
SENATE BILL NO. 103—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON JUDICIARY)

PREFILED FEBRUARY 2, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the Nevada Sentencing Commission within the Department of Sentencing Policy. (BDR 14-308)

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

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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 criminal justice; revising the membership, powers and duties of the Nevada Sentencing Commission; requiring the Sentencing Commission to conduct an interim study concerning the sentences imposed for misdemeanor offenses in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law creates the Nevada Sentencing Commission within the
2 Department of Sentencing Policy, prescribes the membership of the Sentencing
3 Commission and sets forth various powers and duties of the Sentencing
4 Commission. (NRS 176.0133, 176.0134) **Section 2** of this bill revises the
5 membership of the Sentencing Commission to remove a member appointed by the
6 Governor and add: (1) a member who is the Chief of Staff to the Governor or his or
7 her designee; (2) a member who is a district attorney; (3) a member who is a
8 representative of the Central Repository for Nevada Records of Criminal History;
9 (4) a member who has expertise in certain sentencing policies and practices; and (5)
10 a member who is a faculty member in the Nevada System of Higher Education.
11 **Section 2** also: (1) prescribes certain additional requirements relating to members
12 of the Sentencing Commission who are district attorneys; and (2) authorizes the
13 Sentencing Commission to establish working groups, task forces and similar
14 entities to assist in its work.

15 **Section 3** of this bill removes certain specific requirements relating to
16 recommendations of the Sentencing Commission. **Section 3** also removes
17 requirements that the Sentencing Commission: (1) provide certain training
18 regarding sentencing; (2) act as a sentencing policy resource for this State; and (3)



19 propose and recommend statutory sentencing guidelines. **Section 1** of this bill
20 makes a conforming change relating to the duties of the Sentencing Commission.
21 **Section 4** of this bill requires the Sentencing Commission to conduct an interim
22 study concerning the sentences imposed for misdemeanor offenses in this State.
23 **Section 4** requires that such a study include an evaluation of: (1) the offenses
24 punishable as misdemeanors in this State; (2) the laws governing misdemeanor
25 offenses in other states and territories of the United States; and (3) any other data
26 the Sentencing Commission determines is relevant to the study. **Section 4** requires
27 the Sentencing Commission to submit a report of the results of the study and any
28 recommendations for legislation to the Joint Interim Standing Committee on the
29 Judiciary and the Director of the Legislative Counsel Bureau for transmittal to the
30 83rd Session of the Nevada Legislature.

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

1 **Section 1.** NRS 176.01327 is hereby amended to read as
2 follows:
3 176.01327 The Executive Director appointed pursuant to NRS
4 176.01323 shall:
5 1. Oversee all of the functions of the Department.
6 2. Serve as Executive Secretary of the Sentencing Commission
7 without additional compensation.
8 3. Report to the Sentencing Commission on sentencing and
9 related issues regarding the functions of the Department and provide
10 such information to the Sentencing Commission as requested.
11 4. Assist the Sentencing Commission in determining necessary
12 and appropriate recommendations to assist in carrying out the
13 responsibilities of the Department.
14 5. Establish the budget for the Department.
15 6. Facilitate the collection and aggregation of data from the
16 courts, Department of Corrections, Division of Parole and Probation
17 of the Department of Public Safety and any other agency of criminal
18 justice.
19 7. Identify variables or sets of data concerning criminal justice
20 that are not currently collected or shared across agencies of criminal
21 justice within this State.
22 8. Assist in preparing and submitting the comprehensive report
23 required to be prepared by the Sentencing Commission pursuant to
24 subsection ~~4~~5 of NRS 176.0134.
25 9. Assist the Sentencing Commission in carrying out its duties
26 pursuant to subsections 2 and 3 of NRS 176.01347 relating to the
27 calculation of the costs avoided by this State for the immediately
28 preceding fiscal year because of the enactment of chapter 633,
29 Statutes of Nevada 2019, and in preparing a report containing the



1 projected amount of such costs for the next biennium and
2 recommendations for the reinvestment of the amount of the costs.

3 10. Take any other actions necessary to carry out the powers
4 and duties of the Sentencing Commission pursuant to NRS
5 176.0131 to 176.014, inclusive.

