

ASSEMBLY BILL NO. 416—ASSEMBLYMEN MUNFORD, KIHUEN,  
KOIVISTO, MANENDO, SEGERBLOM AND STEWART

MARCH 19, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to provisions concerning the  
Department of Corrections. (BDR 16-190)

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 correctional institutions; requiring the  
Department of Corrections to conduct peer review of  
certain employees; requiring the Legislative Auditor to  
perform biennial performance audits of the Department;  
creating the Policy Advisory Commission on Corrections;  
making certain changes concerning the parole of certain  
prisoners; providing that meetings of the State Board of  
Parole Commissioners are subject to the Open Meeting  
Law; revising the additional penalty that must be imposed  
for the commission of certain crimes under certain  
circumstances; and providing other matters properly  
relating thereto.

**Legislative Counsel's Digest:**

**Section 2** of this bill requires the Department of Corrections to carry out a  
process for peer review of employees of the Department who are in the unclassified  
service of the State and requires the Board of State Prison Commissioners to  
prescribe the requirements for the process for peer review. **Section 3** of this bill  
requires the Legislative Auditor to conduct biennial performance audits of the  
Department and to report the findings of such performance audits to the Audit  
Subcommittee of the Legislative Commission. **Sections 4 and 5** of this bill create  
the Policy Advisory Commission on Corrections to evaluate prisons in this State  
and make certain reports to the Governor and the Legislative Commission  
concerning the status of prisons. **Section 37** of this bill provides that the provisions  
creating the Commission will expire by limitation on June 30, 2011.

**Section 23** of this bill revises certain provisions concerning determinations by  
the State Board of Parole Commissioners concerning the granting or revoking of  
parole. (NRS 213.10885) **Section 24** of this bill requires that certain prisoners must



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be released on parole 18 months before the end of their maximum term rather than 12 months as is provided in existing law. **Section 24** also authorizes the Division of Parole and Probation of the Department of Public Safety to waive certain requirements concerning the close supervision of a prisoner who is released on parole for a category D or category E felony. (NRS 213.1215)

**Sections 25 and 35** of this bill provide that meetings of the State Board of Parole Commissioners are subject to the Open Meeting Law. (NRS 213.130, 241.030) **Section 25** also requires the Board to provide notice of a meeting to consider a prisoner for parole to be given to the prisoner and the victim. **Section 25** further requires the Board to provide certain information to prisoners and to make a final decision concerning parole within 10 working days after a meeting to consider parole.

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) **Sections 26-34** of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 10 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime.

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

**Section 1.** Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

**Sec. 2. 1. *The Department shall carry out a process for peer review of the performance of employees of the Department who are in the unclassified service of the State. The Board shall prescribe the requirements for the process for peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.***

**2. *On or before January 1 of each even-numbered year, the Board shall review comprehensively the process for peer review adopted by the Board. The review must include a determination of whether the process is effective in identifying problems concerning the performance of employees of the Department who are in the unclassified service. If the process is found to be ineffective, the Board shall adopt a revised process for peer review as soon as practicable.***

**3. *The Board shall report to each regular session of the Legislature:***

**(a) *The findings of the Board concerning the effectiveness of the process for peer review;***

**(b) *The results and conclusions from the Board's review pursuant to subsection 2; and***



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(c) Any changes in the Department's standards, policies, procedures or programs that have been or will be made as a result of the review.

**Sec. 3. 1.** On or before January 1 of each even-numbered year, the Legislative Auditor shall conduct a performance audit of the Department. The performance audit must include, without limitation, issues concerning:

(a) Financial management of the Department;

(b) Facilities management of the Department;

(c) Personnel management of the Department;

(d) Monitoring of the Offender's Store Fund created pursuant to NRS 209.221; and

(e) The availability to prisoners of educational programs, medical care, employment programs and credits for good behavior.

2. The Legislative Auditor shall prepare a final written report for each performance audit conducted pursuant to subsection 1 and present the report to the Audit Subcommittee of the Legislative Commission on or before January 1 of each odd-numbered year.

3. Upon the request of the Legislative Auditor or his authorized representative, the officers and employees of the Department shall make available to the Legislative Auditor any of their books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise and irrespective of their form or location, which the Legislative Auditor deems necessary to conduct the audits required by this section.

