

ASSEMBLY BILL NO. 510—SELECT COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes pertaining to offenders.
(BDR 16-1377)

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 offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; making various other changes pertaining to offenders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 2** of this bill eliminates certain requirements that an offender must meet
2 to be eligible for residential confinement and revises the prohibition against
3 assigning a prisoner who has been convicted of a sexual offense to residential
4 confinement by prohibiting the Director of the Department of Corrections from
5 assigning a prisoner to a minimum security facility if the prisoner has ever been
6 convicted of a sexual offense that is a felony. In addition, **section 2** revises a
7 provision which prohibits an offender from receiving residential confinement if the
8 offender has ever been convicted of a violent crime by prohibiting an offender from
9 receiving residential confinement if the offender has, within the immediately
10 preceding 3 years, been convicted of a violent crime that is a felony. (NRS
11 209.392) Finally, **section 2** provides that an offender who has been convicted of a
12 category A or B felony is not eligible for residential confinement.



Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section 5** increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. **Section 5** also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) **Section 6.2** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) **Section 6.4** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) **Section 7.5** of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.3 of this bill prohibits the State Board of Parole Commissioners from considering whether a prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole when the Board determines whether to grant parole to a prisoner.

Existing law provides that certain prisoners must be released on parole 12 months before the end of the prisoner's maximum term of imprisonment. However, if the State Board of Parole Commissioners finds that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may deny the parole. (NRS 213.1215) **Section 8.55** provides that if the Board denies parole for this reason, the Board must provide the prisoner with a written statement of the reasons for the denial.

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)



Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) **Section 8.6** of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. **Section 8.8** of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of **sections 5 and 8.7** to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

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 10-19** 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 20 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime. Moreover, **sections 10-19** require a court to consider certain factors and, state on the record that the court considered those factors, when the court determines the length of the additional punishment to be imposed.

Section 20 of this bill amends Assembly Bill No. 508 of this session to require the Advisory Commission on the Administration of Justice to identify and study issues relating to: (1) the application of the Open Meeting Law to the State Board of Pardons Commissioners and the State Board of Parole Commissioners; and (2) the operations of the Department of Corrections.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~Established~~ **Demonstrated a willingness and ability to establish** a position of employment in the community;



(b) ~~Enrolled~~ *Demonstrated a willingness and ability to enroll* in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➔ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~Has not eligible for parole or release from prison within a reasonable period;~~

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

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

~~(d)~~ (c) Has ~~never~~ been convicted of:

(1) Any crime *that is punishable as a felony* involving the use or threatened use of force or violence against the victim ~~or~~ *within the immediately preceding 3 years;*

(2) A sexual offense ~~or~~ *that is punishable as a felony; or*

(3) *A category A or B felony;*

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if



committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; **or**

~~[(f)] (e)~~ Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[(f)] or~~

~~—(g) 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 of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense 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.

5. The assignment of an offender to the custody of the Division of Parole and Probation 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.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a



term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~the~~:

~~(a) The~~ the offender has:

~~{(1)}~~ (a) ~~{Established}~~ *Demonstrated a willingness and ability to establish* a position of employment in the community;

~~{(2)}~~ (b) ~~{Enrolled}~~ *Demonstrated a willingness and ability to enroll* in a program for education or rehabilitation; or

~~{(3)}~~ (c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime . ~~the~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➔ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense 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.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of his State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide



1 for a forfeiture of credits pursuant to this paragraph only after proof
2 of the offense and notice to the offender and may restore credits
3 forfeited for such reasons as he considers proper. The decision of
4 the Director regarding forfeiture of credits is final.

5 4. The assignment of an offender to the custody of the Division
6 of Parole and Probation pursuant to this section shall be deemed:

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

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

11 ➔ except that the offender is not entitled to obtain any benefits or to
12 participate in any programs provided to offenders in the custody of
13 the Department.

14 5. A person does not have a right to be assigned to the custody
15 of the Division of Parole and Probation pursuant to this section, or
16 to remain in that custody after such an assignment, and it is not
17 intended that the provisions of this section or of NRS 213.371 to
18 213.410, inclusive, create any right or interest in liberty or property
19 or establish a basis for any cause of action against the State, its
20 political subdivisions, agencies, boards, commissions, departments,
21 officers or employees.

