

ASSEMBLY BILL NO. 56—ASSEMBLYWOMAN BERMAN

PREFILED JANUARY 25, 1999

Referred to Committee on Judiciary

SUMMARY—Provides for program to allow certain sex offenders on parole to participate in treatment with chemical compounds. (BDR 16-141)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 sex offenders; providing for a program to allow certain sex offenders on parole to participate in treatment with chemical compounds; requiring the chief parole and probation officer or his designee to administer the program; providing for a study and a report to the legislature concerning the program; requiring certain conditions of parole for sex offenders who participate in the program; authorizing a reduction in the maximum term of imprisonment of certain sex offenders who participate in the program; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 213 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 17, inclusive, of this act.
- 3 **Sec. 2.** *As used in sections 2 to 17, inclusive, of this act, unless the*
- 4 *context otherwise requires, the words and terms defined in sections 3 to*
- 5 *10, inclusive, of this act have the meanings ascribed to them in those*
- 6 *sections.*
- 7 **Sec. 3.** *“Board” means the state board of parole commissioners.*
- 8 **Sec. 4.** *“Chemical compound” means:*
- 9 1. *Medroxyprogesterone acetate; or*
- 10 2. *Any other compound which, based upon research that is ordinarily*
- 11 *relied upon within the scientific community:*
- 12 (a) *Is likely to have the same or similar effects upon a sex offender as*
- 13 *medroxyprogesterone acetate; or*
- 14 (b) *Is otherwise likely to curb the recidivism of a sex offender.*

1 **Sec. 5.** *“Chief” means the chief parole and probation officer or his*
2 *designee.*

3 **Sec. 6.** *“Division” means the division of parole and probation of the*
4 *department of motor vehicles and public safety.*

5 **Sec. 7.** *“Program” means the program established by the chief*
6 *pursuant to sections 2 to 17, inclusive, of this act that allows a sex*
7 *offender, with the approval of the chief, to participate in treatment with a*
8 *chemical compound while the sex offender is on parole pursuant to this*
9 *chapter.*

10 **Sec. 8.** *“Sex offender” means a prisoner who:*

11 1. *Has been convicted of at least one but not more than two sexual*
12 *offenses;*

13 2. *Has not been convicted of a violent offense; and*

14 3. *Is eligible to be released on parole pursuant to this chapter.*

15 **Sec. 9.** *“Sexual offense” means an offense listed in NRS 179D.410,*
16 *if the offense did not involve the use or threatened use of force or violence*
17 *against the victim or the use or threatened use of a firearm or a deadly*
18 *weapon.*

19 **Sec. 10.** *“Violent offense” means an offense committed in this state*
20 *or any other jurisdiction that involved the use or threatened use of force*
21 *or violence against the victim or the use or threatened use of a firearm or*
22 *a deadly weapon. The term includes, without limitation, an offense*
23 *prosecuted in:*

24 1. *A tribal court.*

25 2. *A court of the United States or the Armed Forces of the United*
26 *States.*

27 **Sec. 11.** 1. *The chief shall establish a program pursuant to sections*
28 *2 to 17, inclusive, of this act that allows a sex offender, with the approval*
29 *of the chief, to participate in treatment with a chemical compound while*
30 *the sex offender is on parole pursuant to this chapter. Not more than 20*
31 *sex offenders may participate in the program at any one time.*

32 2. *The chief shall ensure that a psychological profile is developed to*
33 *identify those sex offenders who are most likely to benefit from treatment*
34 *with a chemical compound. The chief shall select sex offenders for*
35 *participation in the program based upon the psychological profile and*
36 *any other appropriate criteria developed by the chief.*

37 3. *Before a sex offender may participate in the program:*

38 (a) *The chief shall inform the sex offender of the nature of the*
39 *program and the intended effects and typical adverse effects associated*
40 *with the chemical compound;*

41 (b) *The sex offender must give his informed consent; and*

42 (c) *The chief must approve the participation of the sex offender in the*
43 *program.*

1 **4. The program must include, without limitation:**

2 **(a) Regular physiological examinations to determine whether**
3 **treatment with a chemical compound is:**

4 **(1) Reducing the level of testosterone in the blood of the sex**
5 **offender; and**

6 **(2) Accomplishing other intended physiological effects, including,**
7 **without limitation, intended effects upon sexual arousal;**

8 **(b) Regular psychological evaluations to determine whether the**
9 **propensity of the sex offender for violence or deviant sexual behavior is**
10 **being affected by treatment with a chemical compound; and**

