
ASSEMBLY BILL NO. 32—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF SENTENCING POLICY)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to criminal justice.
(BDR 14-263)

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 criminal justice; revising the qualifications of the Executive Director of the Department of Sentencing Policy; revising provisions concerning the membership of the Nevada Sentencing Commission; revising provisions relating to risk and needs assessments administered to certain probationers and parolees; authorizing the Division of Parole and Probation of the Department of Public Safety to impose confinement in a jail or detention facility or place a person under a system of active electronic monitoring for technical violations of the conditions of probation or parole; requiring the system of graduated sanctions adopted by the Division to include guidance on the use of such confinement and electronic monitoring; revising the definition of “technical violation” as the term relates to violations of the conditions of probation or parole; revising provisions relating to the temporary and full revocation of probation, suspension of sentence or parole supervision for technical violations of the conditions of probation or parole; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law creates the Department of Sentencing Policy and requires the
- 2 Governor to appoint the Executive Director of the Department from a list of three
- 3 persons recommended by the Nevada Sentencing Commission. Existing law also



4 requires the Executive Director to be an attorney who is licensed to practice law in
5 this State. (NRS 176.01323) **Section 1** of this bill: (1) specifies that the three
6 persons recommended by the Commission must be qualified persons; and (2)
7 removes the requirement that the Executive Director must be an attorney who is
8 licensed to practice law in this State.

9 Existing law establishes requirements concerning the membership of the
10 Commission, including that: (1) one member must be a representative of the
11 Division of Parole and Probation of the Department of Public Safety who is
12 appointed by the Governor; and (2) one member must be the Director of the
13 Department of Employment, Training and Rehabilitation. (NRS 176.0133) **Section**
14 **2** of this bill provides that: (1) the Chief Parole and Probation Officer may
15 alternatively be a member of the Commission; (2) if a representative of the Division
16 is a member of the Commission, he or she is appointed by the Chief instead of the
17 Governor; and (3) a representative of the Department of Employment, Training and
18 Rehabilitation who is appointed by the Director of the Department of Employment,
19 Training and Rehabilitation may alternatively be a member of the Commission.

20 Existing law requires the Division to administer a risk and needs assessment to
21 certain probationers and parolees under the supervision of the Division and, on a
22 schedule determined by the Nevada Risk Assessment System or more often if
23 necessary, administer a subsequent risk and needs assessment to such probationers
24 and parolees. (NRS 176A.435, 213.1078) **Sections 3 and 6** of this bill provide that
25 a subsequent risk and needs assessment will be administered on a schedule
26 determined by the appropriate risk assessment tool instead of by the Nevada Risk
27 Assessment System. Existing law provides that if a term or condition of probation
28 or the level of supervision set is found not to align with the results of a risk and
29 needs assessment, the supervising officer is required to notify the court of the
30 finding and the court may modify the terms of probation. (NRS 176A.435) Existing
31 law also provides that if a condition of parole or the level of parole supervision set
32 is found not to align with the results of a risk and needs assessment, the supervising
33 officer is required to submit a request to the State Board of Parole Commissioners
34 to modify the condition or level of supervision. (NRS 213.1078) **Section 6** revises
35 such a procedure to mirror the procedure used with regard to probation by requiring
36 the supervising officer to notify the Board of a finding that a condition of parole or
37 the level of parole supervision does not align with the results of a risk and needs
38 assessment and authorizing the Board to modify the condition or level of
39 supervision.

40 Existing law requires the Division to adopt a written system of graduated
41 sanctions for use by parole and probation officers when responding to a technical
42 violation of the conditions of probation or parole. (NRS 176A.510, 213.15101)
43 **Sections 4 and 7** of this bill, respectively, provide that as part of the system of
44 graduated sanctions, the Division is authorized, in response to a technical violation
45 of parole or probation, to: (1) impose confinement in a jail or detention facility for a
46 period of not more than 10 days, not to exceed 30 days in the aggregate; or (2)
47 place the person under a system of active electronic monitoring for a period of not
48 more than 60 days using an electronic device approved by the Division. **Sections 4**
49 **and 7** also require a system of graduated sanctions to include guidance on the use
50 of such confinement in a jail or detention facility and electronic monitoring.
51 **Sections 4 and 7** additionally revise the definition of "technical violation" to
52 exclude, as applicable: (1) certain violations of probation or suspension of sentence
53 by a sex offender or a person convicted of stalking with the use of electronic
54 means, an offense involving pornography with a minor or luring a child or person
55 with a mental illness through the use of electronic means; (2) certain violations of
56 parole by a prisoner convicted of a sexual offense, a prisoner who is a Tier 3
57 offender convicted of a sexual offense against a child under 14 years of age or a
58 prisoner convicted of stalking with the use of electronic means, an offense



59 involving pornography with a minor or luring a child or person with a mental
60 illness through the use of electronic means; and (3) termination from certain
61 treatment programs.