22 6. The Director shall not assign an offender who is serving a
23 sentence for committing a battery which constitutes domestic
24 violence pursuant to NRS 33.018 to the custody of the Division of
25 Parole and Probation to serve a term of residential confinement
26 unless the Director makes a finding that the offender is not likely to
27 pose a threat to the victim of the battery.

28 **Sec. 4.** NRS 209.446 is hereby amended to read as follows:

29 209.446 1. Every offender who is sentenced to prison for a
30 crime committed on or after July 1, 1985, but before July 17, 1997,
31 who has no serious infraction of the regulations of the Department,
32 the terms and conditions of his residential confinement, or the laws
33 of the State recorded against him, and who performs in a faithful,
34 orderly and peaceable manner the duties assigned to him, must be
35 allowed:

36 (a) For the period he is actually incarcerated under sentence;

37 (b) For the period he is in residential confinement; and

38 (c) For the period he is in the custody of the Division of Parole
39 and Probation of the Department of Public Safety pursuant to NRS
40 209.4886 or 209.4888,

41 ➔ a deduction of 10 days from his sentence for each month he
42 serves.

43 2. In addition to the credit provided for in subsection 1, the
44 Director may allow not more than 10 days of credit each month for
45 an offender whose diligence in labor and study merits such credits.



1 In addition to the credits allowed pursuant to this subsection, an
2 offender is entitled to the following credits for educational
3 achievement:

4 (a) For earning a general educational development certificate,
5 30 days.

6 (b) For earning a high school diploma, 60 days.

7 (c) For earning an associate degree, 90 days.

8 3. The Director may allow not more than 10 days of credit
9 each month for an offender who participates in a diligent and
10 responsible manner in a center for the purpose of making restitution,
11 **program for reentry of offenders and parolees into the community,**
12 conservation camp, program of work release or another program
13 conducted outside of the prison. An offender who earns credit
14 pursuant to this subsection is entitled to the entire 20 days of credit
15 each month which is authorized in subsections 1 and 2.

16 4. The Director may allow not more than 90 days of credit
17 each year for an offender who engages in exceptional meritorious
18 service.

19 5. The Board shall adopt regulations governing the award,
20 forfeiture and restoration of credits pursuant to this section.

21 6. Credits earned pursuant to this section:

22 (a) Must be deducted from the maximum term imposed by the
23 sentence; and

24 (b) Apply to eligibility for parole unless the offender was
25 sentenced pursuant to a statute which specifies a minimum sentence
26 which must be served before a person becomes eligible for parole.

27 **Sec. 5.** NRS 209.4465 is hereby amended to read as follows:

28 209.4465 1. An offender who is sentenced to prison for a
29 crime committed on or after July 17, 1997, who has no serious
30 infraction of the regulations of the Department, the terms and
31 conditions of his residential confinement or the laws of the State
32 recorded against him, and who performs in a faithful, orderly and
33 peaceable manner the duties assigned to him, must be allowed:

34 (a) For the period he is actually incarcerated pursuant to his
35 sentence;

36 (b) For the period he is in residential confinement; and

37 (c) For the period he is in the custody of the Division of Parole
38 and Probation of the Department of Public Safety pursuant to NRS
39 209.4886 or 209.4888,

40 ➔ a deduction of ~~10~~ 20 days from his sentence for each month he
41 serves.

42 2. In addition to the credits allowed pursuant to subsection 1,
43 the Director may allow not more than 10 days of credit each month
44 for an offender whose diligence in labor and study merits such
45 credits. In addition to the credits allowed pursuant to this subsection,



1 an offender is entitled to the following credits for educational
2 achievement:

3 (a) For earning a general educational development certificate,
4 ~~30~~ 60 days.

5 (b) For earning a high school diploma, ~~60~~ 90 days.

6 (c) For earning his first associate degree, ~~90~~ 120 days.

7 3. The Director may, in his discretion, authorize an offender to
8 receive a maximum of 90 days of credit for each additional degree
9 of higher education earned by the offender.

10 4. The Director may allow not more than 10 days of credit
11 each month for an offender who participates in a diligent and
12 responsible manner in a center for the purpose of making restitution,
13 *program for reentry of offenders and parolees into the community,*
14 conservation camp, program of work release or another program
15 conducted outside of the prison. An offender who earns credit
16 pursuant to this subsection is eligible to earn the entire ~~20~~ 30 days
17 of credit each month that is allowed pursuant to subsections 1 and 2.

