

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

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

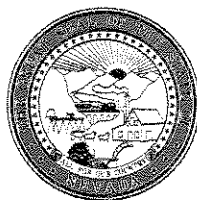
Letters Drafted Upon Adoption of Recommendations by the A.C.R. 17 Subcommittee:

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| <u>RECOMMENDATION NO. 6</u> | 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. | |
| <u>RECOMMENDATION NO. 9</u> | 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. | |
| <u>RECOMMENDATION NO. 11</u> | 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. | |
| <u>RECOMMENDATION NO. 13</u> | 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. | |
| <u>RECOMMENDATION NO. 14</u> | 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

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

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,

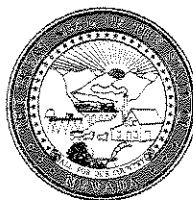
A handwritten signature in black ink, appearing to read "W. C. Horne".

Assemblyman William C. Horne
Chairman

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

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,

A handwritten signature in black ink, appearing to read "William C. Horne", enclosed within a large, loopy oval.

Assemblyman William C. Horne
Chairman

WILLIAM C. HORNE

ASSEMBLYMAN

District No. 34



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Vice Chairman

Judiciary

Member

Education

Health and Human Services

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.

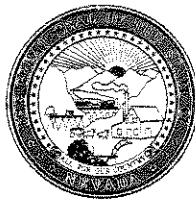
Sincerely,

A handwritten signature of William C. Horne in black ink.

Assemblyman William C. Horne

Chairman

WILLIAM C. HORNE
ASSEMBLYMAN
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State of Nevada Assembly

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.

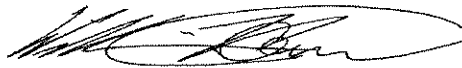
If conducted, the evaluation should include an assessment of vocational training programs, educational programs, and mental health programs or counseling. The evaluation should also

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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,

A handwritten signature in black ink, appearing to read 'William C. Horne', enclosed within a large, loopy oval shape.

William C. Horne
Chairman

WCH/k:L09.2005.Pardons

cc: Lorne Malkiewich, Director, Administrative Division, Legislative Counsel Bureau

WILLIAM C. HORNE

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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 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,

A handwritten signature of William C. Horne in black ink.

Assemblyman William C. Horne
Chairman

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.