62 Existing law provides that if a probationer or parolee commits one or more
63 technical violations of the conditions of probation or parole, a court or the Board, as
64 applicable, may take certain actions, including: (1) temporarily revoking the
65 probation, suspension of sentence or parole supervision and imposing a term of
66 imprisonment of not more than 30 days for the first temporary revocation, 90 days
67 for the second temporary revocation or 180 days for the third temporary revocation;
68 or (2) fully revoking the probation, suspension of sentence or parole supervision
69 and imposing imprisonment for the remainder of the sentence for a fourth or
70 subsequent revocation. (NRS 176A.630, 213.1519) **Sections 5 and 8** of this bill:
71 (1) increase the terms of imprisonment for a temporary revocation of probation or
72 suspension of sentence or parole supervision, respectively, from 30 days to 90 days
73 for the first temporary revocation and from 90 days to 180 days for the second
74 temporary revocation; and (2) authorize a full revocation of probation or suspension
75 of sentence or parole supervision, respectively, for a third or subsequent revocation.

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

1 **Section 1.** NRS 176.01323 is hereby amended to read as
2 follows:

3 176.01323 1. The Department of Sentencing Policy is hereby
4 created.

5 2. The Executive Director of the Department must be
6 appointed by the Governor from a list of three *qualified* persons
7 recommended by the Sentencing Commission.

8 3. The Executive Director:

9 (a) Is in the unclassified service of this State;

10 (b) Serves at the pleasure of the Sentencing Commission, except
11 that the Executive Director may only be removed upon a finding by
12 the Sentencing Commission that his or her performance is
13 unsatisfactory; *and*

14 (c) ~~[Must be an attorney licensed to practice law in this State;~~
15 ~~and~~

16 ~~—(d)]~~ Shall devote his or her entire time and attention to the duties
17 of his or her office and shall not engage in any other gainful
18 employment or occupation.

19 4. The Executive Director may, within the limits of money
20 available for this purpose, employ or enter into a contract for the
21 services of such employees or consultants as is necessary to carry
22 out the provisions of NRS 176.0131 to 176.014, inclusive.

23 **Sec. 2.** NRS 176.0133 is hereby amended to read as follows:

24 176.0133 1. The Nevada Sentencing Commission is hereby
25 created within the Department. The Sentencing Commission
26 consists of:



- 1 (a) One member appointed by the Governor;
- 2 (b) One member who is a justice of the Supreme Court of
3 Nevada or a retired justice of the Supreme Court of Nevada,
4 appointed by the Chief Justice of the Supreme Court of Nevada;
- 5 (c) Two members who are judges appointed by the Chief Justice
6 of the Supreme Court of Nevada;
- 7 (d) One member who is a representative of the Administrative
8 Office of the Courts appointed by the Chief Justice of the Supreme
9 Court of Nevada;
- 10 (e) The Director of the Department of Corrections;
- 11 (f) One member who is a representative of the Office of the
12 Attorney General, appointed by the Attorney General;
- 13 (g) One member who is a district attorney, appointed by the
14 governing body of the Nevada District Attorneys Association;
- 15 (h) One member who is a representative of the Office of the
16 Clark County Public Defender, appointed by the head of the Office
17 of the Clark County Public Defender;
- 18 (i) One member who is a representative of the Office of the
19 Washoe County Public Defender, appointed by the head of the
20 Office of the Washoe County Public Defender;
- 21 (j) One member who is an attorney in private practice,
22 experienced in defending criminal actions, appointed by the
23 governing body of the State Bar of Nevada;
- 24 (k) One member who has been a victim of a crime or is a
25 representative of an organization supporting the rights of victims of
26 crime, appointed by the Governor;
- 27 (l) One member who is a member of the State Board of Parole
28 Commissioners, appointed by the State Board of Parole
29 Commissioners;
- 30 (m) One member who is ~~fa~~ :
- 31 (1) *The Chief Parole and Probation Officer; or*
32 (2) *A representative of the Division of Parole and Probation*
33 *of the Department of Public Safety, appointed by the ~~Governor;~~*
34 *Chief Parole and Probation Officer;*
- 35 (n) One member who is a representative of the Nevada Sheriffs'
36 and Chiefs' Association, appointed by the Nevada Sheriffs' and
37 Chiefs' Association;
- 38 (o) One member who is a representative of the Las Vegas
39 Metropolitan Police Department, appointed by the Sheriff of Clark
40 County;
- 41 (p) One member who is a representative of the Division of
42 Public and Behavioral Health of the Department of Health and
43 Human Services;
- 44 (q) One member who is a representative of an organization that
45 advocates on behalf of inmates, appointed by the Governor;



1 (r) Two members who are Senators, one of whom is appointed
2 by the Majority Leader of the Senate and one of whom is appointed
3 by the Minority Leader of the Senate;

4 (s) Two members who are members of the Assembly, one of
5 whom is appointed by the Speaker of the Assembly and one of
6 whom is appointed by the Minority Leader of the Assembly;

7 (t) *One member who is:*

8 (1) The Director of the Department of Employment, Training
9 and Rehabilitation; *or*

10 (2) *A representative of the Department of Employment,*
11 *Training and Rehabilitation, appointed by the Director of the*
12 *Department of Employment, Training and Rehabilitation;* and

13 (u) One member who is a representative of an organization that
14 works with offenders upon release from incarceration to assist in
15 reentry into the community appointed by the Chair of the
16 Legislative Commission.