18 5. The Director may allow not more than 90 days of credit
19 each year for an offender who engages in exceptional meritorious
20 service.

21 6. The Board shall adopt regulations governing the award,
22 forfeiture and restoration of credits pursuant to this section.

23 7. ~~Credits~~ *Except as otherwise provided in subsection 8,*
24 *credits* earned pursuant to this section:

25 (a) Must be deducted from the maximum term imposed by the
26 sentence; and

27 (b) Apply to eligibility for parole unless the offender was
28 sentenced pursuant to a statute which specifies a minimum sentence
29 that must be served before a person becomes eligible for parole.

30 8. *Credits earned pursuant to this section by an offender who*
31 *has not been convicted of:*

32 (a) *Any crime that is punishable as a felony involving the use*
33 *or threatened use of force or violence against the victim;*

34 (b) *A sexual offense that is punishable as a felony;*

35 (c) *A violation of NRS 484.379, 484.3795 or 484.37955 that is*
36 *punishable as a felony; or*

37 (d) *A category A or B felony,*

38 *↪ apply to eligibility for parole and must be deducted from the*
39 *minimum term imposed by the sentence until the offender*
40 *becomes eligible for parole and must be deducted from the*
41 *maximum term imposed by the sentence.*

42 **Sec. 6.** NRS 209.4475 is hereby amended to read as follows:

43 209.4475 1. In addition to any credits earned pursuant to
44 NRS 209.447, an offender who is on parole as of January 1, 2004, or
45 who is released on parole on or after January 1, 2004, for a term less



1 than life must be allowed for the period he is actually on parole a
2 deduction of ~~140~~ 20 days from his sentence for each month he
3 serves if:

4 (a) He is current with any fee to defray the costs of his
5 supervision pursuant to NRS 213.1076; and

6 (b) He is current with any payment of restitution required
7 pursuant to NRS 213.126.

8 2. In addition to any credits earned pursuant to subsection 1
9 and NRS 209.447, the Director may allow not more than 10 days of
10 credit each month for an offender:

11 (a) Who is on parole as of January 1, 2004, or who is released
12 on parole on or after January 1, 2004, for a term less than life; and

13 (b) Whose diligence in labor or study merits such credits.

14 3. An offender is entitled to the deductions authorized by this
15 section only if he satisfies the conditions of subsection 1 or 2, as
16 determined by the Director. The Chief Parole and Probation Officer
17 or other person responsible for the supervision of an offender shall
18 report to the Director the failure of an offender to satisfy those
19 conditions.

20 4. Credits earned pursuant to this section must, in addition to
21 any credits earned pursuant to NRS 209.443, 209.446, 209.4465,
22 209.447, 209.448 and 209.449, be deducted from the maximum
23 term imposed by the sentence.

24 5. The Director shall maintain records of the credits to which
25 each offender is entitled pursuant to this section.

26 **Sec. 6.2.** NRS 209.448 is hereby amended to read as follows:

27 209.448 1. An offender who has no serious infraction of the
28 regulations of the Department or the laws of the State recorded
29 against him must be allowed, in addition to the credits provided
30 pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a
31 deduction of not more than ~~130~~ 60 days from the maximum term of
32 his sentence for the successful completion of a program of treatment
33 for the abuse of alcohol or drugs which is conducted jointly by the
34 Department and a person who is licensed or certified as an alcohol
35 and drug abuse counselor or certified as an alcohol and drug abuse
36 counselor intern pursuant to chapter 641C of NRS.

37 2. The provisions of this section apply to any offender who is
38 sentenced on or after October 1, 1991.

39 **Sec. 6.4.** NRS 209.449 is hereby amended to read as follows:

40 209.449 1. An offender who has no serious infraction of the
41 regulations of the Department, the terms and conditions of his
42 residential confinement, or the laws of the State recorded against
43 him must be allowed, in addition to the credits provided pursuant to
44 NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~130~~ 60



1 days from the maximum term of his sentence for the *successful*
2 completion of:

- 3 (a) A program of vocational education and training; or
- 4 (b) Any other program approved by the Director.

5 2. If the offender completes such a program with meritorious
6 or exceptional achievement, the Director may allow not more than
7 60 days of credit in addition to the ~~30~~ 60 days allowed for
8 completion of the program.