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

7 176.0133 1. The Nevada Sentencing Commission is hereby
8 created within the Department. The Sentencing Commission
9 consists of:

10 (a) One member ~~{appointed by}~~ *who is the Chief of Staff to* the
11 Governor ~~{;} or his or her designee;~~

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

15 (c) Two members who are judges appointed by the Chief Justice
16 of the Supreme Court of Nevada;

17 (d) One member who is a representative of the Administrative
18 Office of the Courts appointed by the Chief Justice of the Supreme
19 Court of Nevada;

20 (e) The Director of the Department of Corrections;

21 (f) One member who is a representative of the Office of the
22 Attorney General, appointed by the Attorney General;

23 (g) ~~{One member who is a district attorney,}~~ *Two members*
24 *appointed by the governing body of the Nevada District Attorneys*
25 *Association {;} , one of whom must be a district attorney in a*
26 *county whose population is 100,000 or more and one of whom*
27 *must be a district attorney in a county whose population is less*
28 *than 100,000;*

29 (h) One member who is a representative of the Office of the
30 Clark County Public Defender, appointed by the head of the Office
31 of the Clark County Public Defender;

32 (i) One member who is a representative of the Office of the
33 Washoe County Public Defender, appointed by the head of the
34 Office of the Washoe County Public Defender;

35 (j) One member who is an attorney in private practice,
36 experienced in defending criminal actions, appointed by the
37 governing body of the State Bar of Nevada;

38 (k) One member who has been a victim of a crime or is a
39 representative of an organization supporting the rights of victims of
40 crime, appointed by the Governor;

41 (l) One member who is a member of the State Board of Parole
42 Commissioners, appointed by the State Board of Parole
43 Commissioners;



1 (m) One member who is a representative of the Division of
2 Parole and Probation of the Department of Public Safety, appointed
3 by the Governor;

4 (n) One member who is a representative of the Nevada Sheriffs'
5 and Chiefs' Association, appointed by the Nevada Sheriffs' and
6 Chiefs' Association;

7 (o) One member who is a representative of the Las Vegas
8 Metropolitan Police Department, appointed by the Sheriff of Clark
9 County;

10 (p) One member who is a representative of the Division of
11 Public and Behavioral Health of the Department of Health and
12 Human Services;

13 (q) One member who is a representative of an organization that
14 advocates on behalf of inmates, appointed by the Governor;

15 (r) Two members who are Senators, one of whom is appointed
16 by the Majority Leader of the Senate and one of whom is appointed
17 by the Minority Leader of the Senate;

18 (s) Two members who are members of the Assembly, one of
19 whom is appointed by the Speaker of the Assembly and one of
20 whom is appointed by the Minority Leader of the Assembly;

21 (t) The Director of the Department of Employment, Training
22 and Rehabilitation; ~~and~~

23 (u) One member who is a representative of an organization that
24 works with offenders upon release from incarceration to assist in
25 reentry into the community appointed by the Chair of the
26 Legislative Commission ~~and~~;

27 (v) *One member who is a representative of the Central*
28 *Repository for Nevada Records of Criminal History, appointed by*
29 *the Director of the Department of Public Safety;*

30 (w) *One member appointed by the Chair of the Legislative*
31 *Commission who has expertise in:*

32 (1) *The policies and practices regarding misdemeanor*
33 *sentencing which are employed in this State and other states; and*

34 (2) *Administrative assessments, fines and fees imposed*
35 *upon persons involved in the criminal justice system in this State*
36 *and other states; and*

37 (x) *One member who is a faculty member of the University of*
38 *Nevada, Las Vegas, or the University of Nevada, Reno, appointed*
39 *by the Governor.*

40 2. The Executive Director shall serve as the Executive
41 Secretary of the Sentencing Commission.

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



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

7 5. The Legislators who are members of the Sentencing
8 Commission are entitled to receive the salary provided for a
9 majority of the members of the Legislature during the first 60 days
10 of the preceding session for each day's attendance at a meeting of
11 the Sentencing Commission.

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

15 7. The Sentencing Commission shall:

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

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

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

22 9. A majority of the members of the Sentencing Commission
23 constitutes a quorum for the transaction of business, and a majority
24 of those members present at any meeting is sufficient for any
25 official action taken by the Sentencing Commission. A nonvoting
26 alternate designated by a member pursuant to subsection 8 who
27 attends a meeting of the Sentencing Commission for which the
28 alternate is designated shall be deemed to be a member of the
29 Sentencing Commission for the purpose of determining whether a
30 quorum exists.

