nevada Board of Parole Commissioners, their Executive Secretary, and the Attorney General's Office have entered into a campaign of misinformation and deception to have the district courts and legislature legitimize the Parole Board's knowing violation of their required compliance with Nevada's Open Meeting Law.

In 1983, Parole Board Chairman Bryn Armstrong testified before the Senate Judiciary Committee. The Minutes of Senate Judiciary Committee, May 9, 1983, at Page 1321, Legislative Counsel Bureau, Legislative History: SB 404 of the 62nd Session (1983), show Mr. Armstrong states: that all parole hearings **are open to the public under the Nevada Open Meeting Law, and they do not meet in secrecy. As late as October 12, 2001**, the Parole Board acknowledged its required mandate of holding open and public meetings **in compliance with the Open Meeting Law (NRS Chapter 241)**. In its Operations of the Board, Revised October 12, 2001, procedural manual, the commissioners of the Parole Board state: PAROLE APPLICATION HEARINGS 2. All hearings conducted by the Board are open to the public in compliance with the Nevada Open Meeting Law. See, Operations Of The Board, October 12, 2001, at Page 1. That procedural Manual was adopted and signed by Chairman Dorla Salling and all the other Parole Board Commissioners. **With no change in the Open Meeting Law, in its 2003 revision Operations of the Board (revised, October 24, 2003), the Parole Board edited its Open Meeting Law compliance out of its standard procedures.** It is difficult to believe that the Parole Board by changing its procedure manual could supersede the authority and mandate of the Open Meeting Law and the Nevada Legislature.

As such, it is with informed knowledge and intent the NV Parole Board began closing some of its meetings, clearly satisfying the **Attorney General's two-prong test as to criminal liability for Open Meeting Law violations.** Whenever a parole application is of a sensitive nature or whose decision is desired to be cloaked from public scrutiny, only then does the Parole Board close its hearings from public view of Nevada's citizens.

It is the contention of Joe Ward, Jr., Senior Deputy Attorney General, **(See, memo to Scott Wasserman, Chief Counsel, Leg. Counsel Bureau MISSING FROM THE LEGISLATIVE COUNSEL BUREAU SB 423 HISTORY**), that the Parole Board is entitled to an **implied** inclusion to the judicial proceedings exception to the Open Meeting Law. However a full review of NRS 241.030(3)(a) reveals that the Nevada Legislature realized it could not require court proceedings to be open to the public, but legislature did wish to enforce the intent of the Open Meeting Law to the Court's Rules and Administrative Orders Meetings. AB 437 of the 1977 Legislative Session created NRS 241.030 (3)(a) which then read:

3. This chapter does not:

(a) Apply to judicial proceedings, except those at which consideration of rules or

deliberation upon the issuance of Administrative orders are conducted.

This legislative mandate was soon ruled as an unconstitutional infringement upon the Court's powers by way of the Separation of Powers doctrine. See, Goldberg v. Eight Judicial District Court, 572 P.2nd 521 (1977).

As a result of this Nevada Supreme Court ruling, Assembly Bill 13 (AB13) was brought to the 1983 Legislative Session to remove any and all statutory control of the Nevada Courts. Mr. Frank Daykin, Chief Legislative Counsel, testified before the senate committee on Government Affairs, January 21, 1983, at Legislative History Page 16, wherein Mr. Daykin stated: in the open meeting law amended in 1977, there is a list of exclusions, including the following: The chapter does not apply to judicial proceedings except those at which consideration of rules or deliberation upon issuance of administration orders are conducted. However, the Supreme Court decided it could not constitutionally be made so applicable. Hence, the statute, as amended, would simply say this chapter does not apply to judicial proceedings. Again on February 16, 1983, Mr. Daykin was required to testify before the Senate Committee on Government Affairs. Legislative History 62nd Session (1983) at Page 80 reads: Mr. Frank Daykin, Legislative Counsel, stated this was a reviser's bill which was put in through the Assembly's Committee on Judiciary the original Open Meeting Law that was enacted in 1977 generally excluded judicial proceedings from the requirement on open meetings, but did require open meetings for judges . . . adopting rules . . . The Supreme Court rather promptly . . . held the provisions to be unconstitutional as a violation of the separation of powers between Legislative and Judicial Department.

<u>At no time does the legislature ever include quasi-judicial proceedings of Executive Branch public bodies in its numerous discussions of this statutory exemption to the Open Meeting Law.</u> As a matter of fact, the Public Utilities Commission sought to gain such an Open Meeting Law exemption due to their quasi-judicial functions. AB 366 saw testimony of Commissioner Timothy Hay stating that since the PSC operated as a quasi-judicial body in making its determinations. . . (See, Minutes of Assembly Committee on Government Affairs, 10 (July 1, 1987).

The Attorney General wrote an opinion regarding this matter stating: the provision was subsequently removed from AB366 which is a pretty clear indication to this office that the legislature did not intend for the Commission to enjoy any exemptions, quasi-judicial or otherwise, from the Open Meeting Law. See, Open Meeting Law Opinion 98-02, at Page 6 (unnumbered Pages).

The Attorney General continued to state:

We understand that quasi-judicial bodies hear facts and . . .resolve controversies <u>But Nevada has not adopted an exemption from its Open Meeting Law for quasi-judicial bodies. .</u>

This office believes that quasi-judicial bodies are not per se exempt from the Open Meeting Law and must fully comply. . .

See, OMLO 98-02, at page 5.See also, OMLO 98-10 and OMLO 98-47.

Deputy Attorney General Mr. Ward's contention that NRS 213.130(3) is the legislature's only mandate to hold open parole hearings is blatantly misstated rhetoric. The amendment to NRS Chapter 213 which Mr. Ward addresses was the result of Senator Sue Wagner being dissatisfied with the parole board's testimony and response regarding her victims rights' bill (SB404). During the May 9, 1983, Senate Committee on Judiciary meeting Senator Wagner stated, she felt Mr. Armstrong's testimony was not complete. . . Because Parole Board Chairman Armstrong did not satisfy Senator Wagner's need for assurance victims would be afforded an opportunity to testify at open parole meetings, that language was subsequently amended into both NRS 213.130 (3), NRS 213.130 (4), and NRS 213,130 (5). All of which speak to open and public meetings. THE INTENTION WAS NOT TO REPLACE THE OPEN MEETING LAW LIKE *DAVID SMITH* AND THE PAROLE BOARD HAS DONE. It is this victim rights bill which caused these amendments to NRS Chapter 213 and not some new previously unstated Open Meeting Law mandate. **The Parole Board as a public body, supported totally by taxpayers, was always required to comply with the Open Meeting Law.**

Then Deputy Attorney General Joe Ward, Jr. certainly is fully aware of these legislative histories and especially the numerous Attorney General Opinions stating quasi-judicial bodies are NOT exempted from compliance with the Open Meeting Law. So one must ask, **why does Mr. Ward offer misinformation and emotionally-charged deception in regards to the quasi-judicial Parole Board's compliance with the Open Meeting Law?**

Now comes the Committee on Government Affairs (on behalf of the Nevada Parole Board) on March 29, 2005, with Senate Bill 423. This legislative maneuver seeks to revise provisions relating to certain meetings and hearings concerning prisoners and persons on parole and probation. *David Smith*, sometimes called the Executive Secretary of the Pardon's Board, said, . . .parole hearings were not subject to the Open Meeting Law. *Mr. Smith* stated a statutory provision, already in NRS 213, required policy hearings be subject to the Open Meeting Law. **He said there was a brief period of time when the Attorney General advised the Parole Board hearings were subject to the Open Meeting Law**. *Mr. Smith* stated Senate Bill 423 asked to exempt four specific sections from the Open Meeting Law ***[which would make law what the Parole Board is taking license to practice now].*** See Senate Committee on Government Affairs minutes, April 4, 2005, page 22.

In *Mr. Smith's* memorandum, (See , Exhibit K of SB 423) to the Government Affair's Committee, he restates an acknowledgment of previously required Open Meeting Law compliance for the Parole Board. That same *Mr. Smith* memo goes on to list the four specific sections to be exempted from the Open Meeting Law and public scrutiny:

1) Hearings conducted pursuant to subsection 2 of NRS 176.033 that are related to the early termination of parole on certain parolees.

2) Psych panel evaluations of sex offenders pursuant to NRS 213.1214.

3) Hearings to consider inmates for release on parole pursuant to NRS 213.130 and 213.133

4) A meeting or hearing to consider clemency applications in accordance with NRS 213.020 which is related to the Pardons Board.

[All four of the above requested changes are currently the policy of the Parole Board, Psych Panel and Pardons Board]

Sec. 13. May 25, 9:45 PM EDT

Parole Board should follow open meeting law, lawmakers told

By JOE MULLIN
Associated Press Writer

[The "**red text in this article only**" **is not correct** see NRS 241 OPEN MEETING LAW]

The Parole Board's current practice of notice posted at all prisons satisfies the OML.

THE OML NRS 241.030 (3. a) **"A public body may close a meeting pursuant to subsection 1 upon a motion which specifies (a) The nature of the business to be considered; "**]

would make Parole Board hearings subject to Nevada's open meeting law, after a bill that would exempt the board died in an Assembly committee.

Supporters of AB416 said Friday it would restore "balance in government," adding that the current board doesn't have enough oversight or transparency. But a Parole Board representative said the bill could result in inmates getting victims' personal information.

Advocates of the bill included inmate rights advocates, as well as Assemblymen David Parks Harvey Munford, both Las Vegas Democrats.

The bill also calls for more oversight of the Department of Corrections, and gives judges more flexibility on sentence enhancements for certain crimes.

It's part of a package of measures to overhaul the state's criminal justice system over the next few years. Flo Jones, who has advocated for change in the parole system, told the Senate Judiciary Committee that the bills under consideration were a necessary correction to overly harsh sentencing laws passed in the 1990s.

"The bills are long overdue," said Jones. "Truth-in-sentencing came along, people got upset, and now we are stuck in the quagmire, trying to pay for it."

Under current law, Parole Board meetings are public, but the board can also take testimony from victims confidentially. Under AB416, the board could still close meetings to protect the identity of a victim or other witness.

Under the open meeting law, the board would have to allow inmates to observe all proceedings, said Parole Board spokesman David Smith. The bill also requires the board to provide all the information it considered in making its decision to the prisoner, which could give victims' personal information to inmates, he said.

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"They would feel further victimized by having to let their feelings be known to the inmate," said Smith. "Some of them have changed their appearances, moved away. They fear retaliation from inmates."

The bill also creates time lines for notifying inmates about their hearings, and grants all inmates the right to be present at a hearing. Currently, hearings for low-level offenders - about one-third of total hearings - are conducted without the prisoners present, said Smith.

The Supreme Court is considering a case involving the Parole Board compliance with the open meeting law. In a letter to the Legislature, the board asked lawmakers to either exempt it from the open meeting law, or give it the time and money needed to effectively comply.

"We've tried to get this resolved one way or another," said *Smith*. "If the open meeting law becomes part of the process, the board can't afford to not comply in every way, or we'll risk continuous challenges from inmates and victims."

That compliance will cost the board about $3 million in the coming two-year budget, he added. A bill to exempt the board from the open meeting law was passed by the Senate but died in an Assembly committee.

Sec. 14. THE PAROLE BOARD HAS RELEASED 829 SEX OFFENDERS FROM JULY 1, 2000 THROUGH JUNE 30, 2006 BACK INTO SOCIETY. OF ALL COMMISSIONS AND BOARDS THE IMPORTANT WORK OF THE PAROLE BOARD MUST NOT OPERATE IN DARKNESS. THE PAROLE BOARD HAS RELEASED AND IS RELEASING SEX OFFENDERS WITH NO RECORDED RECORD OF THE PAROLE BOARD'S WORK. THE PAROLE BOARD AND THE PARDON'S BOARD APPLICATION PROCESS WHICH ALSO OPERATES IN SECRECY MUST OBEY NRS 241 THE OPEN MEETING LAW. THE NEVADA PAROLE BOARD MUST HAVE TRANSPARENCY AND OPERATE IN FULL SUNSHINE BY FOLLOWING NRS. 241 THE OPEN MEETING LAW.
The legislators leave Carson City June 5, 2007 at midnight. WITHOUT THE OPEN MEETING LAW APPLYING TO THE NEVADA PAROLE COMMISSIONERS THE PRACTICE OF DARKNESS WILL BE ALIVE AND WELL AND FOLLOW THIS LEGISLATURE'S DECISIONS FOR YEARS TO COME. This is one fiscal impact that must not be overlooked.

THE ONLY FOR SEEABLE REASON TO HAVE NO RECORD IS THAT THEY CAN GIVE ANY REASON AND WE HAVE NO WAY TO CHECK ON AND THE REASONS CHANGE IF THERE ARE QUESTIONS WITH NO RECORD WE HAVE NO CHECK AND BALANCE .AND THEY HAVE NO ONE TO ANSWER TO.

"We disagree with the Parole Board stance. All of its proceedings should be open and recorded as other public meeting are. Inmates, whose futures are determined by these hearings, should what evidence was presented, by whom and the reasons parole was denied. And should parole be granted, the public including the victims and their families should know why and how that happened as well."
Las Vegas Sun pg 4 Monday Feb 6 2006 PUTTING PAROLE IN SUNSHINE.
http://www.lasvegassun.com/sunbin/stories/text/2006/Feb/06/566636137.html

AMENDMENT TO AB 510

Sen. Judiciary Committee

ADD: NRS 193 is hereby amended as follows:

ENHANCEMENT PENALTY ADD: NRS 193 The sentencing judge shall have the descretion to determine what the enhancement penalty shall be from 1 to 10 years.
DELETE: enhancement penalty is double the sentence for the crime. This is to be applied retroactively. Inmates currently serving a double enhancement would be changed to the maximum of 10 years.

Respectfully submitted,

Evelyn Murphy
5 Leota Cir.
Carson City, NV 89706

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
May 30, 2007

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:14 a.m. on Wednesday, May 30, 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 Dennis Nolan
Senator Valerie Wiener
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)
Senator Terry Care (Excused)

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

John S. Michela, Deputy Attorney General, Office of the Attorney General
P.K. O'Neill, Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety
Cotter C. Conway, Washoe County Public Defender
Jason M. Frierson, Clark County Public Defender's Office

CHAIR AMODEI:
The hearing is opened on Assembly Bill (A.B.) 579.

Individuals usually argue they are improperly tiered. There is an appeal process including a reassessment hearing which is part of the Open Meeting Law and conducted monthly. There are usually 8 to 12 hearings a month. The individual can go to the court process if they still feel their issue needs to be readdressed. I have never heard of an individual voluntarily registering as a sex offender who was not a sex offender. That would be an anomaly rather than the norm. Normally, an individual argues their tier assessment is incorrect and their name does not belong in the file.

SENATOR HORSFORD:
There is confusion among the general public as to whether this law refers to offenders, advocates of offenders or family members of offenders. The question comes up frequently. Due to new laws being enacted for registration of offenders, residency requirements and where sex offenders are allowed to congregate, it is important to understand what tier they belong to in order to avoid a serious violation if they are not in compliance. Therefore, I will take it upon myself to accept your invitation to visit the Central Repository to educate myself in order to explain to my constituents who brought their concerns to me.

CHAIR AMODEI:
If any Committee members wish to request a Committee bill draft request for the 2009 Legislative Session before the end of this Legislative Session, we will meet at the Bar on the Senate Floor for that purpose.

SENATOR NOLAN MOVED TO DO PASS A.B. 579.

SENATOR HORSFORD SECONDED THE MOTION.

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

* * * * *

CHAIR AMODEI:
The hearing is opened on A.B. 510.