9 **Sec. 7.** NRS 209.481 is hereby amended to read as follows:

10 209.481 1. The Director shall not assign any prisoner to an
11 institution or facility of minimum security if the prisoner:

12 (a) Except as otherwise provided in NRS 484.3792, 484.3795,
13 484.37955, 488.420 and 488.427, is not eligible for parole or release
14 from prison within a reasonable period;

15 (b) Has recently committed a serious infraction of the rules of
16 an institution or facility of the Department;

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

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

21 (e) Has ~~committed an act of serious violence during the~~
22 ~~previous year;~~ *, within the immediately preceding year, been*
23 *convicted of any crime involving the use or threatened use of force*
24 *or violence against a victim that is punishable as a felony;* or

25 (f) Has attempted to escape or has escaped from an institution of
26 the Department.

27 2. The Director shall, by regulation, establish procedures for
28 classifying and selecting qualified prisoners.

29 **Sec. 7.5.** NRS 209.4886 is hereby amended to read as follows:

30 209.4886 1. Except as otherwise provided in this section, if a
31 judicial program has been established in the judicial district in
32 which an offender was sentenced to imprisonment, the Director
33 may, after consulting with the Division, refer the offender to the
34 reentry court if:

35 (a) The Director believes that the offender would participate
36 successfully in and benefit from the judicial program;

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

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

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

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

44 2. Except as otherwise provided in this section, if the Director
45 is notified by the reentry court pursuant to NRS 209.4883 that an



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1 offender should be assigned to the custody of the Division to
2 participate in the judicial program, the Director shall assign the
3 offender to the custody of the Division to participate in the judicial
4 program for not longer than the remainder of his sentence.

5 3. The Director shall, by regulation, adopt standards setting
6 forth which offenders are eligible to be assigned to the custody of
7 the Division to participate in the judicial program pursuant to this
8 section. The standards adopted by the Director must be approved by
9 the Board and must provide that an offender who:

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

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

14 (c) Has, within the immediately preceding ~~5 years,~~ **year**, been
15 convicted of any crime involving the use or threatened use of force
16 or violence against a victim that is punishable as a felony;

17 (d) Has ever been convicted of a sexual offense ~~that~~ **that is**
18 **punishable as a felony; or**

19 (e) Has escaped or attempted to escape from any jail or
20 correctional institution for adults, ~~or~~

21 ~~— (f) Has not made an effort in good faith to participate in or to~~
22 ~~complete any educational or vocational program or any program of~~
23 ~~treatment, as ordered by the Director,]~~

24 ➤ is not eligible for assignment to the custody of the Division
25 pursuant to this section to participate in a judicial program.

26 4. The Director shall adopt regulations requiring offenders
27 who are assigned to the custody of the Division pursuant to this
28 section to reimburse the reentry court, the Division and the
29 Department for the cost of their participation in a judicial program,
30 to the extent of their ability to pay.

31 5. The reentry court may return the offender to the custody of
32 the Department at any time for any violation of the terms and
33 conditions imposed by the reentry court.

34 6. If an offender assigned to the custody of the Division
35 pursuant to this section violates any of the terms or conditions
36 imposed by the reentry court and is returned to the custody of the
37 Department, the offender forfeits all or part of the credits for good
38 behavior earned by him before he was returned to the custody of the
39 Department, as determined by the Director. The Director may
40 provide for a forfeiture of credits pursuant to this subsection only
41 after proof of the violation and notice is given to the offender. The
42 Director may restore credits so forfeited for such reasons as he
43 considers proper. The decision of the Director regarding such a
44 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. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

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

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

(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:



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(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 ~~five 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~~ **that is punishable as a felony; or**

(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 agreed upon by the Director and the Chairman 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 is given to the offender. The Director may restore credits so 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.



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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. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.3. NRS 213.10885 is hereby amended to read as follows:

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

- (a) Who committed a capital offense.
- (b) Who was sentenced to serve a term of imprisonment for life.
- (c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.
- (d) Who was convicted as a habitual criminal.
- (e) Who is a repeat offender.
- (f) Who was convicted of any other type of offense.

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

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

- (a) The severity of the crime committed;
- (b) The criminal history of the person;
- (c) Any disciplinary action taken against the person while incarcerated;
- (d) Any previous parole violations or failures;
- (e) Any potential threat to society or himself; and
- (f) The length of his incarceration.

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

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a



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1 violent crime considered the most serious, than for a convicted
2 person who does not have a history of repetitive crimes and did not
3 commit a serious crime.