17 2. The Executive Director shall serve as the Executive
18 Secretary of the Sentencing Commission.

19 3. If any organization listed in subsection 1 ceases to exist, the
20 appointment required pursuant to that subsection must be made by
21 the association's successor in interest, or, if there is no successor in
22 interest, by the Governor.

23 4. Each appointed member serves a term of 2 years. Members
24 may be reappointed for additional terms of 2 years in the same
25 manner as the original appointments. Any vacancy occurring in the
26 membership of the Sentencing Commission must be filled in the
27 same manner as the original appointment not later than 30 days after
28 the vacancy occurs.

29 5. The Legislators who are members of the Sentencing
30 Commission are entitled to receive the salary provided for a
31 majority of the members of the Legislature during the first 60 days
32 of the preceding session for each day's attendance at a meeting of
33 the Sentencing Commission.

34 6. At the first regular meeting of each odd-numbered year, the
35 members of the Sentencing Commission shall elect a Chair by
36 majority vote who shall serve until the next Chair is elected.

37 7. The Sentencing Commission shall:

38 (a) Hold its first meeting on or before September 1 of each odd-
39 numbered year; and

40 (b) Meet at least once every 3 months and may meet at such
41 further times as deemed necessary by the Chair.

42 8. A member of the Sentencing Commission may designate a
43 nonvoting alternate to attend a meeting in his or her place.

44 9. A majority of the members of the Sentencing Commission
45 constitutes a quorum for the transaction of business, and a majority



1 of those members present at any meeting is sufficient for any
2 official action taken by the Sentencing Commission. A nonvoting
3 alternate designated by a member pursuant to subsection 8 who
4 attends a meeting of the Sentencing Commission for which the
5 alternate is designated shall be deemed to be a member of the
6 Sentencing Commission for the purpose of determining whether a
7 quorum exists.

8 10. While engaged in the business of the Sentencing
9 Commission, to the extent of legislative appropriation, each member
10 of the Sentencing Commission is entitled to receive the per diem
11 allowance and travel expenses provided for state officers and
12 employees generally.

13 **Sec. 3.** NRS 176A.435 is hereby amended to read as follows:

14 176A.435 1. Except as otherwise provided in subsection 3,
15 the Division shall administer a risk and needs assessment to each
16 probationer under the Division's supervision. The results of the risk
17 and needs assessment must be used to set a level of supervision for
18 each probationer and to develop individualized case plans pursuant
19 to subsection 4. The risk and needs assessment must be administered
20 and scored by a person trained in the administration of the tool.

21 2. Except as otherwise provided in subsection 3, on a schedule
22 determined by the ~~[Nevada Risk Assessment System, or its~~
23 ~~suecessor]~~ *appropriate* risk assessment tool, or more often if
24 necessary, the Division shall administer a subsequent risk and needs
25 assessment to each probationer. The results of the risk and needs
26 assessment conducted in accordance with this section must be used
27 to determine whether a change in the level of supervision is
28 necessary. The Division shall document the reasons for maintaining
29 or changing the level of supervision. If the Division changes the
30 level of supervision, the Division shall notify the probationer of the
31 change.

32 3. The provisions of subsections 1 and 2 are not applicable if:

33 (a) The level of supervision for the probationer is set by the
34 court or by law; or

35 (b) The probationer is ordered to participate in a program of
36 probation secured by a security bond pursuant to NRS 176A.300 to
37 176A.370, inclusive.

38 4. The Division shall develop an individualized case plan for
39 each probationer. The case plan must include a plan for addressing
40 the criminogenic risk factors identified on the risk and needs
41 assessment, if applicable, and the list of responsivity factors that
42 will need to be considered and addressed for each probationer.

43 5. Upon a finding that a term or condition of probation ordered
44 pursuant to subsection 1 of NRS 176A.400 or the level of
45 supervision set pursuant to this section does not align with the



1 results of a risk and needs assessment administered pursuant to
2 subsection 1 or 2:

3 (a) The supervising officer shall notify the court of the finding;
4 and

5 (b) The court may modify the terms and conditions of probation
6 pursuant to subsection 1 of NRS 176A.450.

7 6. The risk and needs assessment required under this section
8 must undergo periodic validation studies in accordance with the
9 timeline established by the developer of the assessment. The
10 Division shall establish quality assurance procedures to ensure
11 proper and consistent scoring of the risk and needs assessment.

12 7. As used in this section, "risk and needs assessment" means a
13 validated, standardized actuarial tool that identifies risk factors that
14 increase the likelihood of a person reoffending and factors that,
15 when properly addressed, can reduce the likelihood of a person
16 reoffending.

17 **Sec. 4.** NRS 176A.510 is hereby amended to read as follows:

18 176A.510 1. The Division shall adopt a written system of
19 graduated sanctions for parole and probation officers to use when
20 responding to a technical violation of the conditions of probation.
21 The system must:

22 (a) Set forth a menu of presumptive sanctions for the most
23 common violations, including, without limitation, failure to report,
24 willful failure to pay fines and fees, failure to participate in a
25 required program or service, failure to complete community service
26 and failure to refrain from the use of alcohol or controlled
27 substances.