31 10. While engaged in the business of the Sentencing
32 Commission, to the extent of legislative appropriation, each member
33 of the Sentencing Commission is entitled to receive the per diem
34 allowance and travel expenses provided for state officers and
35 employees generally.

36 *11. The Sentencing Commission may establish such working*
37 *groups, task forces and similar entities from within or outside its*
38 *membership as necessary to address specific issues or otherwise to*
39 *assist in its work.*

40 **Sec. 3.** NRS 176.0134 is hereby amended to read as follows:

41 176.0134 The Sentencing Commission shall:

42 1. ~~Advise the Legislature on proposed legislation and make~~
43 ~~recommendations with respect to all matters relating to the elements~~
44 ~~of this State's system of criminal justice which affect the sentences~~
45 ~~imposed for felonies and gross misdemeanors.~~



1 —2.] Evaluate *and study* the effectiveness and fiscal impact of
2 various policies and practices regarding sentencing which are
3 employed in this State and other states, including, without
4 limitation, the use of plea bargaining, probation, programs of
5 enhanced supervision, programs of regimental discipline,
6 imprisonment, sentencing recommendations, mandatory and
7 minimum sentencing, mandatory sentencing for crimes involving
8 the possession, manufacture and distribution of controlled
9 substances, enhanced penalties for habitual criminals, parole, credits
10 against sentences, residential confinement and alternatives to
11 incarceration.

12 [3.] 2. Recommend changes in the structure of sentencing in
13 this State which [,-to] :

14 (a) *Are consistent with the public policy set forth in NRS*
15 *176.0131; and*

16 (b) *To the extent practicable and with consideration for their*
17 *fiscal impact, incorporate general objectives and goals for*
18 *sentencing . [, including, without limitation, the following:*

19 ~~—(a) Offenders must receive sentences that increase in direct~~
20 ~~proportion to the severity of their crimes and their histories of~~
21 ~~criminality.~~

22 ~~—(b) Offenders who have extensive histories of criminality or~~
23 ~~who have exhibited a propensity to commit crimes of a predatory or~~
24 ~~violent nature must receive sentences which reflect the need to~~
25 ~~ensure the safety and protection of the public and which allow for~~
26 ~~the imprisonment for life of such offenders.~~

27 ~~—(c) Offenders who have committed offenses that do not include~~
28 ~~acts of violence and who have limited histories of criminality must~~
29 ~~receive sentences which reflect the need to conserve scarce~~
30 ~~economic resources through the use of various alternatives to~~
31 ~~traditional forms of incarceration.~~

32 ~~—(d) Offenders with similar histories of criminality who are~~
33 ~~convicted of similar crimes must receive sentences that are generally~~
34 ~~similar.~~

35 ~~—(e) Offenders sentenced to imprisonment must receive sentences~~
36 ~~which do not confuse or mislead the public as to the actual time~~
37 ~~those offenders must serve while incarcerated or before being~~
38 ~~released from confinement or supervision.~~

39 ~~—(f) Offenders must not receive disparate sentences based upon~~
40 ~~factors such as race, gender or economic status.~~

41 ~~—(g) Offenders must receive sentences which are based upon the~~
42 ~~specific circumstances and facts of their offenses, including the~~
43 ~~nature of the offense and any aggravating factors, the savagery of~~
44 ~~the offense, as evidenced by the extent of any injury to the victim,~~



~~1 and the degree of criminal sophistication demonstrated by the
2 offender's acts before, during and after commission of the offense.~~

~~3 —4.] 3. Facilitate the development and maintenance of a
4 statewide sentencing database in collaboration with state and local
5 agencies, using existing databases or resources where appropriate.~~

~~6 [5. Provide training regarding sentencing and related issues,
7 policies and practices, and act as a sentencing policy resource for
8 this State.~~

~~9 —6. Evaluate the impact of pretrial, sentencing diversion,
10 incarceration and postrelease supervision programs.~~

~~11 —7. Identify potential areas of sentencing disparity related to
12 race, gender and economic status.~~

~~13 —8. Propose and recommend statutory sentencing guidelines,
14 based on reasonable offense and offender characteristics which aim
15 to preserve judicial discretion and provide for individualized
16 sentencing, for the use of the district courts. If such guidelines are
17 enacted by the Legislature, the Sentencing Commission shall review
18 and propose any recommended changes.~~