**Sec. 4. 1.** The Policy Advisory Commission on Corrections is hereby created.

2. The Policy Advisory Commission on Corrections consists of 13 members:

(a) Three members appointed by the Majority Leader of the Senate, one of whom must be a member of the minority political party.

(b) Three members appointed by the Speaker of the Assembly, one of whom must be a member of the minority political party.

(c) Seven members who are representatives of the general public, appointed by the Legislative Commission from among written nominations submitted by the general public of persons who have experience, training or a demonstrated interest in issues relating to correctional institutions, including, without limitation, health care, mental health, substance abuse, social work and programs for reentry into the community. To the extent practicable, the members appointed pursuant to this paragraph



1 *must be representative of the various geographic areas of this*  
2 *State.*

3 *3. The members of the Policy Advisory Commission on*  
4 *Corrections shall select a Chairman from among their*  
5 *membership.*

6 *4. Each member serves a term of 2 years. Members may be*  
7 *reappointed for additional terms of 2 years in the same manner as*  
8 *the original appointments.*

9 *5. A vacancy occurring in the membership of the Policy*  
10 *Advisory Commission on Corrections must be filled in the same*  
11 *manner as the original appointments.*

12 *6. A majority of the Policy Advisory Commission on*  
13 *Corrections constitutes a quorum, and a majority of those*  
14 *members present must concur in any decision.*

15 *7. Each member of the Policy Advisory Commission on*  
16 *Corrections serves without compensation. Each nonlegislative*  
17 *member of the Commission is entitled to receive the per diem*  
18 *allowance and travel expenses provided for state officers and*  
19 *employees generally. Each Legislator who is a member of the*  
20 *Commission is entitled to receive the per diem allowance provided*  
21 *for state officers and employees generally and the travel expenses*  
22 *provided pursuant to NRS 218.2207.*

23 *8. Each member of the Policy Advisory Commission on*  
24 *Corrections who is an officer or employee of the State must be*  
25 *relieved from his duties without loss of his regular compensation*  
26 *so that he may prepare for and attend meetings of the Commission*  
27 *and perform any work necessary to accomplish the tasks assigned*  
28 *to the Commission in the most timely manner practicable. A state*  
29 *agency shall not require an officer or employee who is a member*  
30 *of the Commission to make up the time he is absent from work to*  
31 *fulfill his obligations as a member, nor shall it require the member*  
32 *to take annual vacation or compensatory time for the absence.*  
33 *Such a member shall serve on the Commission without additional*  
34 *compensation, except that while he is engaged in the business of*  
35 *the Commission, he is entitled to receive the per diem allowance*  
36 *and travel expenses provided for state officers and employees*  
37 *generally, which must be paid by the state agency which employs*  
38 *him.*

39 **Sec. 5. 1. The Policy Advisory Commission on Corrections**  
40 **shall:**

41 *(a) Be informed on issues and developments relating to*  
42 *correctional institutions;*

43 *(b) Submit a semiannual report to the Governor and the*  
44 *Legislative Commission on or before July 1 and December 1 of*  
45 *each year on the status of correctional institutions in this State;*



1 (c) Report to the Governor and the Legislative Commission on  
2 any other matter relating to correctional institutions that it deems  
3 appropriate; and

4 (d) Meet at least quarterly and at the call of the Chairman to  
5 review the operation of correctional institutions in this State.

6 2. Members of the Policy Advisory Commission on  
7 Corrections may enter any correctional institution in this State  
8 and examine any prisoner at any time without prior authorization  
9 of the Director or the Department.

10 3. The Policy Advisory Commission on Corrections may  
11 receive testimony from any source, including, without limitation,  
12 prisoners and members of their families.

13 4. Upon request, the Director and the Department shall  
14 provide to the Policy Advisory Commission on Corrections any  
15 information the Commission determines is relevant to the  
16 performance of the duties of the Commission.

17 Sec. 6. Except as otherwise prohibited by federal or state law,  
18 all books and papers kept by, prisons operated by, employees  
19 employed by and prisoners held in the custody of the Department  
20 shall at all times, on all legal days, be open to and available for the  
21 inspection of the members of the Legislature.

