

ASSEMBLY BILL NO. 62—SELECT COMMITTEE ON CORRECTIONS,
PAROLE, AND PROBATION

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S
SUBCOMMITTEE TO STUDY SENTENCING AND
PARDONS, AND PAROLE AND PROBATION)

PREFILED FEBRUARY 2, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning parole.
(BDR 16-149)

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 parole; prohibiting the State Board of Parole Commissioners from considering certain factors when determining whether to grant parole to certain prisoners; providing that a prisoner sentenced to prison for a category D or E felony must be paroled in certain circumstances; requiring the Board, under certain circumstances, to inform a prisoner in writing of its reasons for denying parole to the prisoner; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires the State Board of Parole Commissioners to consider
- 2 certain factors when determining whether to grant or revoke parole. One such factor
- 3 is whether the prisoner would be a potential threat to society or himself. **Section 1**
- 4 of this bill prohibits the Board from considering that factor if the prisoner would
- 5 not be eligible for release if granted parole. (NRS 213.10885)
- 6 Existing law provides that, except in certain circumstances, a prisoner who is
- 7 sentenced to imprisonment for a term of 3 years or more must be released on parole
- 8 12 months before the end of his maximum term, as reduced by any credits he has
- 9 earned to reduce his sentence. (NRS 213.1215) **Section 3** of this bill similarly
- 10 requires the Board, under certain circumstances, to grant parole to any prisoner who



is sentenced to prison for a category D or E felony, has served the minimum sentence for the felony and is not subject to any additional term of imprisonment.

Existing law provides that the Board may require a prisoner who is eligible for mandatory parole to serve his full term of imprisonment if the Board determines that there is a reasonable probability that the prisoner would be a danger to public safety while on parole. (NRS 213.1215) **Section 3** of this bill requires the Board to inform a prisoner in writing of its reasons for denying parole to the prisoner if the Board denies parole based on a determination that the prisoner would be a danger to public safety while on parole.

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

Section 1. 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~~ *Except as otherwise provided in subsection 3, any* potential threat to society or himself; and
- (f) The length of his incarceration.

3. *In determining whether to grant parole to a prisoner who would not be eligible for release from prison if granted parole, the*



Board shall not consider whether the prisoner would be a potential threat to society or himself.

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

~~14.1~~ 5. The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~15.1~~ 6. On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~16.1~~ 7. The Board shall report to each regular session of the Legislature:

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

(b) The results and conclusions from the Board's review pursuant to subsection ~~15.1~~ 6; and

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

Sec. 2. NRS 213.1099 is hereby amended to read as follows:

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

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

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

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

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



(d) ~~The~~ Except as otherwise provided in subsection 3 of NRS 213.10885, the standards adopted pursuant to NRS 213.10885 and the recommendation, if any, of the Chief; and

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

3. When a person is convicted of a felony and is punished by a sentence of imprisonment, he remains subject to the jurisdiction of the Board from the time he is released on parole under the provisions of this chapter until the expiration of the maximum term of imprisonment imposed by the court less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

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

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

(b) Repetitive criminal conduct;

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

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

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

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

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

Sec. 3. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections ~~3,~~ 4 and 2, 4, 5 and 6 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

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



(b) Is not otherwise ineligible for parole,
➔ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in subsections 4, 5 and 6 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a category D or E felony:

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

**(b) Is not otherwise ineligible for parole,
➔ he must be released on parole when he has served the minimum term of imprisonment imposed by the court for such felony. Any credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.**

3. The Board shall prescribe any conditions necessary for the orderly conduct of ~~the~~ **each** parolee upon his release.

~~2.1~~ **4.** Each parolee ~~so~~ released **pursuant to this section** must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~3.1~~ **5.** If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~1~~ **or 2**, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1 ~~1~~

~~4.1~~ **or 2.**

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

~~5.1~~ **7.** If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~6.1~~ **8. If the Board finds pursuant to subsection 5 that there is a reasonable probability that the prisoner will be a danger to public safety and does not grant the parole provided for in subsection 1 or 2, the Board shall provide to the prisoner its reasons for denying parole in writing.**

9. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated



- 1 without consideration of any credits he may have earned to reduce
- 2 his sentence had he not been paroled.

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