~~19 —9. Evaluate whether sentencing guidelines recommended
20 pursuant to subsection 8 should be mandatory and if judicial
21 findings should be required for any departures from the sentencing
22 guidelines.~~

~~23 —10.] 4. Provide recommendations and advice to the Executive
24 Director concerning the administration of the Department,
25 including, without limitation:~~

26 (a) Receiving reports from the Executive Director and providing
27 advice to the Executive Director concerning measures to be taken by
28 the Department to ensure compliance with the duties of the
29 Sentencing Commission.

30 (b) Reviewing information from the Department regarding
31 sentencing of offenders in this State.

32 (c) Requesting any audit, investigation or review the Sentencing
33 Commission deems necessary to carry out the duties of the
34 Sentencing Commission.

35 (d) Coordinating with the Executive Director regarding the
36 procedures for the identification and collection of data concerning
37 the sentencing of offenders in this State.

38 (e) Advising the Executive Director concerning any required
39 reports and reviewing drafts of such reports.

40 (f) Making recommendations to the Executive Director
41 concerning the budget for the Department, improvements to the
42 criminal justice system and legislation related to the duties of the
43 Sentencing Commission.

44 (g) Providing advice and recommendations to the Executive
45 Director on any other matter.



1 ~~[[1]]~~ 5. For each regular session of the Legislature, with the
2 assistance of the Department, prepare a comprehensive report
3 including the Sentencing Commission's:

4 (a) Recommended changes pertaining to sentencing;

5 (b) Findings;

6 (c) Recommendations for proposed legislation;

7 (d) Identification of outcomes resulting from the enactment of
8 chapter 633, Statutes of Nevada 2019, that were tracked and
9 assessed as required pursuant to paragraphs (a), (b) and (c) of
10 subsection 1 of NRS 176.01343;

11 (e) Identification of trends observed after the enactment of
12 chapter 633, Statutes of Nevada 2019, that were tracked and
13 assessed as required pursuant to paragraph (d) of subsection 1 of
14 NRS 176.01343;

15 (f) Identification of gaps in the State's data tracking capabilities
16 related to the criminal justice system and recommendations for
17 filling any such gaps as required pursuant to paragraph (e) of
18 subsection 1 of NRS 176.01343;

19 (g) Recommendations for improvements, changes and budgetary
20 adjustments; and

21 (h) Additional recommendations for future legislation and
22 policy options to enhance public safety and control corrections
23 costs.

24 ~~[[2]]~~ 6. Submit the report prepared pursuant to subsection ~~[[1]]~~
25 5 not later than January 15 of each odd-numbered year to:

26 (a) The Office of the Governor;

27 (b) The Director of the Legislative Counsel Bureau for
28 distribution to the Legislature; and

29 (c) The Chief Justice of the Nevada Supreme Court.

30 **Sec. 4.** 1. The Nevada Sentencing Commission shall conduct
31 a study during the 2023-2024 legislative interim concerning the
32 sentences imposed for misdemeanor offenses in this State, and make
33 a report thereof.

34 2. The study and report must include, without limitation, an
35 evaluation of:

36 (a) The offenses punishable as misdemeanors in this State;

37 (b) The laws governing misdemeanor offenses in other states
38 and territories of the United States; and

39 (c) Any other data that the Sentencing Commission determines
40 is relevant to the study.

41 3. In conducting the study required by subsection 1, the
42 Sentencing Commission shall consult with and solicit input from
43 persons and organizations with expertise in policies and practices
44 regarding sentencing for misdemeanor offenses.



1 4. The Sentencing Commission shall submit a report of the
2 results of the study and any recommendations for legislation to the
3 Joint Interim Standing Committee on the Judiciary and the Director
4 of the Legislative Counsel Bureau for transmittal to the 83rd Session
5 of the Nevada Legislature.

6 **Sec. 5.** 1. This section becomes effective on passage and
7 approval.

8 2. Sections 1 to 4, inclusive, of this act become effective:

9 (a) Upon passage and approval for the purpose of performing
10 any preparatory administrative tasks that are necessary to carry out
11 the provisions of this act; and

12 (b) On July 1, 2023, for all other purposes.