ASSEMBLY BILL 510 (2nd Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

The Committee heard A.B. 416 and A.B. 510. One of the major tenets of A.B. 416 was the creation of an oversight committee for the Department of Corrections. A committee already created under A.B. 508 was renamed.

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

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

BRAD WILKINSON (Chief Deputy Legislative Counsel):
It was renamed the Advisory Commission on the Administration of Justice.

CHAIR AMODEI:
Assembly Bill 508 had some specific charges, one of which was operations of the Department of Corrections, which had a broad brush. That committee may be an appropriate venue for corrections-related issues on operations. Conferring with some of our colleagues on the Assembly Committee on Ways and Means, it is my understanding the need for two committees is unapparent with the attendant cost, time and so forth. Therefore, the issue is whether we have a committee that has Legislators and other stakeholders involved in that process.

Unless the Committee has an objection, we will consider adding to that committee's charge specifically based on the testimony in A.B. 416 and other bills—other than only operations in general.

SENATOR WIENER:
One concern was an open meeting provision.

CHAIR AMODEI:
A Nevada Supreme Court case is pending on the State Board of Parole Commissioners and open meetings. Since the Advisory Commission on the Administration of Justice (ACAJ) will be making recommendations to the 2009 Legislative Session, perhaps it would be advisable to let them evaluate whatever is done by the Nevada Supreme Court and return to this Committee. I would have no objection to open meeting applicability to whatever they do. The ACAJ can get their arms around costs and policy considerations and bring it back next

session, depending on the decision of the Nevada Supreme Court. Are there any other additions?

Mr. Wilkinson, one of the items discussed was timekeeping calculation, whether an individual gets credit and whether a day is a day or two-thirds of day. Unless there is an objection from the Committee, I would like to add a charge to consider the timekeeping system.

SENATOR WIENER:
There are two parts—good-time credits and the manner in which timekeeping is determined.

CHAIR AMODEI:
Mr. Wilkinson, please make sure we address the manner in which a day is determined.

Testimony indicated the State Board of Parole Commissioners was considering whether or not an appeal was under way in determining whether or not to grant parole in terms of factors. Do you want to deal with it directly or not deal with it at all? I am concerned if the right to appeal is exercised as a factor in parole. If they are not doing it, there is no problem. What are your thoughts?

SENATOR MCGINNESS:
I am not sure that should preclude offenders from probation if they have the constitutional right to an appeal. Perhaps it should be an informational item but not preclude them.

MR. WILKINSON:
The current status of the law does not address it. It is not listed as a factor to be considered. That was included for reference as a change in section 23 of A.B. 416 on page 8, lines 17 through 20. That proposal would have specifically said the State Board of Parole Commissioners could not consider it.

CHAIR AMODEI:
Is there any objection to including that in A.B. 510? Let the record reflect a negative response to that question.

CHAIR AMODEI:
Sections 26 through 34 of A.B. 416 are enhancements. In A.B. 63, we attempted to create language that would require the sentencing judge to indicate the reason he used the discretion.

ASSEMBLY BILL 63 (2nd Reprint): Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)

The language we proposed for A.B. 416 turned out to violate the U.S. Supreme Court *Apprendi v. New Jersey*, 530 U.S. 466 (2000), ruling, which is cited in the recent Nevada Supreme Court ruling *O'Neill v. State*, 123 Nev. Adv. Op. No. 2, 153 P.3d 38 (2007). The ruling does not violate *Apprendi*; it requires submitting many factors for sentencing to the jury, which was not our intent.

Assemblyman William Horne, Assembly District No. 34, submitted language from Jason M. Frierson, Clark County Public Defender's Office.

SENATOR WIENER:
What crimes were not included in the new penalty of one to ten years on enhancements? Have they been captured by the proposal to revise?

MR. WILKINSON:
There are no crimes specifically excluded; it applies to everything.

CHAIR AMODEI:
Assembly Bill 63 dealt with weapons enhancement and the penalty was 1 to 20 years. Is the weapons enhancement penalty in sections 26 through 34 of A.B. 416 from one to ten years?

MR. WILKINSON:
Yes.

CHAIR AMODEI:
First of all, we must decide whether or not we want to back the weapons enhancement penalty down to 10 years or leave it at 1 to 20 years as in A.B. 63. Does the Committee have any thoughts on that aspect?

SENATOR WIENER:
That is the reason I asked whether some would be excluded. Section after section being excluded is reduced from the original up to 100-percent enhancement; one to ten years still gives discretion and parameters for discretion. If we back it down, it would be the one outside the box. Is that correct?

CHAIR AMODEI:
We want to get discretionary language to apply to whatever we do in the ballpark. Then, if Committee members want to go through the list of what is reduced wholesale and deal with it on a case-by-case basis, I do not mind giving more time to do it. Perhaps Ms. Eissmann can prepare a one-page comparison indicating which enhancements are proposed for a one-to-ten-year penalty and what it was before.

For A.B. 63 purposes, I like 1 to 20 years with the right language. Assemblyman Horne does not like either Mr. Frierson's or the Committee's amendments. Mr. Wilkinson, please read the one-line suggestion from Assemblyman Horne.

MR. WILKINSON:
The proposed change would say, "The court shall state on the record the reasons for the length of the additional sentence imposed by the court."

CHAIR AMODEI:
Stating the reasons on the record is a great start. We do not want to violate *Apprendi*. I do not know whether we need to reference including but not limited to. There have been suggestions regarding a presentence report and facts found in the trial on the merits.

I would like Messrs. Conway and Frierson to beef it up a little without getting close to *Apprendi*.

COTTER C. CONWAY (Washoe County Public Defender):
The *O'Neill* case from the Nevada Supreme Court on the *Apprendi* issue talks about what they believe a district court can consider in an enhancement statute; in that case, it was the habitual criminal. It says a district court may consider facts such as a defendant's criminal history, mitigation evidence, victim impact

statements and the like. Those are examples the Nevada Supreme Court considered that did not offend the *Apprendi* statute.

JASON M. FRIERSON (Clark County Public Defender's Office):
I am familiar with the case. There may be some nuances because it dealt with habitual versus simply a sentencing under an enhancement. Creating a list of factors for the court to include in their rationale would not be problematic.

CHAIR AMODEI:
I do not want to use factors if that is a bad thing to say. However, it is Wednesday and we are under time constraints. If we are going to do this, we want to flesh it out rather than just saying tell us why.

MR. FRIERSON:
We can come up with something today.

CHAIR AMODEI:
I am not admonishing you and Mr. Conway, but this will not go out with one sentence.

MR. FRIERSON:
We can come up with language to submit today.

CHAIR AMODEI:
Pending receipt of the language and Committee review of the one through ten years accepting the weapons enhancement, we will be looking for amend and do pass A.B. 510 with the provisions discussed in A.B. 416 and A.B. 510.

Is there discussion in a work session sense on what is in A.B. 510? If there is no objection from the Committee and it does not break a rule, I have asked the name of Assemblyman Harvey J. Munford, Assembly District No. 6, to be put on A.B. 510.

There being no further business to come before the Committee, the hearing is adjourned at 9:41 a.m.

RESPECTFULLY SUBMITTED:

_____
Barbara Moss,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE:_____

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
May 31, 2007

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:16 a.m. on Thursday, May 31, 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)

STAFF MEMBERS PRESENT:

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

CHAIR AMODEI:
The work session is opened on Assembly Bill (A.B.) 510.

ASSEMBLY BILL 510 (2nd Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

CHAIR AMODEI:
The Committee previously discussed the Open Meeting Law situation and in concept provided some charges to the Committee on criminal justice. The purpose of today's work session is to consider the enhancement language in

A.B. 416 that revises the enhancement and provides discretion to sentencing judges.

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

The staff prepared a mock-up amendment in the context of A.B. 63 which set a range of 1 to 20 years for the enhancement.

ASSEMBLY BILL 63 (2nd Reprint): Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)

The mock-up amendment (Exhibit C) requires sentencing judges to be more communicative regarding their discretion and provides the following language:

> In determining the length of the additional penalty imposed, the court shall consider the following information:
> (a) The facts and circumstances of the crime;
> (b) The criminal history of the person;
> (c) The impact of the crime on any victim;
> (d) Any mitigating factors presented by the person; and
> (e) Any other relevant information.
> The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

There is also cleanup language that says the enhancement cannot exceed the term for the underlying crime.

Sections taken out of A.B. 416 (Exhibit D) talked about a one- to ten-year range as an enhancement of various incendiary crimes which are committed:

- With a deadly weapon or tear gas;
- With a handgun containing a metal-penetrating bullet;
- By adult with assistance of a child;
- On school property, at school-sponsored activity or on a school bus;
- In violation of an order for protection or to restrict conduct;
- Against older or vulnerable people;

- As hate crimes;
- To promote gang activities; and
- As an act of terrorism.

I informed Assemblyman David R. Parks the Committee has no objection to returning some discretion to sentencing judges in the context of the mock-up amendment. Rather than a 1- to 10-year range, we will do 1 to 20 years which covers all ranges up through Category B felonies, with underlying language the sentence cannot be enhanced more than the maximum. Therefore, judges' discretion will be the full range of the underlying sentence subject to the findings.

Even though it is 1 to 20 years, if the underlying crime has a maximum sentence of 10 years, then the maximum potential enhancement is 10 years. The 1- to 20-year range allows a range similar to the underlying crime.

What are the Committee members' thoughts on the discretionary piece or changing the A.B. 416 provisions from a range of 1 to 10 years to 1 to 20 years to cover Category B through Category E felonies?

SENATOR MCGINNESS:
I am comfortable the language will give judges more discretion. I was in the Legislature when the truth-in-sentencing law was passed and I do not want to see it unraveled. Part of the reason the truth-in-sentencing law passed was due to egregious cases that caused the public to demand it. I hope judges will use their discretion to help the correctional system make more realistic sentences for some offenders.

SENATOR WASHINGTON:
I support 1 to 20 years. We heard testimony on A.B. 416 and A.B. 510 from individuals whose loved ones have been incarcerated and subject to the State Board of Parole Commissioners. When we worked on truth in sentencing, we heard testimony from victims who were themselves violated or lost loved ones to heinous and devastating crimes. At that time, crime was the No. 1 issue. We created legislation that allowed judges discretion but never gave forthright answers to victims as to the length of time perpetrators would be incarcerated depending upon good time credits and time spent in local or county jail before transport to prison based on the judge's sentencing.

I also do not want to see truth in sentencing unraveled. Although I do not want to go as far as The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court, suggests, the mock-up amendment is a well thought-out compromise that will give resolution to those who are incarcerated in the context of the crime does not fit the punishment and/or certain crimes should be enhanced. I support the amendment with some reservation. If it does not work, future Legislators will look at it again and make adjustments as needed.

CHAIR AMODEI:
There is a proposed amendment by Flo Jones (Exhibit E) relating to section 5, subsection 8 of A.B. 510. I have not studied it as much as Ms. Jones; therefore, my ability to digest it at the moment is not sufficient. I request the Committee to talk with Assemblyman Parks and Assemblyman Harvey J. Munford and if it is agreed this amendment should be put in the bill, we will amend it on the Senate Floor.

BRAD WILKINSON (Chief Deputy Legislative Counsel):
There are amendments that change the enhancements in sections 26 through 34 of A.B. 416. Changes with respect to the Advisory Commission on the Administration of Justice would have that body look at issues relating to the Open Meeting Law and the system of calculation of credits against sentences. A provision in A.B. 416 stated that the Parole Board would not consider the fact that a person had appealed his conviction.

CHAIR AMODEI:
I also asked the staff to determine whether it would be possible to add Assemblyman Munford's name to a committee bill. The answer was a name cannot be added to a committee bill. Our heart was in the right place, Assemblyman Munford, and perhaps we can change that rule at a later time.

MR. WILKINSON:
Section 24 of A.B. 416 is the provision which stated if the State Board of Parole Commissioners denied a mandatory release, the reasons for denial would be provided in writing to the prisoner.

CHAIR AMODEI:
What is the pleasure of the Committee with respect to A.B. 510?

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED A.B. 510.

SENATOR HORSFORD SECONDED THE MOTION.

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

* * * * *

CHAIR AMODEI:
Is anybody interested in serving on the guardianship conference committee with Senator Care? Receiving a negative answer, I will assign people to the committee.

The work session is opened on Senate Bill (S.B.) 303.

SENATE BILL 303 (1st Reprint): Amends the Charter of the City of North Las Vegas concerning the qualifications of municipal judges prospectively contingent upon voter approval. (BDR S-80)

CHAIR AMODEI:
Senate Bill 303 says a justice of the peace must be a lawyer. The Assembly added election language indicating in the general election on November 4, 2008, a question must be placed on the ballot which asks the people of North Las Vegas to vote on whether they want justices of the peace to be lawyers.

SENATOR HORSFORD:
I would like to serve on that committee because it is in my district.

CHAIR AMODEI:
If we concur, a conference committee would not be unnecessary.

SENATOR HORSFORD:
I would move to not concur and be assigned to the conference committee.

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REVISED PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 510
SECOND REPRINT

The following language (shown as an amendment to NRS 193.165) would be added for all sentencing enhancements in chapter 193 of NRS:

NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall be punished by imprisonment in the state prison for ~~[a term equal to and in addition to the term of imprisonment prescribed by statute for the crime.]~~ *a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[runs]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ *4.* The provisions of subsections 1 ~~[and]~~ *,* 2 *and 3* do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~[4.]~~ *5.* The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;

(c) Sexual assault; or

(d) Robbery.

~~[5.]~~ *6.* As used in this section, "deadly weapon" means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

EXHIBIT C Senate Committee on Judiciary
Date: 5-31-07 Page 1 of 1

Crimes Contemplated in Assembly Bill 416 for Revised Enhancement

Sections 26 through 34 of Assembly Bill 416 revise the additional penalty for certain crimes from "*. . . an additional term equal to the term of imprisonment prescribed by statute for the crime,*" to: "*. . . a minimum term of not less than 1 year and a maximum term of not more than 10 years.*"

The following crimes are referenced in the bill:

NRS 193.161	Felony committed on school property, at school-sponsored activity, or on a school bus.
NRS 193.162	Felony committed by adult with assistance of child.
NRS 193.163	Crimes committed with a handgun containing a metal-penetrating bullet.
NRS 193.165	Crimes committed with a deadly weapon or tear gas.
NRS 193.166	Felony committed in violation of an order for protection or order to restrict conduct.
NRS 193.167	Felony crime committed against a person 60 years of age or older or against a vulnerable person. (Note: A.B. 416 proposes to change this statute to provide different penalties for misdemeanor and gross misdemeanor crimes, and for felony crimes. The revised enhancement applies to a felony conviction.)
NRS 193.1675	Commission of a crime because of certain actual or perceived characteristics of the victim.
NRS 193.168	Felony committed to promote activities of a criminal gang.
NRS 193.1685	Felony committed with the intent to commit, cause, aid, further, or conceal an act of terrorism.

LJE/k:W78353

EXHIBIT D Senate Committee on Judiciary
Date: 5-31-07 Page 1 of 1

May 31, 2007

To: Senate Judiciary Committee, Asm. Dave Parks and Asm. Harvey Munford

From: Flo Jones (702) 250-0129

RE: Amendment to AB 510

Sec. 5 (8) Credits earned pursuant to this section by an offender DELETE: who has not been convicted of

a. Violent or threat of violence . . .
b. Sexual offense. . . .
c. Violation of NRS 484 punishable as a felony . . .
d. Category A or B Felony

REASONS:

1. C, D and E category felony sentences carry maximum term of five years. The minimum term can be no more than 40% of the maximum 5 years or approximately 2 yrs. 2 months. Per NRS 193.130 (1). The significance of this information is that no inmate sentenced before 2004 on a C, D, or E category would still be in prison unless they had consecutive sentences. The retroactive portion of this bill to 2000 does not effect sentences begun before 2004. Sentences begun before 2004 have already expired unless there were consecutive sentences.