22 Sec. 7. (Deleted by amendment.)

23 Sec. 8. (Deleted by amendment.)

24 Sec. 9. (Deleted by amendment.)

25 Sec. 10. (Deleted by amendment.)

26 Sec. 11. (Deleted by amendment.)

27 Sec. 12. (Deleted by amendment.)

28 Sec. 13. (Deleted by amendment.)

29 Sec. 14. (Deleted by amendment.)

30 Sec. 15. (Deleted by amendment.)

31 Sec. 16. (Deleted by amendment.)

32 Sec. 17. (Deleted by amendment.)

33 Sec. 18. (Deleted by amendment.)

34 Sec. 19. (Deleted by amendment.)

35 Sec. 20. (Deleted by amendment.)

36 Sec. 21. NRS 209.4888 is hereby amended to read as follows:

37 209.4888 1. Except as otherwise provided in this section, if a  
38 correctional program has been established by the Director in the  
39 county in which an offender was sentenced to imprisonment, the  
40 Director may, after consulting with the Division, determine that an  
41 offender is suitable to participate in the correctional program if:

42 (a) The Director believes that the offender would participate  
43 successfully in and benefit from the correctional program;

44 (b) The offender has demonstrated a willingness to:



(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and 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, within the immediately preceding ~~[5-years,]~~ *year*, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony;*

(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 participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions



1 agreed upon by the Director and the Chairman and is returned to the  
2 custody of the Department, the offender forfeits all or part of the  
3 credits for good behavior earned by him before he was returned to  
4 the custody of the Department, as determined by the Director. The  
5 Director may provide for a forfeiture of credits pursuant to this  
6 subsection only after proof of the violation and notice is given to the  
7 offender. The Director may restore credits so forfeited for such  
8 reasons as he considers proper. The decision of the Director  
9 regarding such a forfeiture is final.

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

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

14 (b) For the purposes of NRS 209.341, an assignment to a facility  
15 of the Department,

16 ➡ except that the offender is not entitled to obtain any benefits or to  
17 participate in any programs provided to offenders in the custody of the  
18 Department.

19 8. An offender does not have a right to be assigned to the  
20 custody of the Division pursuant to this section, or to remain in that  
21 custody after such an assignment. It is not intended that the  
22 establishment or operation of a correctional program creates any  
23 right or interest in liberty or property or establishes a basis for any  
24 cause of action against the State of Nevada, its political  
25 subdivisions, agencies, boards, commissions, departments, officers  
26 or employees.

27 **Sec. 22.** (Deleted by amendment.)

28 **Sec. 23.** NRS 213.10885 is hereby amended to read as  
29 follows:

30 213.10885 1. The Board shall adopt by regulation specific  
31 standards for each type of convicted person to assist the Board in  
32 determining whether to grant or revoke parole. The regulations must  
33 include standards for determining whether to grant or revoke the  
34 parole of a convicted person:

35 (a) Who committed a capital offense.

36 (b) Who was sentenced to serve a term of imprisonment for life.

37 (c) Who was convicted of a sexual offense involving the use or  
38 threat of use of force or violence.

39 (d) Who was convicted as a habitual criminal.

40 (e) Who is a repeat offender.

41 (f) Who was convicted of any other type of offense.

42 ➡ The standards must be based upon objective criteria for  
43 determining the person's probability of success on parole.

44 2. In establishing the standards, the Board shall consider the  
45 information on decisions regarding parole that is compiled and



1 maintained pursuant to NRS 213.10887 and all other factors which  
2 are relevant in determining the probability that a convicted person  
3 will live and remain at liberty without violating the law if parole is  
4 granted or continued. The other factors the Board considers must  
5 include, but are not limited to:

6 (a) The severity of the crime committed;

7 (b) *Whether the crime committed was part of the same act or*  
8 *transaction as another crime for which the person was convicted;*

9 (c) The criminal history of the person;

10 ~~(e)~~ (d) Any disciplinary action taken against the person while  
11 incarcerated;

12 ~~(d)~~ (e) Any previous parole violations or failures;

13 ~~(e)~~ (f) Any potential threat to society or himself; ~~and~~

14 ~~(f)~~ (g) *Any potential family or community support available to*  
15 *the person; and*

16 (h) The length of his incarceration.

17 3. *In determining whether to grant parole to a prisoner, the*  
18 *Board shall not consider whether the prisoner has appealed the*  
19 *judgment of imprisonment for which the prisoner is being*  
20 *considered for parole.*

21 4. The standards adopted by the Board must provide for a  
22 greater punishment for a convicted person who has a history of  
23 repetitive criminal conduct or who commits a serious crime, with a  
24 violent crime considered the most serious, than for a convicted  
25 person who does not have a history of repetitive crimes and did not  
26 commit a serious crime.

