

SENATE BILL NO. 423—COMMITTEE ON GOVERNMENT AFFAIRS
(ON BEHALF OF THE STATE BOARD OF PAROLE COMMISSIONERS)

MARCH 29, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to certain meetings and hearings concerning prisoners and persons on parole and probation. (BDR 19-242)

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

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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 meetings of public bodies; providing that certain meetings and hearings concerning prisoners and persons on parole or probation are not subject to the Open Meeting Law but must be open to the public; prohibiting a prisoner from bringing a legal action in response to the release of certain information; 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.** NRS 241.030 is hereby amended to read as follows:
2 241.030 1. Except as otherwise provided in NRS 241.031
3 and 241.033, nothing contained in this chapter prevents a public
4 body from holding a closed meeting to consider the character,
5 alleged misconduct, professional competence, or physical or mental
6 health of a person.
7 2. A public body may close a meeting upon a motion which
8 specifies the nature of the business to be considered.
9 3. This chapter does not:
10 (a) Apply to ~~judicial proceedings.~~ :
11 ***(1) Judicial proceedings;***



(2) A meeting or hearing conducted pursuant to subsection 2 of NRS 176.033, NRS 213.1214, 213.130 or 213.133; or

(3) A meeting to consider clemency applications submitted in accordance with NRS 213.020.

(b) Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.

(c) Prevent the exclusion of witnesses from a public or private meeting during the examination of another witness.

(d) Require that any meeting be closed to the public.

(e) Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body.

4. The exception provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this chapter in order to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 2. NRS 176.033 is hereby amended to read as follows:

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

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

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

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

2. At any time after a prisoner has been released on parole and has served one-half of the period of his parole, or 10 consecutive years on parole in the case of a prisoner sentenced to life imprisonment, the State Board of Parole Commissioners, upon the recommendation of the division, may petition the court of original jurisdiction requesting a modification of sentence. The Board shall give notice of the petition and hearing thereon to the Attorney General or district attorney who had jurisdiction in the original proceedings. Upon hearing the recommendation of the State Board of Parole Commissioners and good cause appearing, the court may modify the original sentence by reducing the maximum term of



1 imprisonment but shall not make the term less than the minimum
2 term prescribed by the applicable penal statute.

3 ***3. A meeting conducted by the State Board of Parole***
4 ***Commissioners to determine whether to petition a court pursuant***
5 ***to subsection 2 to modify a sentence must be open to the public.***

6 **Sec. 3.** NRS 213.010 is hereby amended to read as follows:

7 213.010 1. The State Board of Pardons Commissioners
8 consists of the Governor, the justices of the Supreme Court and the
9 Attorney General.

10 2. Meetings of the Board for the purpose of considering
11 applications for clemency may be held semiannually or oftener, on
12 such dates as may be fixed by the Board.

13 3. The Board shall give written notice at least 15 days before a
14 meeting to each victim of the crimes committed by each person
15 whose application for clemency will be considered at the meeting, if
16 the victim so requests in writing and provides his current address. If
17 a current address is not provided, the Board may not be held
18 responsible if the notice is not received by the victim. The victim
19 may submit a written response to the Board at any time before the
20 meeting. All personal information, including, but not limited to, a
21 current or former address, which pertains to a victim and which is
22 received by the Board pursuant to this subsection is confidential.

23 ***4. A meeting conducted pursuant to this section must be open***
24 ***to the public.***

25 **Sec. 4.** NRS 213.1099 is hereby amended to read as follows:

26 213.1099 1. Except as otherwise provided in this section and
27 NRS 213.1214 and 213.1215, the Board may release on parole a
28 prisoner who is otherwise eligible for parole pursuant to NRS
29 213.107 to 213.157, inclusive.

30 2. In determining whether to release a prisoner on parole, the
31 Board shall consider:

32 (a) Whether there is a reasonable probability that the prisoner
33 will live and remain at liberty without violating the laws;

34 (b) Whether the release is incompatible with the welfare of
35 society;

36 (c) The seriousness of the offense and the history of criminal
37 conduct of the prisoner;

38 (d) The standards adopted pursuant to NRS 213.10885 and the
39 recommendation, if any, of the Chief; and

40 (e) Any documents or testimony submitted by a victim notified
41 pursuant to NRS 213.130.