2. C. D. & E. inmates are small percentage of the prison population therefore, this portion of AB 510 will not effective reduce the hard bed needs of the prison population. I ORIGINALLY OBJECTED IN WRITING TO AB510 for the reasons of # 1 and # 2 above

3. California courts have held that the equal protection clause prohibits inmates in the same prison with the same custody level from being awarded different statutory credits. So if C, D and E get additional good time credits for the same education classes that all inmates take this would be unfair and I believe illegal.

4. Category B felony sentences may be non-violent such as white collar theft which has a sentence of 4 years to 10 years. This class of inmates with the application of AB 510 would significantly impact the number of inmates eligible for parole with a significant savings to the state.

5 ~~4~~. **THE ONLY WAY SEC 5. (8) WILL EFFECT THE PRISON POPULATION IS TO HAVE IT APPLY TO AT LEAST NON-VIOLENT CATEGORY INMATES.** THE PAROLE BOARD IS STILL THE RELEASE MECHANISM THAT PROTECTS SOCIETY FROM INMATES BEING RETURNED TOO SOON OR TOO LATE.

EXHIBIT E Senate Committee on Judiciary
Date: 5-31-07 Page 1 of 1

MINUTES OF THE
SENATE COMMITTEE ON FINANCE

Seventy-fourth Session
June 2, 2007

The Senate Committee on Finance was called to order by Chair William J. Raggio at 8:27 a.m. on Saturday, June 2, 2007, in Room 2134 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 William J. Raggio, Chair
Senator Bob Beers, Vice Chair
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Bob Coffin
Senator Dina Titus
Senator Bernice Mathews

GUEST LEGISLATORS PRESENT:

Senator Warren B. Hardy II, Senate District No. 12

STAFF MEMBERS PRESENT:

Gary L. Ghiggeri, Senate Fiscal Analyst
Larry L. Peri, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senior Program Analyst
Michael Archer, Committee Secretary

OTHERS PRESENT:

Michael Fischer, Director, Department of Cultural Affairs
Anne Loring, Washoe County School District
John P. Sande III, Nevada Franchised Auto Dealers Association; Western States Petroleum
Robert L. Crowell, Focus Property Group

CHAIR RAGGIO:
The work session is open on Senate Bill (S.B.) 301.

SENATE BILL 301: Revises various provisions governing the Fort Mohave Valley Development Law. (BDR 26-1317)

CHAIR RAGGIO:
Senate Bill 301 was heard in this Committee on April 9, 2007. It has to do with the Fort Mohave Valley development account and the Colorado River Commission. When the Committee acted, an amendment was to be added that, in effect, provided the State could not be sued and gave the Commission the authority to raise rates. It came to our attention, through Senator Warren B. Hardy, that it was not feasible or workable. The Senator has been working for a considerable amount of time in an assiduous fashion to

MARK KRMPOTIC (Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
Yes, the bill will be introduced in the Assembly.

SENATOR COFFIN:
I have always been concerned about back language which has been in each bill for the last six or seven Legislative Sessions relating to the ability of the Governor to rework the budget in the event of a fall in available funds subject to approval by the IFC. In the past, it became a *fait accompli* on how budgets were cut. It is how we lost mental health funding in 1991 and 1992. Is there any appetite on the Committee to bring the Legislature back into the process so cuts in funding are not made just by the Governor?

MR. KRMPOTIC:
Page 17, section 33 is the back language (Exhibit E, original is on file in the Research Library) indicating that amounts appropriated are subject to *Nevada Revised Statutes* (NRS) 353, which is the State Budget Act. Agencies are required to comply with the State Budget Act in revising budgetary amounts via work programs and spending amounts appropriated by the Legislature. This language has not changed and is identical to the language that appeared in the 2005 Appropriations Act.

Pages 17 and 18, section 34, list budget accounts that are granted the ability to transfer appropriations between fiscal years. There are two changes in that section, which are deletions. The Healthy Nevada Fund account has been deleted from this section of the Appropriations Act. The way the money committees closed the budgets for the Healthy Nevada Fund, there are no longer General Fund appropriations included to fund the Senior Rx program or any other programs funded through that account. The General Fund appropriation that appears in the Healthy Nevada Fund only funds administrative costs.

The second account deleted from section 34 is the Information Technology Projects account. Those projects have been appropriated in special appropriations bills and not the Appropriations Act this Legislative Session.

Page 19, section 35, provides for transferability between fiscal years of amounts included in the budgets listed for specific purposes. There were subsections included in section 35 that listed appropriations to the Department of Education which have been removed. Those appropriations are now included in the School Funding bill, which was passed on to the Committee a couple of days ago.

Page 20, section 35, subsection 4, includes Department of Taxation appropriations made for the support of the unified tax system production support. Subsection 6 includes an appropriation of the Division of Forestry for equipment for expansion of the Indian Springs Conservation Camp.

Page 20, section 37 indicates appropriations from the General Fund of approximately $2.7 million the first year and $3.7 million the second year for any changes in the inmate population in the Department of Corrections or caseload changes in the Division of Parole and Probation or the State Board of Parole Commissioners. This section was added to the Appropriations Act to address any potential shifts in population. Savings were approved by the money

committees in the Department of Corrections' budget having to do with the application of good-time credits to inmates currently housed at the Department of Corrections through the potential passage of A.B. 510.

ASSEMBLY BILL 510 (3rd Reprint): Makes various changes pertaining to offenders. (BDR 16-1377)

Assembly Bill 510 allows for access to this money by each of these entities based on the need as laid out in section 37, subsection 1, paragraphs (a) (b) and (c). Language has been included to allow the Fiscal Analysis Division and the Department of Administration to jointly determine whether a need exists under paragraphs (a) (b) and (c) prior to using this funding for any programming activities for offenders, including mental health, substance abuse treatment or offenders under the supervision of the Division of Parole and Probation or any programs provided by specialty courts to divert or mitigate circumstances that would lead to incarceration of an individual.

Page 22, section 38, includes an appropriation of $135,000 to the Department of Administration as approved by the money committees. This funding provides for a study of the validity of the current workload ratio for presentence investigation reports conducted by the Division of Parole and Probation and also an evaluation of the contents and quality of the presentence investigation reports prepared in Nevada as compared to other states.

Second, the funding also provides for an analysis of the instrument used by the Division of Parole and Probation to assess the risks and needs of offenders under the Division's supervision.

Page 23, section 39, appropriates approximately $500,000 the first year and $400,000 the second year for access by the Division of Child and Family Services for placement and treatment of paroled youth. It was placed in the Appropriations Act based on the fact it may or may not be needed by the Division of Child and Family Services, but it is accessible for those purposes based on demonstrated need by the Division.

Page 24, section 40, appropriates approximately $100,000 each year for allocation to the Division of Child and Family Services upon adoption of the Interstate Compact on Juveniles by 35 states and enactment into federal law. This is contingent upon that action and ratification by 35 states.

Page 25, section 41, appropriates a little over $600,000 to the Supreme Court for a new case management system. This can be allocated by the IFC upon submittal of a detailed plan and budget developed by the Administrative Office of the Courts for that case management system.

Page 25, section 42, appropriates approximately $300,000 per year for allocation to the Office of Homeland Security. This is to support a state fusion process that may be allocated by the IFC upon presentation of a plan developed by the Office of Homeland Security with agreement from local law enforcement, including the Las Vegas Metropolitan Police Department and the Washoe County Sheriff's Office and subsequently approved by the Board of Examiners. This was language that was proposed and recommended for approval during the Joint Subcommittee meeting a few days ago in resolving closing differences.

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Transportation Services Authority.....	2,482,036	2,540,949
Legislative Fund, Legislative Commission	$7,500	$7,500

Sec. 33. 1. Except as otherwise provided in subsection 3, the sums appropriated in this act must be:

(a) Expended in accordance with the allotment, transfer, work program and budget provisions of NRS 353.150 to 353.245, inclusive; and

(b) Work-programmed for the 2 separate Fiscal Years, 2007-2008 and 2008-2009, as required by NRS 353.215. Work programs may be revised with the approval of the Governor upon the recommendation of the Director of the Department of Administration and in accordance with the provisions of the State Budget Act.

2. Transfers to and from salary allotments, travel allotments, operating expense allotments, equipment allotments and other allotments must be allowed and made in accordance with the provisions of NRS 353.215 to 353.225, inclusive, and after separate consideration of the merits of each request.

3. Pursuant to law, sums appropriated for the support of the Supreme Court of Nevada and the Legislative Fund are excluded from the allotment, transfer, work program and budget provisions of NRS 353.150 to 353.245, inclusive.

Sec. 34. The sums appropriated to:

1. Senior citizens' property tax assistance;

2. Individuals with Disabilities Education Act;

3. Forest fire suppression/emergency response;

4. Of the amounts appropriated to the Department of Taxation pursuant to section 9 of this act, a total of $4,400,000 in Fiscal Year 2007-2008 and $2,528,764 in Fiscal Year 2008-2009 to support long term Unified Tax System production support.

5. Of the amounts appropriated to the Tahoe Regional Planning Agency by section 26 of this act, a total of $133,000 in Fiscal Year 2007-2008 and $133,000 in Fiscal Year 2008-2009 to support the Threshold Research/Pathway 2007 project.

6. Of the amounts appropriated to Division of Forestry of the State Department of Conservation and Natural Resources pursuant to section 26 of this act, a total of $2,536,952 in Fiscal Year 2007-2008 for equipment related to the expansion of the Indian Springs Conservation Camp.

Sec. 36. Of the amounts appropriated by sections 2 to 32, inclusive, of this act, amounts appropriated in both Fiscal Year 2007-2008 and Fiscal Year 2008-2009 to finance deferred maintenance projects approved as maintenance decision units within agency budgets are available for both Fiscal Year 2007-2008 and 2008-2009 and may be transferred within the same budget account from one year to the other with the approval of the Interim Finance Committee upon the recommendation of the Governor. Any amount so transferred must be used to complete the deferred maintenance as approved by the Legislature.

Sec. 37. 1. There is hereby appropriated from the State General Fund the sum of $2,682,976 in Fiscal Year 2007-2008 and $3,661,516 in Fiscal Year 2008-2009 to the Interim Finance Committee. The appropriation pursuant to this section can be allocated by the Interim Finance Committee upon approval by the State Board of Examiners for:

(a) Costs associated with inmate housing expenses and the proportional increase in inmate driven expenditures that are incurred if the actual inmate population is greater than the projections used for the legislatively approved budgets for the Department of Corrections;

(b) Costs for additional staffing and support costs for the Division of Parole and Probation of the Department of Public Safety incurred for the supervision of probation and parole caseload that is greater than the projections used for the legislatively approved budget.

(c) Costs incurred by the State Board of Parole Commissioners for conducting inmate hearings that are greater than legislatively approved or to ensure hearings are conducted in a timely manner.

2. Any portion of the appropriation pursuant to this section that is not needed to meet expenditures incurred as set forth in paragraphs (a), (b) and (c), as determined jointly by the Fiscal Analysis Division of the Legislative Counsel Bureau and the Department of Administration can be used for programming activities for offenders including mental health and substance abuse treatment for offenders in the custody of the Department of Corrections, under the supervision of the Division of Parole and Probation, or programs provided by speciality courts designed to divert or mitigate circumstances which otherwise would lead to incarceration of an individual.

3. The sums appropriated in subsection 1 are available for either fiscal year. Any remaining balance of the appropriation made by subsection 1 must not be allocated by the Interim Finance Committee after June 30, 2009. 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 cannot be spent for any purpose after September 18, 2009, by either the entity to which funds were appropriated or the entity to which the funds were subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 38. 1. There is hereby appropriated from the State General Fund the sum of $135,000 to the Department of Administration to conduct, in consultation with the Division of Parole and Probation of the Department of Public Safety, a study of the presentence investigation report process and risk and needs assessment instruments used by the Division of Parole and Probation of the Department of Public Safety.

2. The Department of Administration may issue one or more contracts to conduct the study required pursuant to subsection 1 as it deems appropriate. The study must include a review of the validity of the current workload ratio for presentence investigation reports, a comparison of the presentence investigation report writing process in Nevada to the process used in other similar states, and an evaluation of the contents and quality of the presentence investigation reports prepared in Nevada as compared to other similar states. The study must also include an analysis of the instrument used by the Division to recommend the sentences that should be imposed by courts, an analysis of the instruments used by the Division to assess the risks and needs of offenders under the Division's supervision and any recommendations for improving those instruments.

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/), WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 18, 2007

Assembly called to order at 11:10 a.m.
Madam Speaker presiding.
Roll called.
All present except Assemblywoman Womack, who was excused.
Prayer by the Chaplain, Rabbi Jacob Benzaquen.

God and the God of our ancestors, we ask for Your blessings for our great republic and the great state of Nevada, for its government, legislature, leaders and for all who exercise just and rightful authority. We ask for this blessing based on your eternal promise in Genesis to our forefather, Abraham, " . . . I will bless those who bless you . . ."

Creator of all, bless the inhabitants of our country and state with Your light. Bring healing, understanding, and strength to all who turn to You, especially its leaders. May citizens of all races and creeds forge a common bond in true struggle, to banish hatred, dissension, and bigotry so that they may unite to safeguard the ideals and free institutions that are the pride and glory of our state and country. May we find shelter under your divine presence and shelter those needing protection, especially the 32 whose lives were tragically cut short. Grant peace and remember all the worthy and righteous deeds they performed in the land of the living.

From Psalm 23: "The Lord is my shepherd, I shall not want. He has me lie down in green pastures. He leads me beside the still waters. He guides me on paths of righteousness. He revives my soul. Though I walk in the Valley of the Shadow of Death, I fear no harm, for You are with me. Your staff and your rod do comfort me. Surely, goodness and mercy shall follow me all the days of our lives. We shall abide in the House of the Lord forever. May those who passed away rest in peace. And let us all say:

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguera 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.

2. The Commission shall elect from its own members a Chairman and a Vice Chairman, whose terms of office must be 1 year and who may be reelected. If a vacancy occurs in either office, the Commission shall fill such vacancy for the unexpired term.

3. [A] All recommendations considered by the Commission relating to the Commission's findings must be transferred to the relevant governing bodies regardless of whether a recommendation is supported by a *majority of the members of the Commission*. [constitutes a quorum for the transaction of the business of the Commission. A majority vote of the quorum present is required to take action with respect to any matter.]

Sec. 8. *The Commission shall establish and maintain an office within the region, and for this purpose, the Commission may rent or own property and equipment. Every book or record of the Commission which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada must be open to inspection and copying during regular office hours.*

Sec. 9. *Each authority charged pursuant to the provisions of sections 2 to 9, inclusive, of this act or by the law of either state with the duty of appointing a member of the Commission shall, by certified copy of its resolution or other action, notify the Secretary of State of its own state of the action taken.*

Sec. 10. This act becomes effective on the date on which all members have been appointed to the [Tricounty] Mojave Desert Advisory Commission by their respective appointing authorities.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 510.

Bill read second time.

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

Amendment No. 546.

