

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Third Session
April 25, 2005**

The Committee on Judiciary was called to order at 9:06 a.m., on Monday, April 25, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. William Horne, Vice Chairman
Ms. Francis Allen
Mrs. Sharron Angle
Ms. Barbara Buckley
Mr. John C. Carpenter
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson

COMMITTEE MEMBERS ABSENT:

Mr. Marcus Conklin (excused)
Ms. Susan Gerhardt (excused)
Mr. John Ocegura (excused)
Ms. Genie Ohrenschall (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Risa Lang, Committee Counsel

Jane Oliver, Committee Attaché

OTHERS PRESENT:

Mike Ebright, Acting Deputy Chief, Division of Parole and Probation, Nevada
Department of Public Safety

Chairman Anderson:

[Called the meeting to order and roll called.]

**Senate Bill 137 (1st Reprint): Makes various changes to provisions relating to
Division of Parole and Probation of Department of Public Safety.
(BDR 14-757)**

**Mike Ebright, Acting Deputy Chief, Division of Parole and Probation, Nevada
Department of Public Safety:**

In 1999, we began a pilot project to look into reclassifying some of our officer positions to nonsworn positions, for the purpose of writing presentence investigation reports, to save money. We felt that those positions did not have to be sworn officers. We ran the pilot program for a couple of years and it was a success. In 2001, we were granted the authority to reclassify the officer positions that were assigned to those duties, to nonsworn positions.

We have reclassified 61 positions statewide. This is saving the State approximately \$150,000 to \$250,000 annually, depending on the number of steps required for the people in those positions. It's been a real success.

It came to our attention that some of the wording in the statutes referred strictly to parole and probations officers, so we needed to remove that language to allow people who are not officers the ability to write the presentence investigation reports. It's cleanup language, and that's the reason for the recommended changes to the statute in Section 1 of S.B. 137.

In Section 2 it came to our attention last year in the rural areas that some wording in the statute was causing problems with the commencement of probation. It was taking place after the probation agreement was signed by the offender. Offenders are granted probation at court and then we never see them. They abscond right away. There were legal questions regarding whether or not they were on probation, since they had not signed the probation agreement. We felt that the intent behind the law was that once the court ordered the term of probation, they were on probation. Therefore, they could be held accountable

for those rules, and could be brought back to answer any violations they may have committed if they absconded from supervision.

[Mike Ebright, continued.] There's some wording in Section 2 which allows for the entry of the order of probation to take place at the time the court grants the term. Having the probation agreement is still necessary for an offender who does show up, but is not necessary for the term to begin.

Sections 3 and 4 are both cleanup language to change the word, "officer" to "Division." Section 3 has to do with the discharges that we grant the probationers. We now have nonsworn specialists who perform these duties. They submit discharges to the court, so we needed to be able to include them in the statutes.

Section 4 deals with confidentiality. It said that the information obtained by "parole and probation officers" was confidential. All of the Division's employees keep the information they receive confidential. I didn't want there to be any misunderstanding that until now only officers were held to the confidentiality laws. It was language we felt needed to be cleaned up in the statute, to demonstrate that all information received by all of our staff is confidential.

Assemblyman Horne:

On the change of the classification of your sworn officers, only the officers that are trained will be doing these investigations? As I read it, it says the "Division." You're not going to have the secretary doing presentence investigation reports. It will strictly be those that have gone through this pilot program, or have been trained to do so. Is that correct?

Mike Ebright:

That is correct. The minimum qualifications for our parole and probation specialists are as strict as they are for the officers. They're just not sworn. Many of the positions that are held throughout the state that perform these presentence investigation reports are former officers, who no longer wish to be sworn and so they were downgraded.

We have former law enforcement officers, caseworkers from prison institutions, and former parole and probation officers. We haven't diminished the qualifications to a secretarial level.