28 (b) Take into account factors such as responsivity factors
29 impacting a person's ability to successfully complete any conditions
30 of supervision, the severity of the current violation, the person's
31 previous criminal record, the number and severity of any previous
32 violations and the extent to which graduated sanctions were imposed
33 for previous violations.

34 (c) *Include guidance on the use of confinement in a jail or*
35 *detention facility and electronic monitoring pursuant to*
36 *subsection 3.*

37 2. The Division shall establish and maintain a program of
38 initial and ongoing training for parole and probation officers
39 regarding the system of graduated sanctions.

40 3. *As part of the system of graduated sanctions, the Division*
41 *may, in response to a technical violation of the conditions of*
42 *probation:*

43 (a) *Impose confinement in a jail or detention facility for a*
44 *period of not more than 10 days. The total number of days of*



1 *confinement imposed pursuant to this paragraph must not, in the*
2 *aggregate, exceed 30 days.*

3 *(b) Place the person under a system of active electronic*
4 *monitoring for a period of not more than 60 days using an*
5 *electronic device approved by the Division. The device may be*
6 *capable of using the Global Positioning System, but must be*
7 *minimally intrusive and limited in capability to recording or*
8 *transmitting information concerning the location of the person,*
9 *including, without limitation, the transmission of still visual*
10 *images which do not concern the activities of the person, and*
11 *producing, upon request, reports or records of the person's*
12 *presence near or within a crime scene or prohibited area or his or*
13 *her departure from a specified geographic location. A device*
14 *which is capable of recording or transmitting:*

15 *(1) Oral or wire communications or any auditory sound; or*

16 *(2) Information concerning the activities of the person,*

17 *↪ must not be used.*

18 4. Notwithstanding any rule or law to the contrary, a parole and
19 probation officer shall use graduated sanctions established pursuant
20 to this section when responding to a technical violation.

21 ~~[4.]~~ 5. A parole and probation officer intending to impose a
22 graduated sanction shall provide the supervised person with notice
23 of the intended sanction. The notice must inform the person of any
24 alleged violation and the date thereof and the graduated sanction to
25 be imposed.

26 ~~[5.]~~ 6. The failure of a supervised person to comply with a
27 sanction may constitute a technical violation of the conditions of
28 probation.

29 ~~[6.]~~ 7. The Division may not seek revocation of probation for a
30 technical violation of the conditions of probation until all graduated
31 sanctions have been exhausted. If the Division determines that all
32 graduated sanctions have been exhausted, the Division shall submit
33 a report to the court or Board outlining the reasons for the
34 recommendation of revocation and the steps taken by the Division
35 to change the supervised person's behavior while in the community,
36 including, without limitation, any graduated sanctions imposed
37 before recommending revocation.

38 ~~[7.]~~ 8. As used in this section:

39 (a) "Absconding" has the meaning ascribed to it in
40 NRS 176A.630.

41 (b) "Responsivity factors" has the meaning ascribed to it in
42 NRS 213.107.

43 (c) "Technical violation" means any alleged violation of the
44 conditions of probation that does not constitute absconding and is
45 not ~~[the]~~ :



1 (1) *The* commission of a:
2 ~~[(1)]~~ (I) New felony or gross misdemeanor;
3 ~~[(2)]~~ (II) Battery which constitutes domestic violence
4 pursuant to NRS 200.485;
5 ~~[(3)]~~ (III) Violation of NRS 484C.110 or 484C.120;
6 ~~[(4)]~~ (IV) Crime of violence *as defined in NRS 200.408* that
7 is punishable as a misdemeanor;
8 ~~[(5)]~~ (V) Harassment pursuant to NRS 200.571 or stalking or
9 aggravated stalking pursuant to NRS 200.575;
10 ~~[(6)]~~ (VI) Violation of a temporary or extended order for
11 protection against domestic violence issued pursuant to NRS 33.017
12 to 33.100, inclusive, a restraining order or injunction that is in the
13 nature of a temporary or extended order for protection against
14 domestic violence issued in an action or proceeding brought
15 pursuant to title 11 of NRS, a temporary or extended order for
16 protection against stalking, aggravated stalking or harassment issued
17 pursuant to NRS 200.591 or a temporary or extended order for
18 protection against sexual assault pursuant to NRS 200.378; ~~for~~
19 ~~—(7)]~~ (VII) Violation of a stay away order involving a natural
20 person who is the victim of the crime for which the supervised
21 person is being supervised ~~[(7)]~~; *or*
22 (VIII) *Violation of a condition required pursuant to*
23 *NRS 176A.410, other than a violation of paragraph (a), (b), (d),*
24 *(f), (h) or (n) of subsection 1 of that section, or NRS 176A.413; or*
25 (2) *Termination from a program which provides residential*
26 *treatment, as ordered by a court, as a condition of supervision.*

27 ➔ The term does not include termination from a specialty court
28 program.