"SUMMARY—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)"

"AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the

community; ~~[repealing provisions relating to centers for the purpose of making restitution;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 2 revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, section 2 provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) Section 3 of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, section 5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. (NRS 209.4465) Section 6 of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 7 revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. Section 8 of this bill revises ~~[the requirements an offender or parolee must meet to be eligible for the program by providing that an offender is eligible for the program if the offender is within 1 year, rather than 2 years, of his probable release from prison. In~~

~~addition, section 8 revises~~] a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

[~~Existing law allows the Director to establish centers that house offenders in the community so that offenders may earn wages with which to pay restitution to the victims of their crimes. (NRS 209.4827-209.4843) Section 9 of this bill repeals all provisions of existing law relating to centers for the purpose of making restitution.~~]

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

Section 1. ~~[NRS 209.221 is hereby amended to read as follows:~~

~~209.221 1. The Offenders' Store Fund is hereby created as a special revenue fund. All money received for the benefit of offenders through contributions, and from other sources not otherwise required to be deposited in another fund, must be deposited in the Offenders' Store Fund.~~

~~2. The Director shall:~~

~~(a) Keep, or cause to be kept, a full and accurate account of the Fund;~~

~~(b) Submit reports to the Board relative to money in the Fund as may be required from time to time; and~~

~~(c) Submit a monthly report to the offenders of the amount of money in the Fund by posting copies of the report at locations accessible to offenders generally or by delivery of copies to the appropriate representatives of the offenders if any are selected.~~

~~3. Except as otherwise provided in subsections 4 to 7, inclusive, money in the Offenders' Store Fund, except interest earned upon it, must be expended for the welfare and benefit of all offenders.~~

~~4. If necessary to cover a shortfall of money in the Prisoners' Personal Property Fund, the Director may, after obtaining the approval of the Interim Finance Committee, authorize the State Controller to transfer money from the Offenders' Store Fund to the Prisoners' Personal Property Fund, and the State Controller shall make the transfer.~~

~~5. If an offender has insufficient money in his individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the Director shall authorize the State Controller to transfer sufficient money from the Offenders' Store Fund to the appropriate account in the State General Fund to pay costs remaining unpaid, and the State Controller shall make the transfer. Any money so transferred must be accounted for separately. The Director shall cause the Offenders'~~

~~Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.~~

~~6. If the Department incurs costs related to state property that has been willfully damaged, destroyed or lost or incurs costs related to medical examination, diagnosis or treatment for an injury to an offender, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray those costs if:~~

~~(a) The Director has reason to believe that an offender caused the damage, destruction, loss or injury; and~~

~~(b) The identity of the offender is unknown or cannot be determined by the Director with reasonable certainty.~~

~~➥ The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. If the identity of the offender is determined after money has been transferred, the Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.~~

~~7. [If an offender who has been assigned to a center for the purpose of making restitution is returned to an institution for committing an infraction of the regulations of the Department and the center has not been fully compensated for the cost of providing the offender with housing, transportation, meals, or medical or dental services at the center, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray those costs. The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. The Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.~~

~~8.] If an offender has insufficient money in his individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the offender shall sign a statement under penalty of perjury concerning his financial situation. Such a statement must include, but is not limited to, the following information:~~

~~(a) The value of any interest the offender has in real estate;~~

~~(b) The value of the personal property of the offender;~~

~~(c) The assets in any bank account of the offender; and~~

~~(d) The employment status of the offender.~~

~~[9.] *8.* The statement required by subsection [8] 7 must also authorize the Department to access any relevant document, for the purpose of verifying the accuracy of the information provided by the offender pursuant to this~~

~~section, including, but not limited to, information regarding any bank account of the offender, information regarding any bank account held in trust for the offender and any federal income tax return, report or withholding form of the offender.~~

~~[10.]~~ ~~*9.*~~ ~~An offender who conceals assets from the Department or provides false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.~~

~~[11.]~~ ~~*10.*~~ ~~A person who aids or encourages an offender to conceal assets from the Department or to provide false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.]~~ (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Established a position of employment in the community;

(b) Enrolled in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ *(b)* Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ *(c)* Has ever been convicted of:

(1) Any crime *that is punishable as a felony* involving the use or threatened use of force or violence against the victim ~~[; or]~~ *within the immediately preceding 3 years;*

(2) A sexual offense ~~[;~~

~~(e)]~~ *that is punishable as a felony; or*

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; *or*

~~[(f)]~~ *(e)* Has escaped or attempted to escape from any jail or correctional institution for adults *,* ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if [~~:~~

~~(a) The~~] *the* offender has:

[~~(1)~~] *(a)* Established a position of employment in the community; [~~or~~]

[~~(2)~~] *(b)* Enrolled in a program for education or rehabilitation [~~.~~] ; or

[~~(3)~~] (c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime . [~~;~~]

~~[(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, *program for reentry of offenders and parolees into the community,* conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ *20* 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]~~ *60* days.

(b) For earning a high school diploma, ~~[60]~~ *90* days.

(c) For earning his first associate degree, ~~[90]~~ *120* 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, *program for reentry of offenders and parolees into the community,* conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 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.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ *20* days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has *ever* been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony;*

(e) Has ~~[committed an act of serious violence during the previous year;]~~ *, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;* or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after

consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years ~~[1 year]~~ of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ *year,* been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony; or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults *,* ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 9. ~~[NRS 209.4827, 209.4829, 209.4831, 209.4837, 209.4841 and 209.4843 are hereby repealed.]~~ (Deleted by amendment.)

Sec. 10. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act apply only to credits earned by an offender on or after July 1, 2008.

Sec. 11. This act becomes effective on July 1, 2008.

~~[~~

~~LEADLINES OF REPEALED SECTIONS~~

~~209.4827—Centers to house offenders.~~

~~209.4829—Assignment of offender to center.~~

~~209.4831—Deduction from wages of offender for living expenses.~~

~~209.4837—Agreement for assignment and distribution of wages of offender; schedule of restitution.~~

~~209.4841—Distribution of earnings of offender.~~
~~209.4843—Termination of payments of restitution.]~~
Assemblyman Parks moved the adoption of the amendment.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:42 a.m.

ASSEMBLY IN SESSION

At 11:44 a.m.
Madam Speaker presiding.
Quorum present.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 573.
Bill read second time.
The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:
Amendment No. 330.
"SUMMARY—Revises certain provisions governing wildlife. (BDR 45-1413)"
"AN ACT relating to wildlife; requiring the Department of Wildlife to issue a 1-day ~~[family]~~ group fishing permit under certain circumstances; requiring the Board of Wildlife Commissioners to adopt certain regulations; prohibiting a person from hunting or fishing any wildlife without a license or permit to do so; revising the information that the Department must include in certain permits; revising the fees for certain tags and permits; providing a penalty; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
Existing law establishes the Department of Wildlife and requires the Department to administer the wildlife laws of this State. (NRS 501.331)
Section 25 of this bill requires the Department to issue a 1-day ~~[family]~~ group fishing permit to ~~[an immediate family]~~ a group upon payment of the fee for the permit. ~~[An "immediate family"]~~ A "group" means a group of persons that consists of at least one ~~[person]~~ adult who is at least ~~[18]~~ 16 years of age ~~[, the spouse, if any, of that person and each child of a certain age who is a child or grandchild of that person or a child for whom the adult is a legal guardian.]~~ and at least one child who is at least 12 years of age but less than 16 years of age. Section 30 of this bill authorizes a person to fish for trout without obtaining a state trout stamp if the person is fishing under the authority of a 1-day ~~[family]~~ group fishing permit.

NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 25, 2007

Assembly called to order at 10:32 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Pastor Albert Tilstra.

Lord, give us the faith to believe that the words now spoken and the yearnings of the hearts now open before You are heard and understood in Your presence. Hold us steady lest we lose our poise. Blunt out speech lest by cutting words and careless deeds we hurt out colleagues and the cause for which we speak. Where we differ in approaches to a problem, may we ever be open to consider another and a better way, guided not by whether it be popular, or expedient, or practical, but always whether it be right. Where we are wrong, make us willing to change and where we are right make us easy to live with. Hear our prayer, O Lord.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguera 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 Judiciary, to which was referred Senate Joint Resolution No. 2, 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*

Madam Speaker:

Your Committee on Transportation, to which were referred Assembly Bill No. 624; Senate Bill No. 161, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 510, just reported out of committee, be placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 198 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 510.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1020.

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; **providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 2 revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, section 2 provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) Section 3 of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, section 5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. **Section 5 also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence.** (NRS 209.4465) Section 6 of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) **Section 6.2 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) Section 6.4 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)**

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 7 revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) Section 7.5 of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. Section 8 of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good

behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) Section 8.6 of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. Section 8.8 of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of sections 5 and 8.7 to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~[Established]~~ Demonstrated a willingness and ability to establish a position of employment in the community;

(b) ~~[Enrolled]~~ Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ *(b)* Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ *(c)* Has ~~[ever]~~ been convicted of:

(1) Any crime *that is punishable as a felony* involving the use or threatened use of force or violence against the victim ~~[; or]~~ *within the immediately preceding 3 years;*

(2) A sexual offense ~~[;]~~

~~[(e)]~~ *that is punishable as a felony; or*

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; *or*

~~[(f)]~~ *(e)* Has escaped or attempted to escape from any jail or correctional institution for adults *,* ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if [~~:~~

~~(a) The]~~ *the* offender has:

[~~(1)~~] *(a)* ~~[Established]~~ Demonstrated a willingness and ability to establish a position of employment in the community;

[~~(2)~~] *(b)* [~~Enrolled~~] Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

[~~(3)~~] *(c)* Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime . [~~;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.~~]

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he

considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, *program for reentry of offenders and parolees into the community,* conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ *20* 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]~~ *60* days.

(b) For earning a high school diploma, ~~[60]~~ *90* days.

(c) For earning his first associate degree, ~~[90]~~ *120* 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, *program for reentry of offenders and parolees into the community,* conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~[20]~~ 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~[Credits]~~ Except as otherwise provided in subsection 8, credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

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

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or

(d) A category A or B felony,

➥ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ *20* days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. **NRS 209.448 is hereby amended to read as follows:**

209.448 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]~~ 60 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.

Sec. 6.4. **NRS 209.449 is hereby amended to read as follows:**

209.449 1. An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~[30]~~ 60 days from the maximum term of his sentence for the successful completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~[30]~~ 60 days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has *ever* been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony;*

(e) Has ~~[committed an act of serious violence during the previous year;]~~ *, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;* or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. **NRS 209.4886 is hereby amended to read as follows:**

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards

adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ that is punishable as a felony; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults , ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ *year,* been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony; or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults , [~~; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,~~]

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.5. **NRS 213.120 is hereby amended to read as follows:**

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was

sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ Except as otherwise provided in NRS 209.4465, any credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 8.6. **NRS 213.152 is hereby amended to read as follows:**

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~[the]~~ :

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(b) Require intensive]~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ; or

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. **NRS 176A.500 is hereby amended to read as follows:**

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests

without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation 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 for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. **NRS 176A.660 is hereby amended to read as follows:**

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division [;

~~(b) Require the~~] and require:

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

[~~(c) Require intensive~~]

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement [.] ; or

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 9. (Deleted by amendment.)

Sec. 10. **1.** For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act ~~[apply only to credits earned by an offender on or after July 1, 2008.]~~ **must be applied:**

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

Sec. 11. This act becomes effective on July 1, ~~[2008.]~~ **2007.**

Assemblyman Parks moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 198.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Senate Bill No. 198:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

limitation on the number of waivers for consecutive fiscal years that the board of county commissioners may be granted if the board determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year.

3. After commencing payment of the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in any fiscal year, a board of county commissioners may not apply for a waiver in any subsequent fiscal year.

4. The increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, must not be paid retroactively for any fiscal year for which a waiver was granted to the county pursuant to subsection 1.

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

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

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 510.

Bill read third time.

Potential conflict of interest declared by Assemblywoman Womack.

Roll call on Assembly Bill No. 510:

YEAS—35.

NAYS—Beers, Cobb, Goicoechea, Stewart—4.

EXCUSED—Christensen, Goedhart, Settelmeyer—3.

Assembly Bill No. 510 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 5 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 58 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), June 1, 2007

Senate called to order at 11:26 a.m.
President Krolicki presiding.
Roll called.
All present.
Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father, when we long for life without trials and work without difficulties, remind us that oaks grow strong in contrary winds and diamonds are made under pressure. With stout hearts may we see in every calamity an opportunity and not give way to the pessimism that sees in every opportunity a calamity.

Knowing that You are still upon the throne, let us get on with the job at hand, doing the best we can and leaving the rest to You. Help us to show ourselves to be good workmen who need not be ashamed, rightly dividing the word of truth. This we ask in Your Holy Name.

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 was referred Assembly Bill No. 626, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were referred Senate Bills Nos. 191, 540, 547, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 510, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 584, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 90; Assembly Bill No. 627.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 291, 469.

SECOND READING AND AMENDMENT

Assembly Bill No. 510.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1087.

"SUMMARY—Makes various changes ~~[concerning credits earned by offenders and the incarceration and supervision of]~~ *pertaining to* offenders. (BDR 16-1377)"

"AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; *revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; making various other changes pertaining to offenders;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 2 revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, section 2 provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) Section 3 of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, section 5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. Section 5 also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465)

Section 6 of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) Section 6.2 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) Section 6.4 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 7 revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) Section 7.5 of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. Section 8 of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.3 of this bill prohibits the State Board of Parole Commissioners from considering whether a prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole when the Board determines whether to grant parole to a prisoner.

Existing law provides that certain prisoners must be released on parole 12 months before the end of the prisoner's maximum term of imprisonment. However, if the State Board of Parole Commissioners finds that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may deny the parole. (NRS 213.1215) Section 8.55 provides that if the Board denies parole for this reason, the Board must provide the prisoner with a written statement of the reasons for the denial.

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on

probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) Section 8.6 of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. Section 8.8 of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of sections 5 and 8.7 to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) Sections 10-19 of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 20 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime. Moreover, sections 10-19 require a court to consider certain factors and, state on the record that the court considered those factors, when the court determines the length of the additional punishment to be imposed.

Section 20 of this bill amends Assembly Bill No. 508 of this session to require the Advisory Commission on the Administration of Justice to identify and study issues relating to: (1) the application of the Open Meeting Law to the State Board of Pardons Commissioners and the State Board of Parole Commissioners; and (2) the operations of the Department of Corrections.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~[Established]~~ *Demonstrated a willingness and ability to establish* a position of employment in the community;

(b) ~~[Enrolled]~~ *Demonstrated a willingness and ability to enroll* in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ *(b)* Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ *(c)* Has ~~[ever]~~ been convicted of:

(1) Any crime *that is punishable as a felony* involving the use or threatened use of force or violence against the victim ~~[; or]~~ *within the immediately preceding 3 years;*

(2) A sexual offense ~~[;~~

~~(e)]~~ *that is punishable as a felony; or*

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; *or*

~~[(f)]~~ *(e)* Has escaped or attempted to escape from any jail or correctional institution for adults *,* ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ *the* offender has:

~~[(1)]~~ *(a)* ~~[Established]~~ *Demonstrated a willingness and ability to establish* a position of employment in the community;

~~[(2)]~~ *(b)* ~~[Enrolled]~~ *Demonstrated a willingness and ability to enroll* in a program for education or rehabilitation; or

~~[(3)]~~ *(c)* Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime . ~~[;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, *program for reentry of offenders and parolees into the community,* conservation camp, program of work

release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ *20* 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]~~ *60* days.

(b) For earning a high school diploma, ~~[60]~~ *90* days.

(c) For earning his first associate degree, ~~[90]~~ *120* 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, *program for reentry of offenders and parolees into the community,* conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~[20]~~ *30* days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~[Credits]~~ *Except as otherwise provided in subsection 8, credits* earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

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

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or

(d) A category A or B felony,

➥ *apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.*

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ *20* days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 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]~~ *60* 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.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~[30]~~ *60* days from the maximum term of his sentence for the *successful* completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~[30]~~ *60* days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has *ever* been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony;*

(e) Has ~~[committed an act of serious violence during the previous year;]~~ *, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;* or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ *year,* been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony; or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults *,* ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ *year,* been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony; or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults *,* ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he

considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.3. *NRS 213.10885 is hereby amended to read as follows:*

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

(a) Who committed a capital offense.