Assemblyman Horne:

I'm sure the forms they sign are different for each probationer, depending on why he's on probation. It could be a first offense on a drug charge, or joy riding. Are there instances where somebody is put on probation, let's say shoplifting,

and it's the first time they've ever been caught for shoplifting and the judge says, "You're on probation, go forth and do no harm, and afterwards we'll clean your record." Would they still have to sign? Is there a basic "condition of probation" form that they have to sign?

Mike Ebricht:

The "judgment of conviction," which is a legal document that the judges sign, is the actual form that provides the legal order of the granting of probation. The document spoken of in S.B. 137 is what we call our probation agreement and rules. By statute, we have to provide them with the rules and regulations of their probation. There are standard rules that we have on a standardized document. Each form has similar rules about staying out of trouble, not using drugs, and reporting to a parole and probation officer.

On a case-by-case basis, a judge can order special conditions. If we have somebody who is a drug offender, then they would attend counseling for drug abuse, as opposed to somebody who committed embezzlement because of a gambling addiction, who would attend gambling counseling.

The special conditions are ordered on a case-by-case basis by the judge. These are rules we provide to them so they have an understanding of the rules they can be held accountable for.

Chairman Anderson:

You mentioned that some of the sworn officers wish to be downgraded and moved into these positions. Do they give up their retirement benefits and other relationships, in terms of when they can retire?

Mike Ebricht:

They don't give up their retirement benefits. They might make some changes to their eligibility, or to the credits they are getting. Many of the officers who have requested the downgrade already have the minimum amount of years in, as a sworn officer, to enjoy the benefits of the early peace officer retirement, and yet they no longer wish to perform those peace officer duties. They are putting in more time which increases the percentage on what they collect. There hasn't been a problem with retirement issues. It's more of a judgment call on an individual basis that they no longer wish to perform those functions.

Chairman Anderson:

The big issue is the number of contacts that people in parole and probation actually have with sex offenders and other people who are assigned to them. Will this free up their time so they don't have to do these background

paperwork functions and increase the time they spend seeing the people on the street?

Mike Ebright:

It isn't changing anything to do with the supervision officers' duties. In the past, we had two different types of officers: a supervision officer and an investigation officer. The supervision officers have the caseload and are out knocking on doors and doing the peace officer work of parole and probation. They are continuing to do that, as they always have. The positions that were reclassified were officers that were doing strictly investigations, and dealing with the courts.

These positions, even though they have contact with offenders, are always in a controlled situation, either at the office, or at a jail when they're doing interviews, or at the courthouse. They do not go to the homes and see the offenders out in the field. It's strictly investigation and then they do the report to the court. These functions were performed before by two separate distinctions of officers. Now there are officers, and parole and probation specialists.

Chairman Anderson:

I was under the impression that the investigatory officers, when there was a shortage of people in the field, had the ability to go out, because of their status, and fill those holes until employees could be shifted around, or new hires have come in. Will you lose that ability?

Mike Ebright:

We'll lose the ability for the specialists to go out and assist in the field for peace officer duties. However, when we get short staffed on the investigations side, officers can perform the investigations.

In the rural areas, because the offices are small, we still have officers doing the investigations and going to court, not specialists, because the workload is not great enough to justify hiring a separate position. There is a little bit of a problem now in the number of officers that we could draw from. For example, if a search came up and we were short in a smaller office, we could pull in this investigation officer to assist. Now, those people need to stay in the office, and we need to call for back-up from local law enforcement, or handle it with the people that you have available.

Chairman Anderson:

[Closed the hearing on S.B. 137.] It looks like a clean piece of legislation. What we're concerned about is changing the specific reference to "parole and

probation" over to the "Division," and the question of the signed documents that have been deemed acceptable for probation upon entry of the order, but the person still must sign the document. The rest of it is advocating the change and responsibility.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 137.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Buckley, Mr. Conklin, Ms. Gerhardt, Mr. Ocegüera, and Ms. Ohrenschall were not present for the vote.)

[The meeting adjourned at 9:28 a.m.]

RESPECTFULLY SUBMITTED:

Jane Oliver
Committee Attaché

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 25, 2005

Time of Meeting: 9:06 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Meeting Agenda