29 **Sec. 5.** NRS 176A.630 is hereby amended to read as follows:

30 176A.630 1. If the probationer is arrested, by or without
31 warrant, in another judicial district of this state, the court which
32 granted the probation may assign the case to the district court of that
33 district, with the consent of that court. The court retaining or thus
34 acquiring jurisdiction shall cause the defendant to be brought before
35 it and consider the system of graduated sanctions adopted pursuant
36 to NRS 176A.510, if applicable. Upon determining that the
37 probationer has violated a condition of probation, the court shall, if
38 practicable, order the probationer to make restitution for any
39 necessary expenses incurred by a governmental entity in returning
40 the probationer to the court for violation of the probation. If the
41 court finds that the probationer committed a violation of a condition
42 of probation ~~[by committing a new felony or gross misdemeanor,~~
43 ~~battery which constitutes domestic violence pursuant to NRS~~
44 ~~200.485, violation of NRS 484C.110 or 484C.120, crime of violence~~
45 ~~that is punishable as a misdemeanor, harassment pursuant to~~



1 ~~NRS 200.571, stalking or aggravated stalking pursuant to NRS~~
2 ~~200.575, violation of a stay away order involving a natural person~~
3 ~~who is the victim of the crime for which the probationer is being~~
4 ~~supervised, violation of a temporary or extended order for protection~~
5 ~~against domestic violence issued pursuant to NRS 33.017 to 33.100,~~
6 ~~inclusive, a restraining order or injunction that is in the nature of a~~
7 ~~temporary or extended order for protection against domestic~~
8 ~~violence issued in an action or proceeding brought pursuant to title~~
9 ~~11 of NRS, a temporary or extended order for protection against~~
10 ~~stalking, aggravated stalking or harassment issued pursuant to NRS~~
11 ~~200.591 or a temporary or extended order for protection against~~
12 ~~sexual assault pursuant to NRS 200.378 or by absconding.] *that is*~~
13 ~~*not a technical violation,*~~ the court may:

14 (a) Continue or revoke the probation or suspension of sentence;

15 (b) Order the probationer to a term of residential confinement
16 pursuant to NRS 176A.660;

17 (c) Order the probationer to undergo a program of regimental
18 discipline pursuant to NRS 176A.780;

19 (d) Cause the sentence imposed to be executed; or

20 (e) Modify the original sentence imposed by reducing the term
21 of imprisonment and cause the modified sentence to be executed.
22 The court shall not make the term of imprisonment less than the
23 minimum term of imprisonment prescribed by the applicable penal
24 statute. If the Chief Parole and Probation Officer recommends that
25 the sentence of a probationer be modified and the modified sentence
26 be executed, the Chief Parole and Probation Officer shall provide
27 notice of the recommendation to any victim of the crime for which
28 the probationer was convicted who has requested in writing to be
29 notified and who has provided a current address to the Division. The
30 notice must inform the victim that he or she has the right to submit
31 documents to the court and to be present and heard at the hearing to
32 determine whether the sentence of a probationer who has violated a
33 condition of probation should be modified. The court shall not
34 modify the sentence of a probationer and cause the sentence to be
35 executed until it has confirmed that the Chief Parole and Probation
36 Officer has complied with the provisions of this paragraph. The
37 Chief Parole and Probation Officer must not be held responsible
38 when such notification is not received by the victim if the victim has
39 not provided a current address. All personal information, including,
40 but not limited to, a current or former address, which pertains to a
41 victim and which is received by the Division pursuant to this
42 paragraph is confidential.

43 2. If the court finds that the probationer committed one or more
44 technical violations of the conditions of probation, the court may:

45 (a) Continue the probation or suspension of sentence;



1 (b) Order the probationer to a term of residential confinement
2 pursuant to NRS 176A.660;

3 (c) Temporarily revoke the probation or suspension of sentence
4 and impose a term of imprisonment of not more than:

5 (1) ~~Thirty days for the first temporary revocation;~~

6 ~~—(2)~~ Ninety days for the ~~second~~ *first* temporary revocation;
7 or

8 ~~(3)~~ (2) One hundred and eighty days for the ~~third~~ *second*
9 temporary revocation; or

10 (d) Fully revoke the probation or suspension of sentence and
11 impose imprisonment for the remainder of the sentence for a
12 ~~fourth~~ *third* or subsequent revocation.

13 3. Notwithstanding any other provision of law, a probationer
14 who is arrested and detained for committing a technical violation of
15 the conditions of probation must be brought before the court not
16 later than 15 calendar days after the date of arrest and detention. If
17 the person is not brought before the court within 15 calendar days,
18 the probationer must be released from detention and returned to
19 probation status. Following a probationer's release from detention,
20 the court may subsequently hold a hearing to determine if a
21 technical violation has occurred. If the court finds that such a
22 technical violation occurred, the court may:

23 (a) Continue probation and modify the terms and conditions of
24 probation; or

25 (b) Fully or temporarily revoke probation in accordance with the
26 provisions of subsection 2.

27 4. The commission of one of the following acts by a
28 probationer must not, by itself, be used as the only basis for the
29 revocation of probation:

30 (a) Consuming any alcoholic beverage.

31 (b) Testing positive on a drug or alcohol test.

32 (c) Failing to abide by the requirements of a mental health or
33 substance use treatment program.

34 (d) Failing to seek and maintain employment.

35 (e) Failing to pay any required fines or fees.