(b) Who was sentenced to serve a term of imprisonment for life.

(c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.

(d) Who was convicted as a habitual criminal.

(e) Who is a repeat offender.

(f) Who was convicted of any other type of offense.

➥ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

(a) The severity of the crime committed;

(b) The criminal history of the person;

(c) Any disciplinary action taken against the person while incarcerated;

(d) Any previous parole violations or failures;

(e) Any potential threat to society or himself; and

(f) The length of his incarceration.

3. *In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.*

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

~~[4.]~~ *5.* The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~[5.]~~ *6.* On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~[6.]~~ *7.* The Board shall report to each regular session of the Legislature:

(a) The number and percentage of the Board's decisions that conflicted with the standards;

(b) The results and conclusions from the Board's review pursuant to subsection ~~[5;]~~ *6;* and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ *Except as otherwise provided in NRS 209.4465, any* credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 8.55. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

3. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1. *If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.*

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Sec. 8.6. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~[the]~~ *:*

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(b) Require intensive]~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to

be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ *; or*

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other

officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation 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 for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division [~~;~~

~~(b) Require the~~] *and require:*

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

[~~(c) Require intensive~~]

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement [~~.~~] *; or*

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device

must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection ~~[2]~~ *3* and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~[must run]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~[subsection]~~ *subsections* 1 ~~[,]~~ *and 2,* if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an

activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[3. Subsection 1 does]~~

4. Subsections 1 and 2 do not create a separate offense but ~~[provides]~~ *provide* an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~[2]~~ *3* does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~[4.]~~ *5.* For the purposes of this section, "school bus" has the meaning ascribed to it in NRS 483.160.

Sec. 11. NRS 193.162 is hereby amended to read as follows:

193.162 1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for ~~[an additional term equal to the]~~ *a minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years.*

(b) Commits any felony other than a category A or a category B felony shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for ~~[an additional term not less than 25 percent and not more than 100 percent of the]~~ *a minimum* term of ~~[imprisonment prescribed by statute for the crime.~~
~~➥]~~ *not less than 1 year and a maximum term of not more than 20 years.*

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

3. An additional sentence prescribed by this section ~~[runs]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *4.* This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ *5.* As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

Sec. 12. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~[runs]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ *4.* As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.

Sec. 13. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by

imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~[runs]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ *4.* The provisions of subsections 1 ~~[and]~~ *,* 2 *and 3* do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~[4.]~~ *5.* The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;

(c) Sexual assault; or

(d) Robbery.

~~[5.]~~ *6.* As used in this section, "deadly weapon" means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 14. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

➥ shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for that crime.]~~ *not less than 1 year and a maximum term of not more than 20 years.* If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

3. The sentence prescribed by this section ~~[runs]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

~~[2.]~~ *4.* The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

~~[3.]~~ *5.* This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 15. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;
(c) Assault;
(d) Battery;
(e) Kidnapping;
(f) Robbery;
(g) Sexual assault;
(h) Embezzlement of money or property of a value of $250 or more;
(i) Obtaining money or property of a value of $250 or more by false pretenses; or
(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished *, if the crime is a misdemeanor or gross misdemeanor,* by imprisonment in the county jail ~~[or state prison, whichever applies,]~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the crime ~~[. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.]~~ *, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.*

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall *, in addition to the term of imprisonment prescribed by statute for the criminal violation,* be punished *, if the criminal violation is a misdemeanor or gross misdemeanor,* by imprisonment in the county jail ~~[or state prison, whichever applies,]~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the criminal violation ~~[.]~~ *, and, if the criminal violation is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.*

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime or criminal violation;
(b) The criminal history of the person;
(c) The impact of the crime or criminal violation on any victim;
(d) Any mitigating factors presented by the person; and
(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

4. The sentence prescribed by this ~~[subsection]~~ *section* must run consecutively with the sentence prescribed by statute for the *crime or* criminal violation.

~~[3.]~~ *5.* This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[4.]~~ *6.* As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 16. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for ~~[an additional term not to exceed 25 percent of the]~~ *a minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.*

2. A sentence imposed pursuant to this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 17. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by the statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~[must run]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ *4.* The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

~~[4.]~~ *5.* Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~[5.]~~ *6.* In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;

(b) Specific rivalries between criminal gangs;

(c) Common practices and operations of criminal gangs and the members of those gangs;

(d) Social customs and behavior of members of criminal gangs;

(e) Terminology used by members of criminal gangs;

(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and

(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~[6.]~~ *7.* As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

(a) Has a common name or identifying symbol;

(b) Has particular conduct, status and customs indicative of it; and

(c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 18. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:*

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~[must run]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~[subsection 1,]~~ *subsections 1 and 2,* if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of

terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[3. Subsection 1 does]~~

4. Subsections 1 and 2 do not create a separate offense but ~~[provides]~~ *provide* an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~[2]~~ *3* does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~[4.]~~ *5.* The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

~~[5.]~~ *6.* As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 19. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection ~~[2]~~ *3* of NRS 193.161, subsection ~~[2]~~ *3* of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 20. Section 3 of Assembly Bill No. 508 of this session is hereby amended to read as follows:

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.

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

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

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

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

11. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the

Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

~~[Sec. 10.]~~ *Sec. 21.* 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

~~[Sec. 11.]~~ *Sec. 22.* ~~[This act becomes]~~

1. This section and sections 1 to 19, inclusive, and 21 of this act become effective on July 1, 2007.

2. Section 20 of this act becomes effective on July 1, 2007, only if Assembly Bill No. 508 of this session becomes effective.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Senator Carlton disclosed that her husband had been employed in parole and probation for the State of Nevada.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bill No. 627 be taken from the General File on the third agenda and be placed at the top of the General File on the second agenda.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 627.

Bill read third time.

Roll call on Assembly Bill No. 272:
YEAS—21.
NAYS—None.

Assembly Bill No. 272 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 510.
Bill read third time.
Roll call on Assembly Bill No. 510:
YEAS—16.
NAYS—Carlton, Coffin, Heck, Schneider, Titus—5.

Assembly Bill No. 510 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 539.
Bill read third time.
Roll call on Assembly Bill No. 539:
YEAS—21.
NAYS—None.

Assembly Bill No. 539 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 594.
Bill read third time.
Roll call on Assembly Bill No. 594:
YEAS—21.
NAYS—None.

Assembly Bill No. 594 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 615.
Bill read third time.
Roll call on Assembly Bill No. 615:
YEAS—21.
NAYS—None.

Assembly Bill No. 615 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 618.
Bill read third time.

BILLS AND AMENDMENTS

ASSEMBLY BILL NO. 510–SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

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

~

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

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; repealing provisions relating to centers for the purpose of making restitution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 2** revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, **section 2** provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section 5** increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises the requirements an offender or parolee must meet to be eligible for the program by providing that an offender is eligible for the program if the offender is within 1 year, rather than 2 years, of his probable release from prison. In addition, **section 8** revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Existing law allows the Director to establish centers that house offenders in the community so that offenders may earn wages with which to pay restitution to the victims of their crimes. (NRS 209.4827-209.4843) **Section 9** of this bill repeals all provisions of existing law relating to centers for the purpose of making restitution.

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

Section 1. NRS 209.221 is hereby amended to read as follows:

209.221 1. The Offenders' Store Fund is hereby created as a special revenue fund. All money received for the benefit of offenders through contributions, and from other sources not otherwise required to be deposited in another fund, must be deposited in the Offenders' Store Fund.

2. The Director shall:

(a) Keep, or cause to be kept, a full and accurate account of the Fund;

(b) Submit reports to the Board relative to money in the Fund as may be required from time to time; and

(c) Submit a monthly report to the offenders of the amount of money in the Fund by posting copies of the report at locations accessible to offenders generally or by delivery of copies to the appropriate representatives of the offenders if any are selected.

3. Except as otherwise provided in subsections 4 to 7, inclusive, money in the Offenders' Store Fund, except interest earned upon it, must be expended for the welfare and benefit of all offenders.

4. If necessary to cover a shortfall of money in the Prisoners' Personal Property Fund, the Director may, after obtaining the approval of the Interim Finance Committee, authorize the State Controller to transfer money from the Offenders' Store Fund to the Prisoners' Personal Property Fund, and the State Controller shall make the transfer.

5. If an offender has insufficient money in his individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the Director shall authorize the State Controller to transfer sufficient money from the Offenders' Store Fund to the appropriate account in the State General Fund to pay costs remaining unpaid, and the State Controller shall make the transfer. Any money so transferred must be accounted for separately. The Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

6. If the Department incurs costs related to state property that has been willfully damaged, destroyed or lost or incurs costs related to medical examination, diagnosis or treatment for an injury to an offender, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray those costs if:

(a) The Director has reason to believe that an offender caused the damage, destruction, loss or injury; and

(b) The identity of the offender is unknown or cannot be determined by the Director with reasonable certainty.

➥ The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. If the identity of the offender is determined after money has been transferred, the Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

7. ~~[If an offender who has been assigned to a center for the purpose of making restitution is returned to an institution for committing an infraction of the regulations of the Department and the center has not been fully compensated for the cost of providing the offender with housing, transportation, meals, or medical or dental services at the center, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray~~

~~those costs. The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. The Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.~~

~~8.]~~ If an offender has insufficient money in his individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the offender shall sign a statement under penalty of perjury concerning his financial situation. Such a statement must include, but is not limited to, the following information:

(a) The value of any interest the offender has in real estate;

(b) The value of the personal property of the offender;

(c) The assets in any bank account of the offender; and

(d) The employment status of the offender.

~~[9.]~~ ***8.*** The statement required by subsection ~~[8]~~ ***7*** must also authorize the Department to access any relevant document, for the purpose of verifying the accuracy of the information provided by the offender pursuant to this section, including, but not limited to, information regarding any bank account of the offender, information regarding any bank account held in trust for the offender and any federal income tax return, report or withholding form of the offender.

~~[10.]~~ ***9.*** An offender who conceals assets from the Department or provides false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.

~~[11.]~~ ***10.*** A person who aids or encourages an offender to conceal assets from the Department or to provide false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Established a position of employment in the community;

(b) Enrolled in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ ***(b)*** Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ ***(c)*** Has ever been convicted of:

(1) Any crime ***that is punishable as a felony*** involving the use or threatened use of force or violence against the victim ~~[; or]~~ ***within the immediately preceding 3 years;***

(2) A sexual offense ~~[;~~

~~(e)]~~ ***that is punishable as a felony; or***

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; ***or***

~~[(f)]~~ ***(e)*** Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ ***the*** offender has:

~~[(1)]~~ ***(a)*** Established a position of employment in the community; ***or***

~~[(2)]~~ ***(b)*** Enrolled in a program for education or rehabilitation ***.*** ~~[; or~~

~~(3) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a ~~[center for the purpose of making restitution,]~~ ***program***

for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ ***20*** 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]~~ ***60*** days.

(b) For earning a high school diploma, ~~[60]~~ ***90*** days.

(c) For earning his first associate degree, ~~[90]~~ ***120*** 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,]~~ ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 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.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ ***20*** days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has ***ever*** been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony;***

(e) Has ~~[committed an act of serious violence during the previous year;]~~ ***, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within ~~[2 years]~~ ***1 year*** of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional

program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults **,** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 9. NRS 209.4827, 209.4829, 209.4831, 209.4837, 209.4841 and 209.4843 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

209.4827 Centers to house offenders.

209.4829 Assignment of offender to center.

209.4831 Deduction from wages of offender for living expenses.

209.4837 Agreement for assignment and distribution of wages of offender; schedule of restitution.

209.4841 Distribution of earnings of offender.

209.4843 Termination of payments of restitution.

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ASSEMBLY BILL NO. 510–SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

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

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

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 2** revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, **section 2** provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section**

5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Established a position of employment in the community;

(b) Enrolled in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address

has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ ***(b)*** Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ ***(c)*** Has ever been convicted of:

(1) Any crime ***that is punishable as a felony*** involving the use or threatened use of force or violence against the victim ~~[; or]~~ ***within the immediately preceding 3 years;***

(2) A sexual offense ~~[;~~

~~(e)]~~ ***that is punishable as a felony; or***

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; ***or***

~~[(f)]~~ ***(e)*** Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a

forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ ***the*** offender has:

~~[(1)]~~ ***(a)*** Established a position of employment in the community;

~~[(2)]~~ ***(b)*** Enrolled in a program for education or rehabilitation; or

~~[(3)]~~ ***(c)*** Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime **.** ~~[;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and~~

~~thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its

political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ ***20*** 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]~~ ***60*** days.

(b) For earning a high school diploma, ~~[60]~~ ***90*** days.

(c) For earning his first associate degree, ~~[90]~~ ***120*** 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, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 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.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ ***20*** days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has ***ever*** been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony;***

(e) Has ~~[committed an act of serious violence during the previous year;]~~ ***, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any

cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 9. (Deleted by amendment.)

Sec. 10. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act apply only to credits earned by an offender on or after July 1, 2008.

Sec. 11. This act becomes effective on July 1, 2008.

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ASSEMBLY BILL NO. 510–SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

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

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

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 2** revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, **section 2** provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill

eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section 5** increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. **Section 5** also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) **Section 6.2** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) **Section 6.4** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) **Section 7.5** of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) **Section 8.6** of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require

the person to serve a term of residential confinement. **Section 8.8** of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of **sections 5 and 8.7** to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

(b) ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the

Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ ***(b)*** Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ ***(c)*** Has ~~[ever]~~ been convicted of:

(1) Any crime ***that is punishable as a felony*** involving the use or threatened use of force or violence against the victim ~~[; or]~~ ***within the immediately preceding 3 years;***

(2) A sexual offense ~~[;~~

~~(e)]~~ ***that is punishable as a felony; or***

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; ***or***

~~[(f)]~~ ***(e)*** Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ ***the*** offender has:

~~[(1)]~~ ***(a)*** ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

~~[(2)]~~ ***(b)*** ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

~~[(3)]~~ ***(c)*** Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime **.** ~~[;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may~~

~~provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of

Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ ***20*** 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]~~ ***60*** days.

(b) For earning a high school diploma, ~~[60]~~ ***90*** days.

(c) For earning his first associate degree, ~~[90]~~ ***120*** 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, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~[20]~~ ***30*** days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~[Credits]~~ ***Except as otherwise provided in subsection 8, credits*** earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

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

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or

(d) A category A or B felony,

➥ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ ***20*** days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 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]~~ ***60*** 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.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~[30]~~ ***60*** days from the maximum term of his sentence for the ***successful*** completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~[30]~~ ***60*** days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has ***ever*** been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony;***

(e) Has ~~[committed an act of serious violence during the previous year;]~~ ***, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ ***Except as otherwise provided in NRS 209.4465, any*** credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum

term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 8.6. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~[the]~~ ***:***

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(b) Require intensive]~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ***; or***

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation 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 for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division ~~[;~~

~~(b) Require the~~] ***and require:***

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(c) Require intensive~~]

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ***; or***

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

Sec. 11. This act becomes effective on July 1, 2007.

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ASSEMBLY BILL NO. 510–SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes pertaining to offenders. (BDR 16-1377)

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

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

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; making various other changes pertaining to offenders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 2** revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, **section 2** provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section 5** increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. **Section 5** also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) **Section 6.2** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) **Section 6.4** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) **Section 7.5** of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.3 of this bill prohibits the State Board of Parole Commissioners from considering whether a prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole when the Board determines whether to grant parole to a prisoner.