11 **(c) Regular psychological counseling for the sex offender.**

12 **Sec. 12. 1. The chief shall establish a system to study the effects of**
13 **the program. The study must include, without limitation:**

14 **(a) An evaluation of whether treatment with a chemical compound**
15 **reduces recidivism and the propensity of the sex offender for violence or**
16 **deviant sexual behavior; and**

17 **(b) An assessment of the side effects of treatment with a chemical**
18 **compound over an extended period, including, without limitation, an**
19 **assessment of any side effects that were previously unknown.**

20 **2. The chief shall report the findings from the study to the legislature**
21 **at the beginning of each regular session.**

22 **Sec. 13. 1. To carry out the provisions of sections 2 to 17, inclusive,**
23 **of this act, the chief may, within the limits of legislative appropriations,**
24 **contract with persons or private entities that are qualified to:**

25 **(a) Examine, evaluate or counsel sex offenders;**

26 **(b) Administer the program;**

27 **(c) Provide treatment with a chemical compound to sex offenders; or**

28 **(d) Study, evaluate or assess the effects or the effectiveness of the**
29 **program or treatment of sex offenders with a chemical compound.**

30 **2. The chief may apply for and accept grants or gifts to finance the**
31 **program.**

32 **3. Money that is received through a grant or gift pursuant to**
33 **subsection 2 must be deposited with the state treasurer for credit to the**
34 **state general fund to reimburse any appropriations made from the state**
35 **general fund to finance the program.**

36 **Sec. 14. 1. If the chief allows a sex offender to participate in the**
37 **program, the board shall, in addition to any other condition of parole that**
38 **is imposed pursuant to this chapter, require as a condition of parole that**
39 **the sex offender:**

40 **(a) To the extent of his financial ability, pay the costs associated with**
41 **his participation in the program;**

42 **(b) Submit to a program of intensive supervision pursuant to NRS**
43 **213.124;**

1 (c) Comply with the provisions of section 15 of this act;
2 (d) Comply with any condition imposed by the chief pursuant to
3 subsection 2; and

4 (e) Continue to participate in the program, unless the chief terminates
5 participation by the sex offender in the program pursuant to subsection 3.

6 2. The chief may impose any conditions on participation by a sex
7 offender in the program. The chief may impose such conditions before
8 the sex offender is released on parole and at any time after the sex
9 offender is released on parole.

10 3. The chief may terminate participation by a sex offender in the
11 program for any lawful reason or purpose, including, without limitation,
12 for any reason relating to the physical or psychological health of the sex
13 offender.

14 **Sec. 15. 1.** Except as otherwise provided in subsection 2, the board
15 shall revoke the parole of a sex offender who is allowed to participate in
16 the program if the sex offender knowingly solicits, obtains, prepares or
17 uses a substance which diminishes or negates the effects of the chemical
18 compound or which the sex offender believes will diminish or negate the
19 effects of the chemical compound, whether or not the substance actually
20 diminishes or negates the effects of the chemical compound.

21 2. The provisions of subsection 1 do not apply to a substance that:

22 (a) Is approved by the Food and Drug Administration for sale over the
23 counter without a prescription, if the sex offender uses the substance only
24 as directed by the instructions on the manufacturer's label for the
25 substance; or

26 (b) Is prescribed by a physician licensed in this state for use by the sex
27 offender, if the substance is intended to:

28 (1) Diminish or negate the typical adverse effects associated with the
29 chemical compound and the substance does not diminish or negate any of
30 the intended effects associated with the chemical compound, including,
31 without limitation, impotency or diminished sex drive; or

32 (2) Address other physical or psychological conditions affecting the
33 health of the sex offender that are unrelated to use of the chemical
34 compound.

35 3. Except as otherwise provided in this section, in addition to any
36 other lawful reason or purpose, the board may revoke the parole of a sex
37 offender who is allowed to participate in the program if the sex offender
38 fails or refuses to:

39 (a) Comply with any condition imposed by the chief pursuant to
40 section 14 of this act; or

41 (b) Participate in the program in accordance with any instructions or
42 directions given to the sex offender by a person who is authorized to give
43 such instructions or directions, including, without limitation, a parole and

1 *probation officer or other employee of the division or a physician,*
2 *psychiatrist, psychologist, counselor, nurse or assistant. The conduct*
3 *prohibited by this paragraph, includes, without limitation, failing or*
4 *refusing to:*