36 (f) Failing to report any changes in residence.

37 5. As used in this section:

38 (a) "Absconding" means that a person is actively avoiding
39 supervision by making his or her whereabouts unknown to the
40 Division for a continuous period of 60 days or more.

41 (b) "Technical violation" ~~means any alleged violation of the~~
42 ~~conditions of probation that does not constitute absconding and is~~
43 ~~not the commission of a:~~

44 ~~—(1) New felony or gross misdemeanor;~~



1 ~~— (2) Battery which constitutes domestic violence pursuant to~~
2 ~~NRS 200.485;~~

3 ~~— (3) Violation of NRS 484C.110 or 484C.120;~~

4 ~~— (4) Crime of violence that is punishable as a misdemeanor;~~

5 ~~— (5) Harassment pursuant to NRS 200.571 or stalking or~~
6 ~~aggravated stalking pursuant to NRS 200.575;~~

7 ~~— (6) Violation of a temporary or extended order for protection~~
8 ~~against domestic violence issued pursuant to NRS 33.017 to 33.100,~~
9 ~~inclusive, a restraining order or injunction that is in the nature of a~~
10 ~~temporary or extended order for protection against domestic~~
11 ~~violence issued in an action or proceeding brought pursuant to title~~
12 ~~11 of NRS, a temporary or extended order for protection against~~
13 ~~stalking, aggravated stalking or harassment issued pursuant to NRS~~
14 ~~200.591 or a temporary or extended order for protection against~~
15 ~~sexual assault pursuant to NRS 200.378; or~~

16 ~~— (7) Violation of a stay away order involving a natural person~~
17 ~~who is the victim of the crime for which the probationer is being~~
18 ~~supervised.~~

19 ~~→ The term does not include termination from a specialty court~~
20 ~~program.] *has the meaning ascribed to it in NRS 176A.510.*~~

21 **Sec. 6.** NRS 213.1078 is hereby amended to read as follows:

22 213.1078 1. Except as otherwise provided in subsection 3,
23 the Division shall administer a risk and needs assessment to each
24 parolee under the Division's supervision. The results of the risk and
25 needs assessment must be used to set a level of supervision for each
26 parolee and to develop individualized case plans pursuant to
27 subsection 4. The risk and needs assessment must be administered
28 and scored by a person trained in the administration of the tool.

29 2. Except as otherwise provided in subsection 3, on a schedule
30 determined by the ~~[Nevada Risk Assessment System, or its~~
31 ~~successor]~~ *appropriate* risk assessment tool, or more often if
32 necessary, the Division shall administer a subsequent risk and needs
33 assessment to each parolee. The results of the risk and needs
34 assessment conducted in accordance with this subsection must be
35 used to determine whether a change in the level of supervision is
36 necessary. The Division shall document the reasons for maintaining
37 or changing the level of supervision. If the Division changes the
38 level of supervision, the Division shall notify the parolee of the
39 change.

40 3. The provisions of subsections 1 and 2 are not applicable if
41 the level of supervision for the parolee is set by the Board or by law.

42 4. The Division shall develop an individualized case plan for
43 each parolee. The case plan must include a plan for addressing the
44 criminogenic risk factors identified on the risk and needs



1 assessment, if applicable, and the list of responsivity factors that
2 will need to be considered and addressed for each parolee.

3 5. Upon a finding that a condition of parole or the level of
4 parole supervision set pursuant to this section does not align with
5 the results of a risk and needs assessment administered pursuant to
6 subsection 1 or 2 ~~[, the]~~ :

7 (a) *The supervising officer shall ~~[submit a request to]~~ notify the*
8 *Board ~~[to]~~ of the finding; and*

9 (b) *The Board may* modify the condition or level of supervision
10 set by the Board. The Division shall provide written notification to
11 the parolee of any modification.

12 6. The risk and needs assessment required under this section
13 must undergo periodic validation studies in accordance with the
14 timeline established by the developer of the assessment. The
15 Division shall establish quality assurance procedures to ensure
16 proper and consistent scoring of the risk and needs assessment.

17 **Sec. 7.** NRS 213.15101 is hereby amended to read as follows:

18 213.15101 1. The Division shall adopt a written system of
19 graduated sanctions for parole and probation officers to use when
20 responding to a technical violation of the conditions of parole. The
21 system must:

22 (a) Set forth a menu of presumptive sanctions for the most
23 common violations, including, without limitation, failure to report,
24 willful failure to pay fines and fees, failure to participate in a
25 required program or service, failure to complete community service
26 and failure to refrain from the use of alcohol or controlled
27 substances.

28 (b) Take into account factors such as responsivity factors
29 impacting a person's ability to successfully complete any conditions
30 of supervision, the severity of the current violation, the person's
31 previous criminal record, the number and severity of any previous
32 violations and the extent to which graduated sanctions were imposed
33 for previous violations.

34 (c) *Include guidance on the use of confinement in a jail or*
35 *detention facility and electronic monitoring pursuant to*
36 *subsection 3.*

37 2. The Division shall establish and maintain a program of
38 initial and ongoing training for parole and probation officers
39 regarding the system of graduated sanctions.