4 ~~{4.}~~ 5. The Board shall make available to the public a sample
5 of the form the Board uses in determining the probability that a
6 convicted person will live and remain at liberty without violating the
7 law if parole is granted or continued.

8 ~~{5.}~~ 6. On or before January 1 of each even-numbered year,
9 the Board shall review comprehensively the standards adopted by
10 the Board. The review must include a determination of whether the
11 standards are effective in predicting the probability that a convicted
12 person will live and remain at liberty without violating the law if
13 parole is granted or continued. If a standard is found to be
14 ineffective, the Board shall not use that standard in its decisions
15 regarding parole and shall adopt revised standards as soon as
16 practicable after the review.

17 ~~{6.}~~ 7. The Board shall report to each regular session of the
18 Legislature:

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

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

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

26 **Sec. 8.5.** NRS 213.120 is hereby amended to read as follows:

27 213.120 1. Except as otherwise provided in NRS 213.1213
28 and as limited by statute for certain specified offenses, a prisoner
29 who was sentenced to prison for a crime committed before July 1,
30 1995, may be paroled when he has served one-third of the definite
31 period of time for which he has been sentenced pursuant to NRS
32 176.033, less any credits earned to reduce his sentence pursuant to
33 chapter 209 of NRS.

34 2. Except as otherwise provided in NRS 213.1213 and as
35 limited by statute for certain specified offenses, a prisoner who was
36 sentenced to prison for a crime committed on or after July 1, 1995,
37 may be paroled when he has served the minimum term of
38 imprisonment imposed by the court. ~~{Any}~~ *Except as otherwise
39 provided in NRS 209.4465, any* credits earned to reduce his
40 sentence pursuant to chapter 209 of NRS while the prisoner serves
41 the minimum term of imprisonment may reduce only the maximum
42 term of imprisonment imposed and must not reduce the minimum
43 term of imprisonment.



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1 **Sec. 8.55.** NRS 213.1215 is hereby amended to read as
2 follows:

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

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

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

15 2. Each parolee so released must be supervised closely by the
16 Division, in accordance with the plan for supervision developed by
17 the Chief pursuant to NRS 213.122.

18 3. If the Board finds, at least 2 months before a prisoner would
19 otherwise be paroled pursuant to subsection 1, that there is a
20 reasonable probability that the prisoner will be a danger to public
21 safety while on parole, the Board may require the prisoner to serve
22 the balance of his sentence and not grant the parole provided for in
23 subsection 1. *If, pursuant to this subsection, the Board does not*
24 *grant the parole provided for in subsection 1, the Board shall*
25 *provide to the prisoner a written statement of its reasons for*
26 *denying parole.*

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

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

35 6. For the purposes of this section, the determination of the 12-
36 month period before the end of a prisoner's term must be calculated
37 without consideration of any credits he may have earned to reduce
38 his sentence had he not been paroled.

39 **Sec. 8.6.** NRS 213.152 is hereby amended to read as follows:

40 213.152 1. Except as otherwise provided in subsection 6, if a
41 parolee violates a condition of his parole, the Board may order him
42 to a term of residential confinement in lieu of suspending his parole
43 and returning him to confinement. In making this determination, the
44 Board shall consider the criminal record of the parolee and the
45 seriousness of the crime committed.



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2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~the~~ :

(1) **The** parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~(b) Require intensive~~

(2) **Intensive** supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~(1)~~ ; or

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,
must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or



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(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court



1 shall consider the criminal record of the person and the seriousness
2 of the crime committed.

3 2. In ordering the person to a term of residential confinement,
4 the court shall:

5 (a) Direct that he be placed under the supervision of the
6 Division ~~};~~

7 ~~—(b) Require the} and require:~~

8 (1) *The* person to be confined to his residence during the
9 time he is away from his employment, community service or other
10 activity authorized by the Division; and

11 ~~{(c) Require intensive}~~

12 (2) *Intensive* supervision of the person, including, without
13 limitation, unannounced visits to his residence or other locations
14 where he is expected to be in order to determine whether he is
15 complying with the terms of his confinement ~~{}~~ ; or

16 (b) *Direct that he be placed under the supervision of the*
17 *Department of Corrections and require the person to be confined*
18 *to a facility of the Department approved by the Division and the*
19 *court for a period not to exceed 6 months.*

20 3. An electronic device approved by the Division may be used
21 to supervise a person ordered to a term of residential confinement.
22 The device must be minimally intrusive and limited in capability to
23 recording or transmitting information concerning the person's
24 presence at his residence, including, but not limited to, the
25 transmission of still visual images which do not concern the
26 person's activities while inside his residence. A device which is
27 capable of recording or transmitting:

28 (a) Oral or wire communications or any auditory sound; or

29 (b) Information concerning the person's activities while inside
30 his residence,

31 ➡ must not be used.