27 ~~(4)~~ 5. The Board shall make available to the public a sample of  
28 the form the Board uses in determining the probability that a  
29 convicted person will live and remain at liberty without violating the  
30 law if parole is granted or continued.

31 ~~(5)~~ 6. On or before January 1 of each even-numbered year, the  
32 Board shall review comprehensively the standards adopted by  
33 the Board. The review must include a determination of whether the  
34 standards are effective in predicting the probability that a convicted  
35 person will live and remain at liberty without violating the law if  
36 parole is granted or continued. If a standard is found to be  
37 ineffective, the Board shall not use that standard in its decisions  
38 regarding parole and shall adopt revised standards as soon as  
39 practicable after the review.

40 ~~(6. The)~~

41 7. *On or before February 1 of each odd-numbered year, the*  
42 Board shall ~~report to each~~ *submit to the Director of the*  
43 *Legislative Counsel Bureau for transmittal to the next* regular  
44 session of the Legislature ~~(1) a written report of:~~



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(a) The number and percentage of the Board's decisions that conflicted with the standards;

(b) The results and conclusions from the Board's review pursuant to subsection ~~5~~ 6; and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

**Sec. 24.** NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,  
→ he must be released on parole ~~12~~ 18 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee ~~so~~ released *pursuant to this section* must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122 ~~1~~, *except that the Division may waive the requirement that a prisoner who is released on parole for a category D or category E felony is subject to close supervision if the Division determines that close supervision of the prisoner is impractical.*

3. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1.

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

6. *If the Board finds pursuant to subsection 3 that there is a reasonable probability that the prisoner will be a danger to public safety and does not grant the parole provided for in subsection 1,*



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*the Board shall provide to the prisoner its reasons for denying parole in writing.*

*7. For the purposes of this section, the determination of the ~~[12-month]~~ 18-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.*

*8. On or before January 1 of each odd-numbered year, the Board shall complete a comprehensive review of the prisoners released on parole pursuant to this section. The review must include, without limitation, a review of each decision in which the Board did not release a prisoner on parole pursuant to a finding pursuant to subsection 3.*

*9. On or before February 1 of each odd-numbered year, the Board shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report of:*

*(a) The number and percentage of the decisions concerning parole in which the Board did not release a prisoner on parole pursuant to a finding pursuant to subsection 3; and*

*(b) The results and conclusions from the review pursuant to subsection 8.*

**Sec. 25.** NRS 213.130 is hereby amended to read as follows:

213.130 1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the State Board of Parole Commissioners of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner ~~[or were part of the report of the presentence investigation]~~ and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection,



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1 “photograph” includes any video, digital or other photographic  
2 image.

3 3. Meetings to consider prisoners for parole may be held  
4 semiannually or more often, on such dates as may be fixed by the  
5 Board. ~~[All meetings must be open to the public.~~

6 ~~—4. Not later than 5 days after the date on which the Board fixes~~  
7 ~~the date of the]~~ *Except as otherwise provided in subsection 6, the*  
8 *Board shall comply with the provisions of chapter 241 of NRS and*  
9 *all meetings of the Board must be conducted in accordance with*  
10 *that chapter.*

11 4. *In addition to satisfying the requirements set forth in NRS*  
12 *241.020 and regardless of whether the Board holds a closed*  
13 *meeting pursuant to subsection 6, the Board shall:*

14 (a) *Cause notice of a meeting to consider a prisoner for parole* ~~[-~~  
15 ~~the Board shall notify the]~~ *to be given in accordance with NRS*  
16 *241.020 to:*

17 (1) *The prisoner who is being considered for parole; and*

18 (2) *The victim of the prisoner who is being considered for*  
19 *parole, [of the date of the meeting and of his rights pursuant to this*  
20 *subsection,]* if the victim has requested notification in writing and  
21 has provided his current address or if the victim’s current address is  
22 otherwise known by the Board ~~[-The]~~; and

23 (b) *Allow the prisoner who is being considered for parole, his*  
24 *representative and the victim of [a] the prisoner who is* being  
25 considered for parole ~~[may]~~ *to* submit documents to the Board and  
26 ~~[may]~~ *to* testify at the meeting held to consider the prisoner for  
27 parole.