42 3. When a person is convicted of a felony and is punished by a
43 sentence of imprisonment, he remains subject to the jurisdiction of
44 the Board from the time he is released on parole under the
45 provisions of this chapter until the expiration of the maximum term



1 of imprisonment imposed by the court less any credits earned to
2 reduce his sentence pursuant to chapter 209 of NRS.

3 4. Except as otherwise provided in NRS 213.1215, the Board
4 may not release on parole a prisoner whose sentence to death or to
5 life without possibility of parole has been commuted to a lesser
6 penalty unless it finds that the prisoner has served at least 20
7 consecutive years in the state prison, is not under an order to be
8 detained to answer for a crime or violation of parole or probation in
9 another jurisdiction, and that he does not have a history of:

10 (a) Recent misconduct in the institution, and that he has been
11 recommended for parole by the Director of the Department of
12 Corrections;

13 (b) Repetitive criminal conduct;

14 (c) Criminal conduct related to the use of alcohol or drugs;

15 (d) Repetitive sexual deviance, violence or aggression; or

16 (e) Failure in parole, probation, work release or similar
17 programs.

18 5. In determining whether to release a prisoner on parole
19 pursuant to this section, the Board shall not consider whether the
20 prisoner will soon be eligible for release pursuant to NRS 213.1215.

21 6. The Board shall not release on parole an offender convicted
22 of an offense listed in NRS 179D.410 until the law enforcement
23 agency in whose jurisdiction the offender will be released on parole
24 has been provided an opportunity to give the notice required by the
25 Attorney General pursuant to NRS 179D.600 to 179D.800,
26 inclusive.

27 *7. The Board may, without the consent of a prisoner, receive*
28 *and consider any record pertaining to the prisoner when*
29 *considering him for release on parole. A prisoner may not bring a*
30 *cause of action against the State of Nevada or its political*
31 *subdivisions, agencies, boards, commissions, departments, officers*
32 *or employees for the disclosure of information, confidential or*
33 *otherwise, pertaining to the prisoner during a meeting or hearing*
34 *conducted pursuant to subsection 2 of NRS 176.033, NRS 213.130*
35 *or 213.333.*

36 **Sec. 5.** NRS 213.133 is hereby amended to read as follows:

37 213.133 1. Except as otherwise provided in subsections 6 and
38 7, the Board may delegate its authority to hear, consider and act
39 upon the parole of a prisoner and on any issue before the Board to a
40 panel consisting of:

41 (a) Two or more members of the Board, two of whom constitute
42 a quorum; or

43 (b) One member of the Board who is assisted by a case hearing
44 representative.



2. No action taken by any panel created pursuant to paragraph (a) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. The decision of a panel is subject to final approval by the affirmative action of a majority of the members appointed to the Board. Such action may be taken at a meeting of the Board, or without a meeting by the delivery of written approval to the Secretary of the Board.

4. The degree of complexity of issues presented must be taken into account before the Board makes any delegation of its authority and before it determines the extent of a delegation.

5. The Board shall adopt regulations which establish the basic types of delegable cases and the size of the panel required for each type of case.

6. A hearing concerning the parole of a prisoner or any decision on an issue involving a person:

(a) Who committed a capital offense;

(b) Who is serving a sentence of imprisonment for life;

(c) Who has been convicted of a sexual offense involving the use or threat of use of force or violence;

(d) Who is a habitual criminal; or

(e) Whose sentence has been commuted by the State Board of Pardons Commissioners,

must be conducted by at least three members of the Board, and action may be taken only with the concurrence of at least four members.

7. If a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division, the Chairman must concur in the recommendation.

8. A hearing conducted by a panel pursuant to this section must be open to the public.

Sec. 6. This act becomes effective upon passage and approval.