Existing law provides that certain prisoners must be released on parole 12 months before the end of the prisoner's maximum term of imprisonment. However, if the State Board of Parole Commissioners finds that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may deny the parole. (NRS 213.1215) **Section 8.55** provides that if the Board denies parole for this reason, the Board must provide the prisoner with a written statement of the reasons for the denial.

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) **Section 8.6** of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. **Section 8.8** of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of **sections 5 and 8.7** to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) **Sections 10-19** of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 20 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime. Moreover, **sections 10-19** require a court to consider certain factors and, state on the record that the court considered those factors, when the court determines the length of the additional punishment to be imposed.

Section 20 of this bill amends Assembly Bill No. 508 of this session to require the Advisory Commission on the Administration of Justice to identify and study issues relating to: (1) the application of the Open Meeting Law to the State Board of Pardons Commissioners and the State Board of Parole Commissioners; and (2) the operations of the Department of Corrections.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

(b) ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ ***(b)*** Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ ***(c)*** Has ~~[ever]~~ been convicted of:

(1) Any crime ***that is punishable as a felony*** involving the use or threatened use of force or violence against the victim ~~[; or]~~ ***within the immediately preceding 3 years;***

(2) A sexual offense ~~[;~~

~~(e)]~~ ***that is punishable as a felony; or***

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if

committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; ***or***

~~[(f)]~~ ***(e)*** Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a

term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ ***the*** offender has:

~~[(1)]~~ ***(a)*** ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

~~[(2)]~~ ***(b)*** ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

~~[(3)]~~ ***(c)*** Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime **.** ~~[;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide

for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ ***20*** 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]~~ ***60*** days.

(b) For earning a high school diploma, ~~[60]~~ ***90*** days.

(c) For earning his first associate degree, ~~[90]~~ ***120*** 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, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~[20]~~ ***30*** days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~[Credits]~~ ***Except as otherwise provided in subsection 8, credits*** earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

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

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or

(d) A category A or B felony,

➥ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less

than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ ***20*** days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 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]~~ ***60*** 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.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~[30]~~ ***60***

days from the maximum term of his sentence for the ***successful*** completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~[30]~~ ***60*** days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has ***ever*** been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony;***

(e) Has ~~[committed an act of serious violence during the previous year;]~~ ***, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an

offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.3. NRS 213.10885 is hereby amended to read as follows:

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

(a) Who committed a capital offense.

(b) Who was sentenced to serve a term of imprisonment for life.

(c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.

(d) Who was convicted as a habitual criminal.

(e) Who is a repeat offender.

(f) Who was convicted of any other type of offense.

➥ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

(a) The severity of the crime committed;

(b) The criminal history of the person;

(c) Any disciplinary action taken against the person while incarcerated;

(d) Any previous parole violations or failures;

(e) Any potential threat to society or himself; and

(f) The length of his incarceration.

3. ***In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.***

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a

violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

~~[4.]~~ ***5.*** The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~[5.]~~ ***6.*** On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~[6.]~~ ***7.*** The Board shall report to each regular session of the Legislature:

(a) The number and percentage of the Board's decisions that conflicted with the standards;

(b) The results and conclusions from the Board's review pursuant to subsection ~~[5;]~~ ***6;*** and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ ***Except as otherwise provided in NRS 209.4465, any*** credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 8.55. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

3. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1. ***If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.***

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Sec. 8.6. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~[the]~~ ***:***

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(b) Require intensive]~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ***; or***

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation 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 for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court

shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division ~~[;~~

~~(b) Require the]~~ ***and require:***

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(c) Require intensive]~~

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ***; or***

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection ~~[2]~~ ***3*** and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in

the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[must run]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~[subsection]~~ ***subsections*** 1 ~~[,]~~ ***and 2,*** if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[3. Subsection 1 does]~~

4. Subsections 1 and 2 do not create a separate offense but ~~[provides]~~ ***provide*** an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~[2]~~ ***3*** does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***5.*** For the purposes of this section, "school bus" has the meaning ascribed to it in NRS 483.160.

Sec. 11. NRS 193.162 is hereby amended to read as follows:

193.162 1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for ~~[an additional term equal to the]~~ ***a minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years.***

(b) Commits any felony other than a category A or a category B felony shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for ~~[an additional term not less than 25 percent and not more than 100 percent of the]~~ ***a minimum*** term of ~~[imprisonment prescribed by statute for the crime.~~

~~➥]~~ ***not less than 1 year and a maximum term of not more than 20 years.***

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. An additional sentence prescribed by this section ~~[runs]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***4.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***5.*** As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

Sec. 12. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by

imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[runs]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***4.*** As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.

Sec. 13. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[runs]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***4.*** The provisions of subsections 1 ~~[and]~~ ***,*** 2 ***and 3*** do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~[4.]~~ ***5.*** The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;

(c) Sexual assault; or

(d) Robbery.

~~[5.]~~ ***6.*** As used in this section, "deadly weapon" means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 14. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

➥ shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment~~

~~prescribed by statute for that crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years.*** If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section ~~[runs]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

~~[2.]~~ ***4.*** The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

~~[3.]~~ ***5.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 15. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;

(c) Assault;

(d) Battery;

(e) Kidnapping;

(f) Robbery;

(g) Sexual assault;

(h) Embezzlement of money or property of a value of $250 or more;

(i) Obtaining money or property of a value of $250 or more by false pretenses; or

(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished ***, if the crime is a misdemeanor or gross misdemeanor,*** by imprisonment in the county jail ~~[or state prison, whichever applies,]~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the crime ~~[. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.]~~ ***, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.***

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall ***, in addition to the term of imprisonment prescribed by statute for the criminal violation,*** be punished ***, if the criminal violation is a misdemeanor or gross misdemeanor,*** by imprisonment in the county jail ~~[or state prison, whichever applies,]~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the criminal violation ~~[.]~~ ***, and, if the criminal violation is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.***

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime or criminal violation;

(b) The criminal history of the person;

(c) The impact of the crime or criminal violation on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ ***The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.***

4. The sentence prescribed by this ~~[subsection]~~ ***section*** must run consecutively with the sentence prescribed by statute for the ***crime or*** criminal violation.

~~[3.]~~ ***5.*** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***6.*** As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 16. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for ~~[an additional term not to exceed 25 percent of the]~~ ***a minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.

2. A sentence imposed pursuant to this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 17. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by the statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[must run]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***4.*** The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

~~[4.]~~ ***5.*** Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~[5.]~~ ***6.*** In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;

(b) Specific rivalries between criminal gangs;

(c) Common practices and operations of criminal gangs and the members of those gangs;

(d) Social customs and behavior of members of criminal gangs;

(e) Terminology used by members of criminal gangs;

(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and

(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~[6.]~~ ***7.*** As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

(a) Has a common name or identifying symbol;

(b) Has particular conduct, status and customs indicative of it; and

(c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 18. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[must run]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~[subsection~~

~~1,]~~ ***subsections 1 and 2,*** if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[3. Subsection 1 does]~~

4. Subsections 1 and 2 do not create a separate offense but ~~[provides]~~ ***provide*** an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~[2]~~ ***3*** does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***5.*** The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

~~[5.]~~ ***6.*** As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 19. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection ~~[2]~~ ***3*** of NRS 193.161, subsection ~~[2]~~ ***3*** of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 20. Section 3 of Assembly Bill No. 508 of this session is hereby amended to read as follows:

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.

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

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

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

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

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

Sec. 21. 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions

of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

Sec. 22. 1. This section and sections 1 to 19, inclusive, and 21 of this act become effective on July 1, 2007.

2. Section 20 of this act becomes effective on July 1, 2007, only if Assembly Bill No. 508 of this session becomes effective.

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Assembly Bill No. 510–Select Committee on Corrections, Parole, and Probation

CHAPTER 525

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; making various other changes pertaining to offenders; and providing other matters properly relating thereto.

[Approved: June 14, 2007]

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 2** revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, **section 2** provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section 5** increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. **Section 5** also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) **Section 6.2** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) **Section 6.4** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) **Section 7.5** of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.3 of this bill prohibits the State Board of Parole Commissioners from considering whether a prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole when the Board determines whether to grant parole to a prisoner.

Existing law provides that certain prisoners must be released on parole 12 months before the end of the prisoner's maximum term of imprisonment. However, if the State Board of Parole Commissioners finds that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may deny the parole. (NRS 213.1215) **Section 8.55** provides that if the Board denies parole for this reason, the Board must provide the prisoner with a written statement of the reasons for the denial.

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) **Section 8.6** of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a

community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. **Section 8.8** of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of **sections 5 and 8.7** to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) **Sections 10-19** of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 20 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime. Moreover, **sections 10-19** require a court to consider certain factors and, state on the record that the court considered those factors, when the court determines the length of the additional punishment to be imposed.

Section 20 of this bill amends Assembly Bill No. 508 of this session to require the Advisory Commission on the Administration of Justice to identify and study issues relating to: (1) the application of the Open Meeting Law to the State Board of Pardons Commissioners and the State Board of Parole Commissioners; and (2) the operations of the Department of Corrections.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

(b) ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~[Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)]~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~[(c)]~~ ***(b)*** Has not performed the duties assigned to him in a faithful and orderly manner;

~~[(d)]~~ ***(c)*** Has ~~[ever]~~ been convicted of:

(1) Any crime ***that is punishable as a felony*** involving the use or threatened use of force or violence against the victim ~~[; or]~~ ***within the immediately preceding 3 years;***

(2) A sexual offense ~~[;~~

~~(e)]~~ ***that is punishable as a felony; or***

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; ***or***

~~[(f)]~~ ***(e)*** Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[:~~

~~(a) The]~~ ***the*** offender has:

~~[(1)]~~ ***(a)*** ~~[Established]~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

~~[(2)]~~ ***(b)*** ~~[Enrolled]~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

~~[(3)]~~ ***(c)*** Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime ***.*** ~~[;~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➥ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 credit provided for in 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 an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 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]~~ ***20*** 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]~~ ***60*** days.

(b) For earning a high school diploma, ~~[60]~~ ***90*** days.

(c) For earning his first associate degree, ~~[90]~~ ***120*** 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, ***program for reentry of offenders and parolees into the community,*** conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~[20]~~ ***30*** days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~[Credits]~~ ***Except as otherwise provided in subsection 8, credits*** earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

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

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or

(d) A category A or B felony,

➥ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~[10]~~ ***20*** days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 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]~~ ***60*** 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.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~[30]~~ ***60*** days from the maximum term of his sentence for the ***successful*** completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~[30]~~ ***60*** days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has ***ever*** been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony;***

(e) Has ~~[committed an act of serious violence during the previous year;]~~ ***, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ ***year,*** been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ ***that is punishable as a felony; or***

(e) Has escaped or attempted to escape from any jail or correctional institution for adults ***,*** ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➥ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.3. NRS 213.10885 is hereby amended to read as follows:

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

(a) Who committed a capital offense.

(b) Who was sentenced to serve a term of imprisonment for life.

(c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.

(d) Who was convicted as a habitual criminal.

(e) Who is a repeat offender.

(f) Who was convicted of any other type of offense.

➥ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

(a) The severity of the crime committed;

(b) The criminal history of the person;

(c) Any disciplinary action taken against the person while incarcerated;

(d) Any previous parole violations or failures;

(e) Any potential threat to society or himself; and

(f) The length of his incarceration.

3. ***In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.***

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

~~[4.]~~ ***5.*** The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~[5.]~~ ***6.*** On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without

violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~[6.]~~ ***7.*** The Board shall report to each regular session of the Legislature:

(a) The number and percentage of the Board's decisions that conflicted with the standards;

(b) The results and conclusions from the Board's review pursuant to subsection ~~[5;]~~ ***6;*** and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ ***Except as otherwise provided in NRS 209.4465, any*** credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 8.55. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

3. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1. ***If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.***

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Sec. 8.6. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~[the]~~ ***:***

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(b) Require intensive]~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ***; or***

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation 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 for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division ~~[;~~

~~(b) Require the]~~ ***and require:***

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~[(c) Require intensive]~~

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[.]~~ ***; or***

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection ~~[2]~~ ***3*** and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ ***The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.***

2. The sentence prescribed by this section ~~[must run]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~[subsection]~~ ***subsections*** 1 ~~[.]~~ ***and 2,*** if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[3. Subsection 1 does]~~

4. Subsections 1 and 2 do not create a separate offense but ~~[provides]~~ ***provide*** an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~[2]~~ ***3*** does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***5.*** For the purposes of this section, "school bus" has the meaning ascribed to it in NRS 483.160.

Sec. 11. NRS 193.162 is hereby amended to read as follows:

193.162 1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for ~~[an additional term equal to the]~~ ***a minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years.***

(b) Commits any felony other than a category A or a category B felony shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for ~~[an additional term not less than 25 percent and not more than 100 percent of the]~~ ***a minimum*** term of ~~[imprisonment prescribed by statute for the crime.~~
~~➥]~~ ***not less than 1 year and a maximum term of not more than 20 years.***

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. An additional sentence prescribed by this section ~~[runs]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***4.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***5.*** As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

Sec. 12. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[runs]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***4.*** As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.

Sec. 13. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;
(b) The criminal history of the person;
(c) The impact of the crime on any victim;
(d) Any mitigating factors presented by the person; and
(e) Any other relevant information.
➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[runs]~~ ***:***
(a) Must not exceed the sentence imposed for the crime; and
(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***4.*** The provisions of subsections 1 ~~[and]~~ ***,*** 2 ***and 3*** do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~[4.]~~ ***5.*** The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:
(a) Murder;
(b) Kidnapping in the first degree;
(c) Sexual assault; or
(d) Robbery.

~~[5.]~~ ***6.*** As used in this section, "deadly weapon" means:
(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;
(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or
(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 14. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:
(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;
(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;
(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;
(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or
(e) A temporary or extended order issued pursuant to NRS 200.591,
➥ shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for that crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years.*** If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:
(a) The facts and circumstances of the crime;
(b) The criminal history of the person;
(c) The impact of the crime on any victim;
(d) Any mitigating factors presented by the person; and
(e) Any other relevant information.
➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section ~~[runs]~~ ***:***
(a) Must not exceed the sentence imposed for the crime; and
(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

~~[2.]~~ ***4.*** The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

~~[3.]~~ ***5.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 15. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;
(b) Attempted murder;
(c) Assault;
(d) Battery;
(e) Kidnapping;
(f) Robbery;
(g) Sexual assault;
(h) Embezzlement of money or property of a value of $250 or more;
(i) Obtaining money or property of a value of $250 or more by false pretenses; or
(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished ***, if the crime is a misdemeanor or gross misdemeanor,*** by imprisonment in the county jail ~~[or state prison, whichever applies,]~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the crime ~~[. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.]~~ ***, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.***

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall ***, in addition to the term of imprisonment prescribed by statute for the criminal violation,*** be punished ***, if the criminal violation is a misdemeanor or gross misdemeanor,*** by imprisonment in the county jail ~~[or state prison, whichever applies,]~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the criminal violation ~~[.]~~ ***, and, if the criminal violation is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.***

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime or criminal violation;
(b) The criminal history of the person;
(c) The impact of the crime or criminal violation on any victim;
(d) Any mitigating factors presented by the person; and
(e) Any other relevant information.

➥ ***The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.***

4. The sentence prescribed by this ~~[subsection]~~ ***section*** must run consecutively with the sentence prescribed by statute for the ***crime or*** criminal violation.

~~[3.]~~ ***5.*** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***6.*** As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 16. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for ~~[an additional term not to exceed 25 percent of the]~~ ***a minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:***

(a) The facts and circumstances of the crime;
(b) The criminal history of the person;
(c) The impact of the crime on any victim;
(d) Any mitigating factors presented by the person; and
(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.