28 5. ~~[A prisoner must not be considered for parole until the~~  
29 ~~Board has notified any victim of his rights pursuant to this~~  
30 ~~subsection and he is given the opportunity to exercise those rights.]~~  
31 If ~~[a]~~ *the* current address *of a victim who has requested notification*  
32 *pursuant to subsection 4* is not provided to or otherwise known by  
33 the Board, the Board must not be held responsible if ~~[such]~~ *the*  
34 notification *described in subsection 4* is not received by the victim.

35 ~~[5.]~~ 6. The Board may ~~[deliberate in private after a public~~  
36 ~~meeting held]~~ *hold a closed meeting* to consider a prisoner for  
37 parole ~~[-~~

38 ~~—6.]~~ *if the Board determines that a closed meeting is necessary to*  
39 *protect the identity of a minor, witness, victim or other person*  
40 *whose identity is in need of protection for safety reasons. The*  
41 *Board shall develop procedures for determining when it is*  
42 *necessary to hold a closed meeting pursuant to this subsection.*

43 7. The Board of State Prison Commissioners shall provide  
44 suitable and convenient rooms or space for use of the Board.



~~[7-]~~ 8. *The Board shall provide to a prisoner all information which the Board will rely on in considering whether to grant parole to the prisoner not later than 30 days before the date of the meeting and shall make such information available to the prisoner and his representative at the meeting.*

9. *The Board shall make its final decision concerning the parole of a prisoner and shall notify the prisoner of its final decision not later than 10 working days after the date on which the meeting is held to consider his parole.*

10. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

~~[8-]~~ 11. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

~~[9-]~~ 12. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

**Sec. 26.** NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection 2 and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by statute for the crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section must ~~run~~ :

(a) *Not exceed the sentence imposed for the crime; and*

(b) *Run* consecutively with the sentence prescribed by statute for the crime.

2. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to subsection 1, if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may



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1 be deemed a category A felony and the person who committed the  
2 felony may be punished by imprisonment in the state prison:

3 (a) For life without the possibility of parole;

4 (b) For life with the possibility of parole, with eligibility for  
5 parole beginning when a minimum of 20 years has been served; or

6 (c) For a definite term of 50 years, with eligibility for parole  
7 beginning when a minimum of 20 years has been served.

8 3. Subsection 1 does not create a separate offense but provides  
9 an additional penalty for the primary offense, the imposition of  
10 which is contingent upon the finding of the prescribed fact.  
11 Subsection 2 does not create a separate offense but provides an  
12 alternative penalty for the primary offense, the imposition of which  
13 is contingent upon the finding of the prescribed fact.

14 4. For the purposes of this section, "school bus" has the  
15 meaning ascribed to it in NRS 483.160.

16 **Sec. 27.** NRS 193.162 is hereby amended to read as follows:

17 193.162 1. Except as otherwise provided in NRS 193.169  
18 and 454.306, an adult who, with the assistance of a child:

19 (a) Commits a crime that is punishable as a category A or a  
20 category B felony shall , *in addition to the term of imprisonment*  
21 *prescribed by statute for the crime*, be punished by imprisonment in  
22 the state prison for ~~[an additional term equal to the]~~ *a minimum*  
23 ~~term of [imprisonment prescribed by statute for the crime.]~~ *not less*  
24 *than 1 year and a maximum term of not more than 10 years.*

25 (b) Commits any felony other than a category A or a category B  
26 felony shall , *in addition to the term of imprisonment prescribed by*  
27 *statute for the crime*, be punished by imprisonment in the state  
28 prison for ~~[an additional term not less than 25 percent and not more~~  
29 ~~than 100 percent of the]~~ *a minimum* term of ~~[imprisonment~~  
30 ~~prescribed by statute for the crime.]~~ *not less than 1 year and a*  
31 *maximum term of not more than 10 years.*

32 ➔ An additional sentence prescribed by this section *must not*  
33 *exceed the sentence imposed for the crime and* runs consecutively  
34 with the sentence prescribed by statute for the crime.

35 2. This section does not create a separate offense but provides  
36 an additional penalty for the primary offense, whose imposition is  
37 contingent upon the finding of the prescribed fact.

38 3. As used in this section:

39 (a) "Adult" means a person who is 18 years of age or older.

40 (b) "Child" means a person who is less than 18 years of age.