40 3. *As part of the system of graduated sanctions, the Division*
41 *may, in response to a technical violation of the conditions of*
42 *parole:*

43 (a) *Impose confinement in a jail or detention facility for a*
44 *period of not more than 10 days. The total number of days of*



1 *confinement imposed pursuant to this paragraph must not, in the*
2 *aggregate, exceed 30 days.*

3 *(b) Place the person under a system of active electronic*
4 *monitoring for a period of not more than 60 days using an*
5 *electronic device approved by the Division. The device may be*
6 *capable of using the Global Positioning System, but must be*
7 *minimally intrusive and limited in capability to recording or*
8 *transmitting information concerning the location of the person,*
9 *including, without limitation, the transmission of still visual*
10 *images which do not concern the activities of the person, and*
11 *producing, upon request, reports or records of the person's*
12 *presence near or within a crime scene or prohibited area or his or*
13 *her departure from a specified geographic location. A device*
14 *which is capable of recording or transmitting:*

15 *(1) Oral or wire communications or any auditory sound; or*

16 *(2) Information concerning the activities of the person,*

17 *↪ must not be used.*

18 4. Notwithstanding any rule or law to the contrary, a parole and
19 probation officer shall use graduated sanctions established pursuant
20 to this section when responding to a technical violation.

21 ~~[4.]~~ 5. A parole and probation officer intending to impose a
22 graduated sanction shall provide the supervised person with notice
23 of the intended sanction. The notice must inform the person of any
24 alleged violation and the date thereof and the graduated sanction to
25 be imposed.

26 ~~[5.]~~ 6. The failure of a supervised person to comply with a
27 sanction may constitute a technical violation of the conditions of
28 parole.

29 ~~[6.]~~ 7. The Division may not seek revocation of parole for a
30 technical violation of the conditions of parole until all graduated
31 sanctions have been exhausted. If the Division determines that all
32 graduated sanctions have been exhausted, the Division shall submit
33 a report to the Board outlining the reasons for the recommendation
34 of revocation and the steps taken by the Division to change the
35 supervised person's behavior while in the community, including,
36 without limitation, any graduated sanctions imposed before
37 recommending revocation.

38 ~~[7.]~~ 8. As used in this section:

39 (a) "Absconding" has the meaning ascribed to it in
40 NRS 176A.630.

41 (b) "Technical violation" means any alleged violation of the
42 conditions of parole that does not constitute absconding and is not

43 ~~[the]~~:

44 *(1) The commission of a:*

45 ~~[(1)]~~ *(1) New felony or gross misdemeanor;*



1 ~~[(2)]~~ *(II)* Battery which constitutes domestic violence
2 pursuant to NRS 200.485;

3 ~~[(3)]~~ *(III)* Violation of NRS 484C.110 or 484C.120;

4 ~~[(4)]~~ *(IV)* Crime of violence as defined in NRS 200.408 that
5 is punishable as a misdemeanor;

6 ~~[(5)]~~ *(V)* Harassment pursuant to NRS 200.571 or stalking or
7 aggravated stalking pursuant to NRS 200.575;

8 ~~[(6)]~~ *(VI)* Violation of a temporary or extended order for
9 protection against domestic violence issued pursuant to NRS 33.017
10 to 33.100, inclusive, a restraining order or injunction that is in the
11 nature of a temporary or extended order for protection against
12 domestic violence issued in an action or proceeding brought
13 pursuant to title 11 of NRS, a temporary or extended order for
14 protection against stalking, aggravated stalking or harassment issued
15 pursuant to NRS 200.591 or a temporary or extended order for
16 protection against sexual assault pursuant to NRS 200.378; ~~for~~

17 ~~—[(7)]~~ *(VII)* Violation of a stay away order involving a natural
18 person who is the victim of the crime for which the supervised
19 person is being supervised ~~[(7)]~~; or

20 *(VIII) Violation of a condition required pursuant to*
21 *NRS 213.1245, other than a violation of paragraph (a), (c), (e), (g)*
22 *or (m) of subsection 1 of that section, NRS 213.1255 or 213.1258;*
23 *or*

24 *(2) Termination from a program indicated in a parole*
25 *release plan approved by the Division.*

26 ↪ The term does not include termination from a specialty court
27 program.

28 **Sec. 8.** NRS 213.1519 is hereby amended to read as follows:

29 213.1519 1. Except as otherwise provided in subsections 2
30 and 3, a parolee whose parole is revoked by decision of the Board
31 for the commission of a ~~[new felony or gross misdemeanor, battery~~
32 ~~which constitutes domestic violence pursuant to NRS 200.485,~~
33 ~~violation of NRS 484C.110 or 484C.120, crime of violence as~~
34 ~~defined in NRS 200.408 that is punishable as a misdemeanor,~~
35 ~~harassment pursuant to NRS 200.571, stalking or aggravated~~
36 ~~stalking pursuant to NRS 200.575, violation of a stay away order~~
37 ~~involving a natural person who is the victim of the crime for which~~
38 ~~the parolee is being supervised, violation of a temporary or extended~~
39 ~~order for protection against domestic violence issued pursuant to~~
40 ~~NRS 33.017 to 33.100, inclusive, a restraining order or injunction~~
41 ~~that is in the nature of a temporary or extended order for protection~~
42 ~~against domestic violence issued in an action or proceeding brought~~
43 ~~pursuant to title 11 of NRS, a temporary or extended order for~~
44 ~~protection against stalking, aggravated stalking or harassment issued~~
45 ~~pursuant to NRS 200.591 or a temporary or extended order for~~