2. A sentence imposed pursuant to this section:
(a) Must not exceed the sentence imposed for the crime; and
(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 17. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by the statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:***
(a) The facts and circumstances of the crime;
(b) The criminal history of the person;
(c) The impact of the crime on any victim;
(d) Any mitigating factors presented by the person; and
(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[must run]~~ ***:***
(a) Must not exceed the sentence imposed for the crime; and
(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ ***4.*** The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

~~[4.]~~ ***5.*** Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~[5.]~~ ***6.*** In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;
(b) Specific rivalries between criminal gangs;
(c) Common practices and operations of criminal gangs and the members of those gangs;
(d) Social customs and behavior of members of criminal gangs;
(e) Terminology used by members of criminal gangs;
(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~[6.]~~ ***7.*** As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

(a) Has a common name or identifying symbol;

(b) Has particular conduct, status and customs indicative of it; and

(c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 18. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism shall ***, in addition to the term of imprisonment prescribed by statute for the crime,*** be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ ***minimum*** term of ~~[imprisonment prescribed by statute for the crime.]~~ ***not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:***

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~[must run]~~ ***:***

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ ***3.*** Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~[subsection 1,]~~ ***subsections 1 and 2,*** if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[3. Subsection 1 does]~~

4. Subsections 1 and 2 do not create a separate offense but ~~[provides]~~ ***provide*** an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~[2]~~ ***3*** does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***5.*** The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

~~[5.]~~ ***6.*** As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 19. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection ~~[2]~~ ***3*** of NRS 193.161, subsection ~~[2]~~ ***3*** of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 20. Section 3 of Assembly Bill No. 508 of this session is hereby amended to read as follows:

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.

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

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

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

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of

such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

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

Sec. 21. 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

Sec. 22. 1. This section and sections 1 to 19, inclusive, and 21 of this act become effective on July 1, 2007.

2. Section 20 of this act becomes effective on July 1, 2007, only if Assembly Bill No. 508 of this session becomes effective.

SUPPLEMENTAL MATERIALS

SENTENCING AND PARDONS, AND PAROLE AND PROBATION
LCB BULLETIN NO. 07-9

Sentencing and Pardons, and Parole and Probation

January 2007

Legislative Counsel Bureau

Bulletin No. 07-9

LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY SENTENCING AND PARDONS, AND PAROLE AND PROBATION

BULLETIN NO. 07-09

JANUARY 2007

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SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY SENTENCING AND PARDONS, AND PAROLE AND PROBATION

Assembly Concurrent Resolution No. 17
(File No. 98, *Statutes of Nevada 2005*)

The following is a summary of recommendations adopted by the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation at its June 8, 2006, meeting. These recommendations will be forwarded to the Legislative Commission and ultimately to the 2007 Session of the Nevada State Legislature, as appropriate.

PAROLE AND PARDONS ISSUES

RECOMMENDATION NO. 1 — Draft legislation to amend *Nevada Revised Statutes* (NRS) 176.415, which sets forth the manner in which the execution of judgment of death may be stayed, to clarify that the Governor has authority under the *Nevada Constitution* to grant a reprieve for a period of 60 days following a conviction. (BDR 14-148)

RECOMMENDATION NO. 2 — Draft legislation to amend NRS 213.10885, and any other relevant sections of NRS, to provide that when a person is serving consecutive sentences in prison, a risk assessment is conducted by the Division of Parole and Probation, Nevada's Department of Public Safety (NDPS), only when the person is eligible for release from prison if granted parole. Thus, the assessment will be performed only when the person is eligible for parole for the last sentence being served. (BDR 16-149)

RECOMMENDATION NO. 3 — Draft legislation to amend NRS 213.1215 which requires the Parole Board to grant parole to a prisoner 12 months before the end of his maximum term of imprisonment except in certain circumstances, including when the Parole Board determines that the prisoner will be a danger to public safety while on parole. Require the Parole Board to provide its reasons for denying parole in writing when parole is denied because the Parole Board determined that the prisoner will be a danger to public safety while on parole. (BDR 16-149)

RECOMMENDATION NO. 4 — Draft legislation to amend relevant provisions of NRS to require a person convicted of a category D or E felony to be placed on parole after serving the minimum sentence of imprisonment unless the Parole Board determines that the prisoner would be a danger to public safety if placed on parole. (BDR 16-149)

RECOMMENDATION NO. 5 — Include a statement in the final report encouraging the Administrative Office of the Courts to work with Nevada's Department of Corrections (NDOC) to create a statewide system of "re-entry courts", similar to the Eighth Judicial District Court's Going Home Prepared program.

RECOMMENDATION NO. 6 — Draft letters to Nevada's Department of Public Safety and NDOC encouraging each Department to seek adequate funding to provide for the provision of mental health and substance abuse treatment to prisoners. Further, include in the letter encouragement for each Department as appropriate to seek funding to: (1) assist prisoners to enroll in drug court; and (2) employ adequate social workers in the Division of Parole and Probation to assist prisoners upon release from prison to obtain the necessary treatment and assistance to access community resources.

RECOMMENDATION NO. 7 — Draft legislation to require that all hearings of the Parole Board be subject to the open meeting law provided that consideration is given to the privacy of juveniles, witnesses, victims, or other persons who may require protection of their identity for safety reasons. Include legislation to require the Parole Board to provide notice of a parole hearing to the prisoner who is the subject of the hearing and his victims at least 3 business days before the parole hearing. (BDR 16-150)

RECOMMENDATION NO. 8 — Draft legislation to amend Chapter 213 of NRS to allow a prisoner who is eligible for parole and his representative to speak during a hearing to consider the parole of the prisoner in addition to the victims. (BDR 16-150)

RECOMMENDATION NO. 9 — Draft a letter to the Governor encouraging the Governor to consider the diversity of Nevada when appointing members to the Parole Board to ensure that the Parole Board represents that diverse population.

MANDATORY MINIMUM AND ENHANCED SENTENCING ISSUES

RECOMMENDATION NO. 10 — Draft legislation to amend NRS 193.165 to give the court discretion to increase the sentence of a person by 1 year to 10 years if the crime was committed with the use of a deadly weapon rather than imposing a sentence equal to the underlying crime. (BDR 15-151)

NOT GUILTY BY REASON OF INSANITY ISSUES

RECOMMENDATION NO. 11 — Draft a letter to the appropriate state agency inquiring if any national or state programs exist that provide special training or certification for forensic psychiatrists to evaluate a person who has been found not guilty by reason of insanity, to determine the person's eligibility for release, and to testify concerning whether to release the person.

RECOMMENDATION NO. 12 — Draft legislation to amend NRS to: (1) codify the M'Naghten rule for determining whether a person is insane for purposes of the insanity defense; and (2) create an additional plea of "Guilty But Mentally Ill". (BDR 14-152)

ISSUES CONCERNING NEVADA'S DEPARTMENT OF CORRECTIONS

RECOMMENDATION NO. 13 — Draft a letter to the Legislative Commission requesting the Commission to direct the Audit Division of the Legislative Counsel Bureau to conduct a performance evaluation of correctional programs. The evaluation should include an assessment of vocational training programs, educational programs and mental health programs or counseling. The evaluation should also incorporate a survey of programs, which have been successful in other states, and address the issue of availability and accessibility to correctional programs by male and female prisoners. The evaluation should include a feasibility study on the possibility of creating a citizens' advisory committee to monitor inmate grievances. The evaluation should also include an examination of inmate's access to health care.

RECOMMENDATION NO. 14 — Draft a letter to the Governor requesting that the Executive Branch initiate evaluations relating to inmate access to health care.

REPORT OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY SENTENCING AND PARDONS, AND PAROLE AND PROBATION

I. INTRODUCTION

The Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation is directed to conduct a study of the sentencing of convicted persons and of the pardons, parole, and probation services provided by the State. The Subcommittee was created in 2005 under Assembly Concurrent Resolution No. 17 (File No. 98, *Statutes of Nevada 2005*). The Resolution directs the Administrative Office of the Courts, Nevada's Department of Corrections (NDOC), and the Division of Parole and Probation, Nevada's Department of Public Safety (NDPS), to provide information and assistance to the Subcommittee. The Legislative Commission must submit a report of the results of the study and any recommendations for legislation to the 74th Session of the Nevada State Legislature.

The Subcommittee held a total of five meetings, including a work session, during the course of the study. All meetings were open to the public and conducted through simultaneous videoconferences between legislative meeting rooms at the Grant Sawyer State Office Building in Las Vegas and the Legislative Building in Carson City. The meetings were held on November 9, 2005; January 31, 2006; March 21, 2006; April 27, 2006; and June 8, 2006.

During its final meeting, the Subcommittee adopted 14 recommendations, including eight recommendations for bill drafts, for consideration by the 2007 Nevada State Legislature. The recommendations address the following major topics:

- Parole and pardons issues;
- Mandatory minimum and enhanced sentencing issues;
- Not guilty by reason of insanity issues; and
- Issues concerning NDOC

Assemblyman William C. Horne served as the Chairman of the Subcommittee. Other legislative members of the Subcommittee during the 2005-2006 interim included:

Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Assemblyman Bernie Anderson
Assemblyman John C. Carpenter

Legislative Counsel Bureau staff services were provided by:

Patrick R. Cadle, Senior Research Analyst, Research Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division
René Yeckley, Principal Deputy Legislative Counsel, Legal Division
Kennedy, Principal Research Secretary, Research Division

II. REVIEW OF SUBCOMMITTEE DUTIES

The Subcommittee was directed to conduct evaluations of the following topics:

1. The current practices and procedures relating to issuing pardons and granting and revoking parole and probation;

2. The manner of imposing sentences;

3. The feasibility of establishing mandatory parole;

4. Sentencing options providing combined prison terms and post-incarceration supervision;

5. Gender and ethnic parity in sentencing;

6. Training, educational, and rehabilitation programs;

7. Programs developed in other states providing a system of community-based specialized programs;

8. The procedures for determining when to release inmates into community-based programs;

9. Methods to promote more cost-effective pardons, parole, and probation; and

10. Methods for combining juvenile and adult sentencing options for juveniles who commit serious crimes.

This report contains a discussion of each of the topics under which the Subcommittee made recommendations.

III. DISCUSSION OF MAJOR TOPICS ADDRESSED BY THE A.C.R. 17 SUBCOMMITTEE

A. PAROLE AND PARDONS ISSUES

The Subcommittee received testimony and suggestions on issues relating to parole. The topic of pardons was touched upon briefly, and no final recommendations relate to pardons. Much of the discussion focused on the question of fairness in the parole process. Members of the State Board of Parole Commissioners (Parole Board) were invited to share information with the Subcommittee on the process of reviewing parole applications at the March 21, 2006, meeting. Several private citizens asserted in testimony that the parole process was biased against prisoners applying for parole.

Many witnesses expressed concern that the Parole Board was not giving proper weight to risk assessment scores on occasions where an assessment indicated that a particular prisoner would pose a minimal risk to the population if he or she were to be paroled. Other witnesses voiced opinions that parole hearings are not held in accordance with open meeting laws, and that prisoners are not allowed to have others speak on their behalf, for example as character witnesses.

Representatives of the Parole Board responded that no person has a right to receive parole. The decision to grant parole is based on a wide spectrum of considerations such as the rights and obligations owed to the victims of the crime, the needs of the prisoner for possible substance abuse treatment or vocational training, and many other issues.

Concerns were also expressed that parole officers were required to handle too many cases at one time, and that as a result, there was a danger of parolees not receiving adequate supervision or support in their re-entry to society. The Subcommittee received a variety of proposals designed to address the issue of proper support through re-entry programs.

To address the concerns brought before the Subcommittee, the following nine recommendations were adopted at the final work session.

1. **Draft legislation to amend *Nevada Revised Statutes* (NRS) 176.415, which sets forth the manner in which the execution of judgment of death may be stayed, to clarify that the Governor has authority under the *Nevada Constitution* to grant a reprieve for a period of 60 days following a conviction.**

2. **Draft legislation to amend NRS 213.10885, and any other relevant sections of NRS, to provide that when a person is serving consecutive sentences in prison, a risk assessment is conducted by the Division of Parole and Probation, NDPS, only when the person is eligible for release from prison if granted parole. Thus, the assessment will be performed only when the person is eligible for parole for the last sentence being served.**

3. **Draft legislation to amend NRS 213.1215 which requires the Parole Board to grant parole to a prisoner 12 months before the end of his maximum term of imprisonment except in certain circumstances, including when the Parole Board determines that the prisoner will be a danger to public safety while on parole. Require the Parole Board to provide its reasons for denying parole in writing when parole is denied because the Parole Board determined that the prisoner will be a danger to public safety while on parole.**

4. **Draft legislation to amend relevant provisions of NRS to require a person convicted of a category D or E felony to be placed on parole after serving the minimum sentence of imprisonment unless the Parole Board determines that the prisoner would be a danger to public safety if placed on parole.**

5. **Include a statement in the final report encouraging the Administrative Office of the Courts to work with NDOC to create a statewide system of "re-entry courts", similar to the Eighth Judicial District Court's Going Home Prepared program.**

6. **Draft letters to NDPS and NDOC encouraging each Department to seek adequate funding to provide for the provision of mental health and substance abuse treatment to prisoners. Further, include in the letter encouragement for each Department as appropriate to seek funding to: (1) assist prisoners to enroll in drug court; and (2) employ adequate social workers in the Division of Parole and Probation to assist prisoners upon release from prison to obtain the necessary treatment and assistance to access community resources. (Appendix B)**

7. **Draft legislation to require that all hearings of the Parole Board be subject to the open meeting law provided that consideration is given to the privacy of juveniles, witnesses, victims, or other persons who may require protection of their identity for safety reasons. Include legislation to require the Parole Board to provide notice of a parole hearing to the prisoner who is the subject of the hearing and his victims at least 3 business days before the parole hearing.**

8. **Draft legislation to amend Chapter 213 of NRS to allow a prisoner who is eligible for parole and his representative to speak during a hearing to consider the parole of the prisoner in addition to the victims.**

9. **Draft a letter to the Governor encouraging the Governor to consider the diversity of Nevada when appointing members to the Parole Board to ensure that the Parole Board represents that diverse population. (Appendix B)**

B. MANDATORY MINIMUM AND ENHANCED SENTENCING

During the January 31, 2006, meeting, the issue of mandatory minimum sentencing was brought before the Subcommittee. District Court Judges, as well as Justices of the Nevada Supreme Court, testified before the Subcommittee and expressed the opinion that mandatory sentencing

requirements can sometimes be too rigid. The Subcommittee was asked to consider other options that would allow judges presiding over trials the discretion to enhance sentencing if they felt it was warranted. One particular issue discussed was the enhanced penalty for committing a crime while using a deadly weapon. Judges expressed the opinion that rigid enhancements and a less-than-clear definition of what constitutes a deadly weapon created a scenario where the punishment sometimes was harsher than the crime required. Representatives of victims' rights groups testified in opposition to the elimination of mandatory minimum and enhanced sentences.

The final decision by the Subcommittee was to adopt the following recommendation:

10. **Draft legislation to amend NRS 193.165 to give the court discretion to increase the sentence of a person by 1 year to 10 years if the crime was committed with the use of a deadly weapon rather than imposing a sentence equal to the underlying crime.**

C. NOT GUILTY BY REASON OF INSANITY

The Subcommittee received testimony and suggestions relating to the verdict of not guilty by reason of insanity. Concerns had been raised by citizens who felt that there may be a lack of proper supervision of persons who were found not guilty by reason of insanity, but later were found to have been cured or recovered from mental illnesses. Other witnesses testified that although such persons may be found to be dangerous to society, they have been found to be innocent in a court of law, and therefore have certain rights that must be respected.