41 **Sec. 28.** NRS 193.163 is hereby amended to read as follows:

42 193.163 1. Except as otherwise provided in NRS 193.169,  
43 any person who uses a handgun containing a metal-penetrating  
44 bullet in the commission of a crime shall , *in addition to the term of*  
45 *imprisonment prescribed by statute for the crime*, be punished by



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imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section ~~[runs]~~ :

(a) *Must not exceed the sentence imposed for the crime; and*

(b) *Runs* consecutively with the sentence prescribed by statute for the crime.

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. As used in this section, “metal-penetrating bullet” has the meaning ascribed to it in NRS 202.273.

**Sec. 29.** NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall , *in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section ~~[runs]~~ :

(a) *Must not exceed the sentence imposed for the crime; and*

(b) *Runs* consecutively with the sentence prescribed by statute for the crime.

2. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. The provisions of subsections 1 and 2 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

4. The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;

(c) Sexual assault; or

(d) Robbery.

5. As used in this section, “deadly weapon” means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;



(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

**Sec. 30.** NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

➤ shall, *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by statute for that crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. The sentence prescribed by this section *must not exceed the sentence imposed for the crime and* runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

2. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.





**Sec. 31.** NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;

(c) Assault;

(d) Battery;

(e) Kidnapping;

(f) Robbery;

(g) Sexual assault;

(h) Embezzlement of money or property of a value of \$250 or more;

(i) Obtaining money or property of a value of \$250 or more by false pretenses; or

(j) Taking money or property from the person of another,

➔ against any person who is 60 years of age or older or against a vulnerable person shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished , *if the crime is a misdemeanor or gross misdemeanor*, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime ~~[ ]~~ , *and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years*. The sentence prescribed by this subsection *must not exceed the sentence imposed for the crime and* must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished , *if the crime is a misdemeanor or gross misdemeanor*, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to and in addition to the term of imprisonment prescribed by statute for the ~~[criminal violation.] crime~~, *and if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years*. The sentence prescribed by this subsection *must not exceed the sentence imposed for the crime and* must run consecutively with the sentence prescribed by statute for the criminal violation.

3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.





4. As used in this section, “vulnerable person” has the meaning ascribed to it in subsection 7 of NRS 200.5092.

**Sec. 32.** NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may , *in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for ~~{an additional term not to exceed 25 percent of the}~~ *a minimum* term of ~~{imprisonment prescribed by statute for the crime.}~~ *not less than 1 year and a maximum term of not more than 10 years. A sentence of imprisonment prescribed by this section must not exceed the sentence imposed for the crime.*

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

**Sec. 33.** NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall , *in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~{term equal to and in addition to the}~~ *minimum* term of ~~{imprisonment prescribed by the statute for the crime.}~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section must ~~{run}~~ :

(a) *Not exceed the sentence imposed for the crime; and*

(b) *Run* consecutively with the sentence prescribed by statute for the crime.

2. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation



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1 with, a criminal gang, with the specific intent to promote, further or  
2 assist the activities of the criminal gang; and

3 (b) The trier of fact finds that allegation to be true beyond a  
4 reasonable doubt.

5 4. Except as otherwise provided in this subsection, the court  
6 shall not grant probation to or suspend the sentence of any person  
7 convicted of a felony committed for the benefit of, at the direction  
8 of, or in affiliation with a criminal gang if an additional term of  
9 imprisonment may be imposed for that primary offense pursuant to  
10 this section. The court may, upon the receipt of an appropriate  
11 motion, reduce or suspend the sentence imposed for the primary  
12 offense if it finds that the defendant rendered substantial assistance  
13 in the arrest or conviction of any other principals, accomplices,  
14 accessories or coconspirators to the crime, or of any other persons  
15 involved in the commission of a felony which was committed for  
16 the benefit of, at the direction of, or in affiliation with a criminal  
17 gang. The agency which arrested the defendant must be given an  
18 opportunity to support or oppose such a motion before it is granted  
19 or denied. If good cause is shown, the motion may be heard in  
20 camera.

21 5. In any proceeding to determine whether an additional  
22 penalty may be imposed pursuant to this section, expert testimony is  
23 admissible to show particular conduct, status and customs indicative  
24 of criminal gangs, including, but not limited to:

25 (a) Characteristics of persons who are members of criminal  
26 gangs;

27 (b) Specific rivalries between criminal gangs;

28 (c) Common practices and operations of criminal gangs and the  
29 members of those gangs;

30 (d) Social customs and behavior of members of criminal gangs;

31 (e) Terminology used by members of criminal gangs;

32 (f) Codes of conduct, including criminal conduct, of particular  
33 criminal gangs; and

34 (g) The types of crimes that are likely to be committed by a  
35 particular criminal gang or by criminal gangs in general.