1 ~~protection against sexual assault pursuant to NRS 200.378 or for~~
2 ~~absconding;]~~ *violation of a condition of parole that is not a*
3 *technical violation:*

4 (a) Forfeits all credits for good behavior previously earned to
5 reduce his or her sentence pursuant to chapter 209 of NRS; and

6 (b) Must serve such part of the unexpired maximum term or the
7 maximum aggregate term, as applicable, of his or her original
8 sentence as may be determined by the Board with rehearing dates
9 scheduled pursuant to NRS 213.142.

10 ↪ The Board may restore any credits forfeited under this
11 subsection.

12 2. A parolee released on parole pursuant to subsection 1 of
13 NRS 213.1215 whose parole is revoked for having been convicted
14 of a new felony:

15 (a) Forfeits all credits for good behavior previously earned to
16 reduce his or her sentence pursuant to chapter 209 of NRS;

17 (b) Must serve the entire unexpired maximum term or the
18 maximum aggregate term, as applicable, of his or her original
19 sentence; and

20 (c) May not again be released on parole during his or her term of
21 imprisonment.

22 3. A parolee released on parole pursuant to subsection 2 of
23 NRS 213.1215 whose parole is revoked by decision of the Board for
24 a violation of any rule or regulation governing his or her conduct:

25 (a) Forfeits all credits for good behavior previously earned to
26 reduce his or her sentence pursuant to chapter 209 of NRS;

27 (b) Must serve such part of the unexpired maximum term or
28 maximum aggregate term, as applicable, of his or her original
29 sentence as may be determined by the Board; and

30 (c) Must not be considered again for release on parole pursuant
31 to subsection 2 of NRS 213.1215 but may be considered for release
32 on parole pursuant to NRS 213.1099, with rehearing dates scheduled
33 pursuant to NRS 213.142.

34 ↪ The Board may restore any credits forfeited under this
35 subsection.

36 4. If the Board finds that the parolee committed one or more
37 technical violations of the conditions of parole, the Board may:

38 (a) Continue parole supervision;

39 (b) Temporarily revoke parole supervision and impose a term of
40 imprisonment of not more than:

41 (1) ~~Thirty days for the first temporary parole revocation;~~
42 ~~—(2)~~ Ninety days for the ~~[second]~~ *first* temporary parole
43 revocation; or

44 ~~[(3)]~~ (2) One hundred and eighty days for the ~~[third]~~ *second*
45 temporary parole revocation; or



1 (c) Fully revoke parole supervision and impose the remainder of
2 the sentence for a ~~fourth~~ *third* or subsequent revocation.

3 5. As used in this section:

4 (a) "Absconding" has the meaning ascribed to it in
5 NRS 176A.630.

6 (b) "Technical violation" ~~means any alleged violation of the~~
7 ~~conditions of parole that does not constitute absconding and is not~~
8 ~~the commission of a:~~

9 ~~— (1) New felony or gross misdemeanor;~~

10 ~~— (2) Battery which constitutes domestic violence pursuant to~~
11 ~~NRS 200.485;~~

12 ~~— (3) Violation of NRS 484C.110 or 484C.120;~~

13 ~~— (4) Crime of violence as defined in NRS 200.408 that is~~
14 ~~punishable as a misdemeanor;~~

15 ~~— (5) Harassment pursuant to NRS 200.571 or stalking or~~
16 ~~aggravated stalking pursuant to NRS 200.575;~~

17 ~~— (6) Violation of a temporary or extended order for protection~~
18 ~~against domestic violence issued pursuant to NRS 33.017 to 33.100,~~
19 ~~inclusive, a restraining order or injunction that is in the nature of a~~
20 ~~temporary or extended order for protection against domestic~~
21 ~~violence issued in an action or proceeding brought pursuant to title~~
22 ~~11 of NRS, a temporary or extended order for protection against~~
23 ~~stalking, aggravated stalking or harassment issued pursuant to NRS~~
24 ~~200.591 or a temporary or extended order for protection against~~
25 ~~sexual assault pursuant to NRS 200.378; or~~

26 ~~— (7) Violation of a stay away order involving a natural person~~
27 ~~who is the victim of the crime for which the parolee is being~~
28 ~~supervised.~~

29 ~~→ The term does not include termination from a specialty court~~
30 ~~program.] has the meaning ascribed to it in NRS 213.15101.~~

31 **Sec. 9.** 1. The amendatory provisions of sections 4, 5, 7 and
32 8 of this act apply to a technical violation of the conditions of
33 probation or parole, as applicable, that occurs on or after July 1,
34 2023.

35 2. As used in subsection 1, "technical violation" has the
36 meaning ascribed to it in NRS 176A.510 or 213.15101, as
37 applicable.

38 **Sec. 10.** This act becomes effective on July 1, 2023.