32 4. The court shall not order a person to a term of residential
33 confinement unless he agrees to the order.

34 5. A term of residential confinement may not be longer than
35 the maximum term of a sentence imposed by the court.

36 6. *As used in this section, "facility" has the meaning ascribed*
37 *to it in NRS 209.065.*

38 **Sec. 9.** (Deleted by amendment.)

39 **Sec. 10.** NRS 193.161 is hereby amended to read as follows:

40 193.161 1. Except as otherwise provided in subsection ~~{2}~~ 3
41 and NRS 193.169, any person who commits a felony on the
42 property of a public or private school, at an activity sponsored by a
43 public or private school or on a school bus while the bus is engaged
44 in its official duties shall , *in addition to the term of imprisonment*
45 *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 20 years. In
determining the length of the additional penalty imposed, the court
shall consider the following information:

- (a) The facts and circumstances of the crime;**
- (b) The criminal history of the person;**
- (c) The impact of the crime on any victim;**
- (d) Any mitigating factors presented by the person; and**
- (e) Any other relevant information.**

↪ **The court shall state on the record that it has considered the**
information described in paragraphs (a) to (e), inclusive, in
determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~must run~~ :

- (a) Must not exceed the sentence imposed for the crime; and**
- (b) Runs** consecutively with the sentence prescribed by statute

for the crime.

~~2.~~ **3.** 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~~ **subsections 1 and 2,** 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 be
deemed a category A felony and the person who committed the
felony may be punished by imprisonment in the state prison:

- (a) For life without the possibility of parole;**
- (b) For life with the possibility of parole, with eligibility for**
parole beginning when a minimum of 20 years has been served; or
- (c) For a definite term of 50 years, with eligibility for parole**
beginning when a minimum of 20 years has been served.

~~3. Subsection 1 does~~

4. Subsections 1 and 2 do not create a separate offense but
~~provides~~ **provide** an additional penalty for the primary offense, the
imposition of which is contingent upon the finding of the prescribed
fact. Subsection ~~2~~ **3** does not create a separate offense but provides
an alternative penalty for the primary offense, the imposition of
which is contingent upon the finding of the prescribed fact.



~~{4-}~~ 5. For the purposes of this section, “school bus” has the meaning ascribed to it in NRS 483.160.

Sec. 11. NRS 193.162 is hereby amended to read as follows:

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

(a) Commits a crime that is punishable as a category A or a category B felony shall , *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 equal to 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 20 years.*

(b) Commits any felony other than a category A or a category B felony shall , *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 less than 25 percent and not more than 100 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 20 years.*

2. *In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:*

(a) *The facts and circumstances of the crime;*

(b) *The criminal history of the person;*

(c) *The impact of the crime on any victim;*

(d) *Any mitigating factors presented by the person; and*

(e) *Any other relevant information.*

↪ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

3. An additional 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-}~~ 4. 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-}~~ 5. As used in this section:

(a) “Adult” means a person who is 18 years of age or older.

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

Sec. 12. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet 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 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:**

- (a) The facts and circumstances of the crime;**
- (b) The criminal history of the person;**
- (c) The impact of the crime on any victim;**
- (d) Any mitigating factors presented by the person; and**
- (e) Any other relevant information.**

➔ **The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.**

2. 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.~~ **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.**

~~3.~~ **4. As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.**

Sec. 13. 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 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:**

- (a) The facts and circumstances of the crime;**
- (b) The criminal history of the person;**
- (c) The impact of the crime on any victim;**
- (d) Any mitigating factors presented by the person; and**
- (e) Any other relevant information.**

➔ **The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.**

2. 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-}~~ 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.