36 6. As used in this section, "criminal gang" means any  
37 combination of persons, organized formally or informally, so  
38 constructed that the organization will continue its operation even if  
39 individual members enter or leave the organization, which:

40 (a) Has a common name or identifying symbol;

41 (b) Has particular conduct, status and customs indicative of it;  
42 and

43 (c) Has as one of its common activities engaging in criminal  
44 activity punishable as a felony, other than the conduct which  
45 constitutes the primary offense.



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1     **Sec. 34.** NRS 193.1685 is hereby amended to read as follows:

2     193.1685 1. Except as otherwise provided in this section and  
3 NRS 193.169, any person who commits a felony with the intent to  
4 commit, cause, aid, further or conceal an act of terrorism shall , *in*  
5 *addition to the term of imprisonment prescribed by statute for the*  
6 *crime*, be punished by imprisonment in the state prison for a ~~term~~  
7 ~~equal to and in addition to the~~ *minimum* term of ~~imprisonment~~  
8 ~~prescribed by statute for the crime.~~ *not less than 1 year and a*  
9 *maximum term of not more than 10 years.* The sentence prescribed  
10 by this section must ~~run~~ :

11     (a) *Not exceed the sentence imposed for the crime; and*

12     (b) *Run* consecutively with the sentence prescribed by statute  
13 for the crime.

14     2. Unless a greater penalty is provided by specific statute and  
15 except as otherwise provided in NRS 193.169, in lieu of an  
16 additional term of imprisonment as provided pursuant to subsection  
17 1, if a felony that resulted in death or substantial bodily harm to the  
18 victim was committed with the intent to commit, cause, aid, further  
19 or conceal an act of terrorism, the felony may be deemed a category  
20 A felony and the person who committed the felony may be punished  
21 by imprisonment in the state prison:

22     (a) For life without the possibility of parole;

23     (b) For life with the possibility of parole, with eligibility for  
24 parole beginning when a minimum of 20 years has been served; or

25     (c) For a definite term of 50 years, with eligibility for parole  
26 beginning when a minimum of 20 years has been served.

27     3. Subsection 1 does not create a separate offense but provides  
28 an additional penalty for the primary offense, the imposition of  
29 which is contingent upon the finding of the prescribed fact.  
30 Subsection 2 does not create a separate offense but provides an  
31 alternative penalty for the primary offense, the imposition of which  
32 is contingent upon the finding of the prescribed fact.

33     4. The provisions of this section do not apply to an offense  
34 committed in violation of NRS 202.445.

35     5. As used in this section, “act of terrorism” has the meaning  
36 ascribed to it in NRS 202.4415.

37     **Sec. 35.** NRS 241.030 is hereby amended to read as follows:

38     241.030 1. Except as otherwise provided in this section and  
39 NRS **213.130**, 241.031 and 241.033, a public body may hold a  
40 closed meeting to:

41     (a) Consider the character, alleged misconduct, professional  
42 competence, or physical or mental health of a person.

43     (b) Prepare, revise, administer or grade examinations that are  
44 conducted by or on behalf of the public body.



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(c) Consider an appeal by a person of the results of an examination that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.

2. A person whose character, alleged misconduct, professional competence, or physical or mental health will be considered by a public body during a meeting may waive the closure of the meeting and request that the meeting or relevant portion thereof be open to the public. A request described in this subsection:

(a) May be made at any time before or during the meeting; and

(b) Must be honored by the public body unless the consideration of the character, alleged misconduct, professional competence, or physical or mental health of the requester involves the appearance before the public body of another person who does not desire that the meeting or relevant portion thereof be open to the public.

3. A public body may close a meeting pursuant to subsection 1 upon a motion which specifies:

(a) The nature of the business to be considered; and

(b) The statutory authority pursuant to which the public body is authorized to close the meeting.

4. This chapter does not:

(a) Apply to judicial proceedings.

(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.

5. The exceptions provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

**Sec. 36.** (Deleted by amendment.)

**Sec. 37.** 1. This act becomes effective on July 1, 2007.

2. Sections 4 and 5 of this act expire by limitation on June 30, 2011.

