

ASSEMBLY BILL NO. 508—SELECT COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to provisions concerning the
Advisory Commission on Sentencing. (BDR 14-1378)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Contains Appropriation not included
in Executive Budget.

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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 the Advisory Commission on Sentencing;
revising the membership and duties of the Commission;
authorizing the Commission to issue subpoenas; requiring
the Commission to hold meetings at least once every 3
months; making an appropriation; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Advisory Commission on Sentencing or a
member acting on behalf of the Commission to issue subpoenas to compel the
attendance of witnesses and the production of books, records, documents and other
papers and testimony.

Section 2 of this bill adds: (1) a sitting or retired justice of the Nevada Supreme
Court; (2) a representative of an organization that advocates on behalf of inmates;
(3) a representative of the Nevada Sheriffs' and Chiefs' Association to the
Commission; and (4) a member of the State Board of Parole Commissioners and
removes the member appointed by the Nevada Association of Counties. **Section 2**
also removes the Attorney General as the Chairman of the Commission. Instead,
members are required to elect a Chairman at the first meeting of each odd-
numbered year. The Commission is further required to meet at least quarterly.

Section 3 of this bill revises the duties of the Advisory Commission on
Sentencing by requiring the Commission to evaluate the effectiveness and
efficiency of the Department of Corrections and the State Board of Parole
Commissioners and to consider whether it is feasible and advisable to establish an
oversight or advisory board to perform various functions. **Section 3** also requires
the Commission to evaluate the effectiveness of specialty court programs in this
State and to evaluate the policies and practices concerning presentence
investigations and reports of the Division of Parole and Probation of the
Department of Public Safety.



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Section 4 of this bill makes an appropriation to the Advisory Commission on Sentencing to enter into a contract with a consultant to assist the Commission in carrying out its duties.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. To carry out its powers and duties pursuant to this section NRS 176.0121 to 176.0129, inclusive, and the Commission, or any member thereof acting on behalf of the Commission with a concurrence of a majority of the members of the Commission, may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents or other papers and testimony.

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or a member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 2. NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on Sentencing is hereby created. The Commission consists of:

(a) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(b) *One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;*

(c) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;



~~[(e)]~~ (d) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

~~[(d)]~~ (e) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

~~[(e)]~~ (f) One member who is a representative of a law enforcement agency, appointed by the Governor;

~~[(f)]~~ (g) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~[(g)]~~ (h) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

~~[(h)]~~ (i) *One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;*

(j) One member who is a ~~{county commissioner,}~~ *representative of the Nevada Sheriffs' and Chiefs' Association*, appointed by ~~{the governing body of}~~ the Nevada *Sheriffs' and Chiefs' Association*; ~~{of Counties;}~~

~~[(i)]~~ (k) *One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;*

(l) The Director of the Department of Corrections;

~~[(j)]~~ (m) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~[(k)]~~ (n) Two members who are Assemblymen, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

➤ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. The Attorney General is an ex officio voting member of the Commission. ~~{and shall serve as the Chairman of the Commission.}~~

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment.

4. The Legislators who are members of the Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Commission.



5. *The members appointed pursuant to paragraphs (a) to (k), inclusive, of subsection 1 must be appointed not later than 60 days after the appointment of the Legislators who are appointed pursuant to paragraphs (m) and (n) of subsection 1.*

6. *At the first regular meeting of each odd-numbered year, the members of the Commission shall elect a Chairman by majority vote who shall serve until the next Chairman is elected.*

7. *The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chairman.*

8. *A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.*

9. While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~16.1~~ 10. To the extent of legislative appropriation, the Attorney General shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, *sentencing recommendations*, mandatory and minimum sentencing, *mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances*, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.



(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. *Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:*

(a) *Policies relating to parole;*

(b) *Regulatory procedures and policies of the State Board of Parole Commissioners;*

(c) *Policies for the operation of the Department of Corrections;*

(d) *Budgetary issues; and*

(e) *Other related matters.*

5. *Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.*

6. *Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations*



and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Compile and develop statistical information concerning sentencing in this State.

~~[5-]~~ **8.** For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes in the structure of sentencing in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Legislature not later than 10 days after the commencement of the session.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the Advisory Commission on Sentencing the sum of \$50,000 so that the Commission may enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 5. The Attorney General shall continue to serve as Chairman of the Advisory Commission on Sentencing until the members elect a Chairman at the first regular meeting of the Commission that is held after July 1, 2007. The Commission shall meet not later than 120 days after July 1, 2007, and shall elect a Chairman at that meeting.

Sec. 6. This act becomes effective on July 1, 2007.