~~{3-}~~ 4. The provisions of subsections 1 ~~{and}~~, 2 *and* 3 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~{4-}~~ 5. 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-}~~ 6. 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. 14. 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 20 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.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime;**
- (b) The criminal history of the person;**
- (c) The impact of the crime on any victim;**
- (d) Any mitigating factors presented by the person; and**
- (e) Any other relevant information.**

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section ~~runs~~:

- (a) Must not exceed the sentence imposed for the crime; and**
- (b) Runs** concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

~~2.]~~ **4.** 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.]~~ **5.** 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. 15. 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 ~~[The sentence prescribed by this subsection must run consecutively with the sentence 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 20 years.*

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 criminal violation*, be punished , *if the criminal violation 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 ~~[.]~~ , and, *if the criminal violation 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 20 years.*

3. *In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:*

- (a) The facts and circumstances of the crime or criminal violation;*
- (b) The criminal history of the person;*
- (c) The impact of the crime or criminal violation on any victim;*
- (d) Any mitigating factors presented by the person; and*
- (e) Any other relevant information.*

↪ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

4. The sentence prescribed by this ~~[subsection]~~ *section* must run consecutively with the sentence prescribed by statute for the *crime or* criminal violation.

~~[3.]~~ 5. 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.]~~ 6. As used in this section, “vulnerable person” has the meaning ascribed to it in subsection 7 of NRS 200.5092.



Sec. 16. 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 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:*

- (a) The facts and circumstances of the crime;*
- (b) The criminal history of the person;*
- (c) The impact of the crime on any victim;*
- (d) Any mitigating factors presented by the person; and*
- (e) Any other relevant information.*

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.

2. *A sentence imposed pursuant to this section:*

- (a) Must not exceed the sentence imposed for the crime; and*
- (b) Runs consecutively with the sentence prescribed by statute for the crime.*

~~2.~~ 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. 17. 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 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

- (a) The facts and circumstances of the crime;*



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- (b) The criminal history of the person;*
- (c) The impact of the crime on any victim;*
- (d) Any mitigating factors presented by the person; and*
- (e) Any other relevant information.*

↪ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~{must run}~~ :

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

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

~~{2-}~~ 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.

~~{3-}~~ 4. 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 with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

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

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

~~{5-}~~ 6. In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

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



- (b) Specific rivalries between criminal gangs;
- (c) Common practices and operations of criminal gangs and the members of those gangs;
- (d) Social customs and behavior of members of criminal gangs;
- (e) Terminology used by members of criminal gangs;
- (f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
- (g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~16-1~~ 7. As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

- (a) Has a common name or identifying symbol;
- (b) Has particular conduct, status and customs indicative of it; and
- (c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 18. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism 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 20 years. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:*

- (a) The facts and circumstances of the crime;*
 - (b) The criminal history of the person;*
 - (c) The impact of the crime on any victim;*
 - (d) Any mitigating factors presented by the person; and*
 - (e) Any other relevant information.*
- ↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.*

2. The sentence prescribed by this section ~~must run~~ :

- (a) Must not exceed the sentence imposed for the crime; and*
- (b) Runs* consecutively with the sentence prescribed by statute for the crime.

~~2-1~~ 3. 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~~



~~1-1~~ **subsections 1 and 2**, if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

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

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

~~{3. — Subsection 1 does}~~

4. Subsections 1 and 2 do not create a separate offense but ~~{provides}~~ **provide** an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~{2} 3~~ does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~{4.} 5.~~ The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

~~{5.} 6.~~ As used in this section, “act of terrorism” has the meaning ascribed to it in NRS 202.4415.

Sec. 19. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person’s conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection ~~{2} 3~~ of NRS 193.161, subsection ~~{2} 3~~ of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person’s conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.



(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 20. Section 3 of Assembly Bill No. 508 of this session is hereby amended to read as follows:

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.



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(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. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for



children who are subject to the jurisdiction of the juvenile court; and

(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

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

9. *Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:*

(a) *State Board of Pardons Commissioners to consider an application for clemency; and*

(b) *State Board of Parole Commissioners to consider an offender for parole.*

10. *Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.*

11. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 21. 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions



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1 of sections 6.2 and 6.4 of this act apply only to credits earned by an
2 offender on or after July 1, 2007.

3 3. For the purpose of calculating credits earned by an offender
4 pursuant to NRS 176A.500, the amendatory provisions of section
5 8.7 of this act must be applied retroactively to reduce the period of
6 probation of such an offender commencing on July 1, 2006.

7 **Sec. 22.** 1. This section and sections 1 to 19, inclusive, and
8 21 of this act become effective on July 1, 2007.

9 2. Section 20 of this act becomes effective on July 1, 2007,
10 only if Assembly Bill No. 508 of this session becomes effective.