- 5 (1) *Appear when required;*
6 (2) *Take, be injected with or otherwise accept delivery of a chemical*
7 *compound; or*
8 (3) *Participate in or submit to any questioning, monitoring, testing,*
9 *examination, evaluation, assessment or study that is related to the*
10 *program or to treatment with a chemical compound.*

11 **Sec. 16.** 1. *Except as otherwise provided in subsection 2, if a sex*
12 *offender participates in the program for 12 or more consecutive months,*
13 *the board shall, upon the request of the sex offender, petition the court of*
14 *original jurisdiction to request a modification of sentence for the sex*
15 *offender pursuant to subsection 3 of NRS 176.033.*

16 2. *A sex offender may request the board to file a petition pursuant to*
17 *subsection 1 not more than once every 12 months.*

18 **Sec. 17.** 1. *The provisions of sections 2 to 17, inclusive, of this act*
19 *do not create a right on behalf of a sex offender to participate in the*
20 *program and do not establish a basis for any cause of action against the*
21 *state or its officers or employees for denial of the ability to participate in*
22 *or for removal from the program.*

23 2. *This state and its agencies and political subdivisions and the*
24 *officers, employees, and independent contractors of this state and its*
25 *agencies and political subdivisions are immune from liability for damages*
26 *arising from:*

27 (a) *The administration or use of a chemical compound pursuant to*
28 *sections 2 to 17, inclusive, of this act; and*

29 (b) *An act or omission related to the administration or use of a*
30 *chemical compound pursuant to sections 2 to 17, inclusive, of this act.*

31 **Sec. 18.** NRS 176.033 is hereby amended to read as follows:

32 176.033 1. If a sentence of imprisonment is required or permitted by
33 statute, the court shall:

34 (a) If sentencing a person who has been found guilty of a misdemeanor
35 or a gross misdemeanor, sentence the person to imprisonment for a definite
36 period of time within the maximum limit or the minimum and maximum
37 limits prescribed by the applicable statute, taking due account of the gravity
38 of the particular offense and of the character of the individual defendant.

39 (b) If sentencing a person who has been found guilty of a felony,
40 sentence the person to a minimum term and a maximum term of
41 imprisonment, unless a definite term of imprisonment is required by statute.

1 (c) If restitution is appropriate, set an amount of restitution for each
2 victim of the offense and for expenses related to extradition in accordance
3 with NRS 179.225.

4 2. ~~{At}~~ *Except as otherwise provided in section 16 of this act, at* any
5 time after a prisoner has been released on parole and has served one-half of
6 the period of his parole, or 10 consecutive years on parole in the case of a
7 prisoner sentenced to life imprisonment, the state board of parole
8 commissioners, upon the recommendation of the division, may petition the
9 court of original jurisdiction requesting a modification of sentence. The
10 *state board of parole commissioners may petition the court requesting a*
11 *modification of sentence pursuant to this subsection whether or not it has*
12 *previously petitioned the court requesting a modification of sentence*
13 *pursuant to section 16 of this act. The state board of parole*
14 *commissioners* shall give notice of the petition and ~~the~~ hearing ~~{thereon}~~ *on*
15 *the petition* to the attorney general or district attorney who had jurisdiction
16 in the original proceedings. Upon hearing the recommendation of the state
17 board of parole commissioners and good cause appearing, the court may
18 modify the original sentence by reducing the maximum term of
19 imprisonment but shall not make the term less than the minimum term
20 prescribed by the applicable penal statute.

21 3. *If the state board of parole commissioners petitions the court of*
22 *original jurisdiction requesting a modification of sentence for a sex*
23 *offender pursuant to section 16 of this act, the board shall give notice of*
24 *the petition and the hearing on the petition to the attorney general or*
25 *district attorney who had jurisdiction in the original proceedings. Upon*
26 *hearing the recommendation of the state board of parole commissioners*
27 *and good cause appearing, the court may modify the original sentence by*
28 *reducing the maximum term of imprisonment by an amount equal to or*
29 *less than one-half of the aggregate number of days that the sex offender*
30 *participated in the program of treatment with a chemical compound*
31 *pursuant to sections 2 to 17, inclusive, of this act, but the court shall not*
32 *make the term less than the minimum term prescribed by the applicable*
33 *penal statute.*

34 **Sec. 19.** The amendatory provisions of sections 2 to 18, inclusive, of
35 this act apply to all sex offenders, as defined in section 8 of this act, who
36 are serving a term of imprisonment or who are on parole, whether or not the
37 sex offender is or was:

- 38 1. Convicted or sentenced before, on or after October 1, 1999; or
39 2. Released on parole before, on or after October 1, 1999.