This issue was placed under consideration during the November 9, 2005, meeting due to a recent case in Nevada. In 2004, a jury found a defendant not guilty on a murder charge by reason of insanity. The defendant was committed to a mental care facility for ten years. However, at the end of the first six months of commitment, a petition was entered for the release of the defendant on the grounds that he was no longer insane nor a threat to society. Although the petition was denied and the person continued under commitment, a concern was raised about the prospect of the release of such a person without the proper assessment of the risk he may pose to the public.

In response to the concerns raised during testimony on this issue, the Subcommittee adopted the following recommendations.

11. **Draft a letter to the appropriate state agency inquiring if any national or state programs exist that provide special training or certification for forensic psychiatrists to evaluate a person who has been found not guilty by reason of insanity, to determine the person's eligibility for release, and to testify concerning whether to release the person. (Appendix B)**

12. **Draft legislation to amend NRS to: (1) codify the M'Naughten rule for determining whether a person is insane for purposes of the insanity defense; and (2) create an additional plea of "Guilty But Mentally Ill".**

D. ISSUES CONCERNING NDOC

During the April 27, 2006, meeting, the Subcommittee received testimony from many private citizens who spoke about a variety of concerns regarding certain actions taken by NDOC. For example, it was suggested that vocational and educational programs may not be widely available to all prisoners, especially to female prisoners. The availability of counseling and mental health programs was also a concern. Several suggestions were made that performance reviews of NDOC should be made to explore the adequacy and effectiveness of such programs. The idea was suggested of forming a citizens' advisory committee to monitor treatment of inmates and inmate grievances.

One of the more serious concerns brought before the Subcommittee was that inmates with health problems may not be receiving prompt and adequate treatment. A number of anecdotal examples were brought to the attention of the Subcommittee during its meetings.

The Subcommittee responded to these concerns by adopting the following recommendations:

13. **Draft a letter to the Legislative Commission requesting the Commission to direct the Audit Division of the Legislative Counsel Bureau to conduct a performance evaluation of correctional programs. The evaluation should include an assessment of vocational training programs, educational programs and mental health programs or counseling. The evaluation should also incorporate a survey of programs, which have been successful in other states, and address the issue of availability and accessibility to correctional programs by male and female prisoners. The evaluation should include a feasibility study on the possibility of creating a citizens' advisory committee to monitor inmate grievances. The evaluation should also include an examination of inmate's access to health care. (Appendix B)**

14. **Draft a letter to the Governor requesting that the Executive Branch initiate evaluations relating to inmate access to health care. (Appendix B)**

IV. CONCLUSION

This report presents a summary of the bill drafts requested by Subcommittee members for discussion before the 2007 Nevada State Legislature. In addition, the report provides information identifying certain other issues addressed during the interim. Persons wishing to have more specific information concerning these documents may find it useful to review the meeting minutes and exhibits for each of the meetings of the Subcommittee on the Legislative Web site at http://www.leg.state.nv.us

V. APPENDICES

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Appendix A

Assembly Concurrent Resolution No. 17

Assembly Concurrent Resolution No. 17—Assemblyman David Parks

FILE NUMBER 98

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the sentencing of convicted persons and of the pardons, parole and probation services provided in this State.

WHEREAS, Nevada has one of the highest per capita incarceration levels in the country; and

WHEREAS, Nevada remains one of the few states that uses incarceration, the most expensive method of corrections, as the primary method of addressing criminal conduct; and

WHEREAS, The number of inmates who are released from prison onto parole in Nevada is declining; and

WHEREAS, Reducing the required time for incarceration has not produced an impact on individual recidivism rates or aggregate crime levels; and

WHEREAS, High-risk offenders must be closely supervised and provided with more rehabilitative services to promote their reintegration to society and maintenance of a crime-free life; and

WHEREAS, Parole should not be revoked for the commission of a misdemeanor or for technical violations of parole rules, but instead, revocation must be limited to serious infractions involving the commission of a felony; and

WHEREAS, Certain juveniles who commit serious crimes are transferred to the adult criminal justice system in this State; and

WHEREAS, It is necessary to review options for sentencing juveniles who commit such serious crimes; now, therefore, be it RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint an interim committee, composed of three members of the Assembly and three members of the Senate, one of whom must be appointed as Chairman of the committee, to conduct a study of the sentencing of convicted persons and of the pardons, parole and probation services provided in this State; and be it further

RESOLVED, That the study must include, without limitation, an evaluation of:

1. The current practices and procedures relating to issuing pardons and granting and revoking parole and probation in this State;

2. The manner of imposing sentences in this State;

3. The feasibility of establishing mandatory parole after an offender serves a portion of a sentence;

4. Sentencing options that provide for combined prison terms and postincarceration supervision;

5. Gender and ethnic parity in sentencing;

6. Training, educational and rehabilitation programs that are available for offenders in this State;

7. Programs developed in other states that provide a system of community-based programs that place offenders in more specialized programs according to their needs;

8. The procedures for determining when to release inmates into community supervision programs;

9. Methods to promote more cost-effective pardons, parole and probation practices; and

10. Methods for combining juvenile and adult sentencing options for juveniles who commit serious crimes; and be it further

RESOLVED, That the Administrative Office of the Courts, the Department of Corrections and the Division of Parole and Probation of the Department of Public Safety are hereby directed to provide information and assistance to the committee; and be it further

RESOLVED, That any recommended legislation proposed by the interim committee must be approved by a majority of the members of the Assembly and a majority of the members of the Senate appointed to the committee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 74th Session of the Nevada Legislature.

Appendix B

Letters Drafted Upon Adoption of Recommendations by the A.C.R. 17 Subcommittee:

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RECOMMENDATION NO. 6 15

Draft letters to NDPS and NDOC encouraging each Department to seek adequate funding to provide for the provision of mental health and substance abuse treatment to prisoners. Further, include in the letter encouragement for each Department as appropriate to seek funding to: (1) assist prisoners to enroll in drug court; and (2) employ adequate social workers in the Division of Parole and Probation to assist prisoners upon release from prison to obtain the necessary treatment and assistance to access community resources.

RECOMMENDATION NO. 9 17

Draft a letter to the Governor encouraging the Governor to consider the diversity of Nevada when appointing members to the Parole Board to ensure that the Parole Board represents that diverse population.

RECOMMENDATION NO. 11 19

Draft a letter to the appropriate state agency inquiring if any national or state programs exist that provide special training or certification for forensic psychiatrists to evaluate a person who has been found not guilty by reason of insanity, to determine the person's eligibility for release, and to testify concerning whether to release the person.

RECOMMENDATION NO. 13 21

Draft a letter to the Legislative Commission requesting the Commission to direct the Audit Division of the Legislative Counsel Bureau to conduct a performance evaluation of correctional programs. The evaluation should include an assessment of vocational training programs, educational programs and mental health programs or counseling. The evaluation should also incorporate a survey of programs, which have been successful in other states, and address the issue of availability and accessibility to correctional programs by male and female prisoners. The evaluation should include a feasibility study on the possibility of creating a citizens' advisory committee to monitor inmate grievances. The evaluation should also include an examination of inmate's access to health care.

RECOMMENDATION NO. 14 23

Draft a letter to the Governor requesting that the Executive Branch initiate evaluations relating to inmate access to health care.

WILLIAM C. HORNE
ASSEMBLYMAN
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COMMITTEES:
Vice Chairman
Judiciary

Member
Education
Health and Human Services

State of Nevada Assembly

Seventy-Third Session

October 6, 2006

George Togliatti, Director
Nevada's Department of Public Safety
555 Wright Way
Carson City, Nevada 89711

Glenn Whorton, Director
Nevada's Department of Corrections
Post Office Box 7011
Carson City, Nevada 89702

Dear Director Togliatti and Director Whorton:

During the 2005 and 2006 interim, the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation heard testimony and received recommendations from many of Nevada's concerned citizens.

During the June 8, 2006, work session, the Subcommittee adopted a recommendation to encourage Nevada's Department of Public Safety (NDPS) and Nevada's Department of Corrections (NDOC) to include adequate funding in their respective budgets for mental health and substance abuse treatments for prisoners within the state's correctional system. Each Department, as appropriate, is also encouraged by the Subcommittee to seek funding to assist prisoners to enroll in drug courts. Further, the Subcommittee recommends that both NDPS and NDOC pursue funding to employ an adequate number of social workers in the Division of Parole and Probation to assist prisoners upon their release to obtain all necessary treatment programs and to assist them in obtaining any local community resources that may be available as they transition to life in society.

The Subcommittee appreciates the work that both NDPS and NDOC are already doing in these areas and looks forward to working with you during the upcoming 2007 Legislative Session.

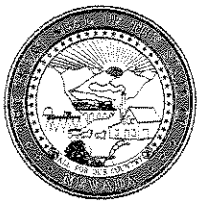
I very much appreciate your continued attention to these issues.

Sincerely,

Assemblyman William C. Horne
Chairman

WCH/k:L06.2005.Pardons

WILLIAM C. HORNE
ASSEMBLYMAN
District No. 34



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COMMITTEES:
Vice Chairman
Judiciary

Member
Education
Health and Human Services

State of Nevada Assembly

Seventy-Third Session

October 6, 2006

The Honorable Kenny C. Guinn
Governor of Nevada
101 North Carson Street, Suite 1
Carson City, Nevada 89701

Dear Governor Guinn:

During the 2005 and 2006 interim, the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation heard testimony and received recommendations from many of Nevada's concerned citizens.

During the public comment period of the March 21, 2006, meeting, a citizen suggested that the current and historical makeup of the Nevada Board of Parole may not be adequately representative of the changing demographic population of the state and recommended that when future appointments to the Board of Parole are made, our diverse population should be taken into consideration. During the June 8, 2006, work session, the Subcommittee endorsed this recommendation.

The purpose of this letter is to convey this concern and request that your administration, and future Governors of Nevada, ensure that the diversity of the citizens of Nevada is a primary consideration when making appointments to the Parole Board so that its membership truly reflects that diversity.

Thank you very much for your attention to this matter.

Sincerely,

Assemblyman William C. Horne
Chairman

WCH/k:L07.2005.Pardons

WILLIAM C. HORNE
ASSEMBLYMAN
District No. 34

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State of Nevada Assembly

Seventy-Third Session

October 6, 2006

Dr. Paula Squitieri
President
Nevada Board of Psychological Examiners
Post Office Box 2286
Reno, Nevada 89505

Dear Dr. Squitieri:

During the 2005 and 2006 interim, the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation heard testimony and received recommendations from many of Nevada's concerned citizens.

During the course of the Subcommittee's proceedings, concerns were raised about the possible release of persons who have been found not guilty of a violent crime by reason of insanity. One of the focus areas regarding this issue was whether forensic psychiatrists have access to trainings for the evaluation of such persons while they are in treatment facilities. The question arose if there is some process through which forensic psychiatrists might be certified to provide expert testimony as to the eligibility of these persons for release from custody if treatment has alleviated their mental illness.

The Subcommittee requests the assistance of the Nevada Board of Psychiatric Examiners in ascertaining if any state or federal program exists to provide special training or certification for forensic psychologists to evaluate a person who has been found not guilty by reason of insanity, to determine the person's eligibility for release, and to testify at hearings to decide whether to release the person.

I would appreciate insight and guidance as we address this matter. Any information the Board can provide may be forwarded to my attention, or to Jennifer Chisel, Senior Research Analyst, Research Division, Legislative Counsel Bureau. Thank you very much for your consideration of this request.

Sincerely,

Assemblyman William C. Horne
Chairman

WCH/k:L08.2005.Pardons

WILLIAM C. HORNE
ASSEMBLYMAN
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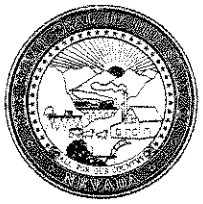

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Seventy-Third Session

October 6, 2006

Assemblywoman Barbara Buckley, Chair
Nevada Legislative Commission
Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Dear Chairwoman Buckley:

During the 2005 and 2006 Interim Period, the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation heard testimony and received recommendations from many of Nevada's concerned citizens.

In the course of the Subcommittee's work, several issues involving Nevada's Department of Corrections (NDOC) were raised that members of the Subcommittee believed should be more thoroughly investigated. During the April 27, 2006, meeting, it was suggested that vocational and educational programs may not be widely available to all prisoners, especially to female prisoners. The availability of counseling and mental health programs to all inmates was an additional concern. Several suggestions were made that performance reviews of NDOC should be made to explore the adequacy and effectiveness of such programs.

One of the more serious concerns brought before the Subcommittee was that inmates with health problems may not be receiving prompt and adequate treatment. The Subcommittee heard a number of anecdotal examples of prisoners not receiving needed health care for chronic and life-threatening medical conditions.

In order to address these issues in a comprehensive manner, the Subcommittee adopted a recommendation to request that the Legislative Commission consider the possibility of directing the Audit Division of the Legislative Counsel Bureau to conduct a performance evaluation of state correctional programs.

If conducted, the evaluation should include an assessment of vocational training programs, educational programs, and mental health programs or counseling. The evaluation should also

incorporate a survey of programs which have been successful in other states and address the issue of availability and accessibility to correctional programs by male and female prisoners. The evaluation should also include a feasibility study on the possibility of creating a citizens advisory committee to monitor inmate grievances. Finally, the evaluation should include an examination of inmate access to health care.

I would very much appreciate the attention of the Legislative Commission to this matter and look forward to discussing this recommendation with you at your convenience.

Sincerely,

William C. Horne
Chairman

WCH/k:L09.2005.Pardons
cc: Lorne Malkiewich, Director, Administrative Division, Legislative Counsel Bureau

WILLIAM C. HORNE
ASSEMBLYMAN
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Seventy-Third Session

October 6, 2006

The Honorable Kenny C. Guinn
Governor of Nevada
101 North Carson Street, Suite 1
Carson City, Nevada 89701

Dear Governor Guinn:

During the 2005 and 2006 interim, the Legislative Commission's Subcommittee to Study Sentencing and Pardons, and Parole and Probation heard testimony and received recommendations from many of Nevada's concerned citizens.

During the public comment period of the April 27, 2006, meeting, a number of citizens voiced serious concerns about the access to medical care for inmates in Nevada's correctional system. Several incidents were outlined to the Subcommittee alleging that inmates with serious medical conditions may not be receiving proper treatment or care. While each of these examples were described to the Subcommittee in anecdotal form, the number of examples and the severity of the medical conditions described were enough to raise the concern of the Subcommittee regarding this issue.

At the June 8, 2006, work session, the Subcommittee adopted a recommendation to formally request the Governor's Office to initiate an evaluation of the level of access to health care by the inmates at Nevada's correction facilities, with special attention given to those prisoners who have medical conditions and require continuous treatment.

I am certain we all share these concerns and I appreciate your continued attention to this important issue.

Sincerely,

Assemblyman William C. Horne
Chairman

WCH/k:L10.2005.Pardons

Appendix C

The following Bill Draft Requests will be available during the 2007 Legislative Session, or can be accessed after "Introduction" at the following Web site: http://www.leg.state.nv.us/74th/BDRList/page.cfm?showAll=1

BDR 14-148: Clarifies provisions concerning authority to stay the execution of a judgment of death.

BDR 14-152: Makes various changes concerning pleas that may be entered by defendants in criminal actions.

BDR 15-151: Revises provisions governing additional penalty for committing a crime with a deadly weapon.

BDR 16-149: Makes various changes concerning parole.

BDR 16-150: Makes various changes concerning meetings of the Parole Board.