

Assembly Bill No. 574—Committee on Judiciary

CHAPTER.....

AN ACT relating to offenders; providing for the continuation of certain programs of treatment for the abuse of alcohol or drugs for certain offenders; revising certain provisions concerning such programs of treatment; making various changes concerning the sentencing of certain persons who are sentenced to imprisonment without the possibility of parole; and providing other matters properly relating thereto.

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

**Section 1.** NRS 209.4314 is hereby amended to read as follows:

209.4314 1. Except as otherwise provided in this section, if an advisory board has been created pursuant to NRS 209.4316 in the judicial district in which an offender was sentenced to imprisonment, the director shall, after consulting with the division, refer the offender to the advisory board if the director believes that the offender would participate successfully in and benefit from a program of treatment and:

(a) The offender has:

(1) Established a position of employment in the community, or a judge in the judicial district to which the offender would be assigned pursuant to NRS 213.500 will assist the offender to establish a position of employment in the community; and

(2) Demonstrated an ability to pay for all or part of the costs of his participation in a program of treatment, including, without limitation, costs for room and board, and to meet any existing obligation for restitution to any victim of his crime, or a judge in the judicial district to which the offender would be assigned will assist the offender to ensure that the offender has the ability to pay for such costs and to meet such obligations; and

(b) The offender:

(1) Is within 2 years of his probable release from prison as determined by the director; or

(2) Is imprisoned as a result of having had his parole ~~for probation~~ revoked on or after July 1, 1998, for a reason other than for committing a crime while on parole. ~~for probation.~~

2. Except as otherwise provided in this section, if the director is notified by an advisory board pursuant to NRS 209.4316 that an offender should be assigned to the custody of the division to be assigned to participate in a program of treatment, the director shall assign the offender to the custody of the division to be assigned to participate in a program of treatment for a minimum of 1 year, but not longer than the remainder of his sentence.

3. The director shall adopt, by regulation, standards providing which offenders are eligible to be assigned to the custody of the division pursuant to this section. The standards must be approved by the board and reviewed by the interim finance committee. The standards adopted by the director must provide that an offender who:

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

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

(c) Has ever been convicted of:

(1) Any crime involving the use or threatened use of force or violence against the victim that is punishable as a gross misdemeanor or felony; or

(2) A sexual offense;

(d) Has *previously* been convicted *four times or more in this state or elsewhere*, of ~~[more than one felony in this state or]~~ any offense ~~[in another state that would be a felony if committed in this state, unless each felony or]~~ *that under the laws of the situs of the offense or of this state would amount to a felony, unless an* offense which the offender has been convicted of arose out of the same act, transaction or occurrence ~~+~~ *as another offense, in which case the convictions for those offenses shall be deemed to constitute a single conviction for the purposes of this paragraph;*

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

(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the director, is not eligible for assignment to the custody of the division pursuant to this section to be assigned to participate in a program of treatment.

4. The director shall adopt regulations requiring offenders who are assigned to the custody of the division pursuant to this section to reimburse a court, the division and the department for any costs incurred pursuant to NRS 209.4311 to 209.4317, inclusive, and 213.500. The regulations must be approved by the board and reviewed by the interim finance committee.

5. A court to which an offender has been assigned pursuant to NRS 213.500 may return the offender to the custody of the department at any time.

6. If an offender assigned to the custody of the division pursuant to this section violates any of the terms or conditions imposed by a court to which the offender has been assigned pursuant to NRS 213.500 and is returned to the custody of the department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the department, as determined by the director. The director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice to the offender, and may restore credits forfeited for such reasons as he considers proper. The decision of the director regarding such a forfeiture is final.

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

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

(b) For the purposes of NRS 209.341, an assignment to a facility of the department, except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the department.

8. An offender does not have a right to be assigned to the custody of the division pursuant to this section, or to remain in that custody after such

an assignment, and it is not intended that the provisions of NRS 209.4311 to 209.4317, inclusive, or 213.500 create any right or interest in liberty or property or establish a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

9. The director shall not assign more than 150 offenders to the custody of the division pursuant to this section to be assigned to participate in a program of treatment during each biennium.

**Sec. 2.** NRS 176.035 is hereby amended to read as follows:

176.035 1. Except as otherwise provided in subsection 2, whenever a person is convicted of two or more offenses, and sentence has been pronounced for one offense, the court in imposing any subsequent sentence may provide that the sentences subsequently pronounced run either concurrently or consecutively with the sentence first imposed. Except as otherwise provided in subsections 2 and 3, if the court makes no order with reference thereto, all such subsequent sentences run concurrently.

2. Except as otherwise provided in this subsection, whenever a person under sentence of imprisonment for committing a felony commits another crime constituting a felony and is sentenced to another term of imprisonment for that felony, the latter term must not begin until the expiration of all prior terms. If the person is a probationer at the time the subsequent felony is committed, the court may provide that the latter term of imprisonment run concurrently with any prior terms or portions thereof.

*If the person is sentenced to a term of imprisonment for life without the possibility of parole, the sentence must be executed without reference to the unexpired term of imprisonment and without reference to his eligibility for parole.*

3. Whenever a person under sentence of imprisonment commits another crime constituting a misdemeanor or gross misdemeanor, the court shall provide expressly whether the sentence subsequently pronounced runs concurrently or consecutively with the one first imposed.

4. Whenever a person under sentence of imprisonment commits another crime for which the punishment is death, the sentence must be executed without reference to the unexpired term of imprisonment.

5. This section does not prevent the state board of parole commissioners from paroling a person under consecutive sentences of imprisonment from a current term of imprisonment to a subsequent term of imprisonment.

**Sec. 3.** Section 14 of chapter 552, Statutes of Nevada 1999, at page 2883, is hereby amended to read as follows:

Sec. 14. 1. This act becomes effective on July 1, 1999.

2. ~~{Sections 1 to 10, inclusive,}~~ *Section 3* of this act ~~{expire}~~ *expires* by limitation on *June 30, 2001.*

3. *Sections 1, 2 and 4 to 10, inclusive, of this act expire by limitation on June 30, 2003.*