

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND
PROBATION**

**Seventy-Fourth Session
March 22, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:53 p.m., on Thursday, March 22, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Craig Hoffeecker, Committee Policy Analyst
Risa Lang, Committee Counsel
Marion Miles, Committee Secretary

OTHERS PRESENT:

Barry Smith, Executive Director, Nevada Press Association, Carson City
Patricia Hines, Private Citizen, Yerington, Nevada
Reverend Onie Cooper, Private Citizen, Reno, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada



Pattie Edgin, Private Citizen, Las Vegas, Nevada
Lee Rowland, Attorney, American Civil Liberties Union (ACLU) of Nevada
Mark Woods, Acting Major, Division of Parole and Probation,
Department of Public Safety
Tonja Brown, Private Citizen, Carson City, Nevada

Chair Parks:

[Meeting called to order. Roll called.] We will begin with the introduction of three bill draft requests.

BDR 16-1047—Makes various changes to provisions concerning parole.
(Later introduced as [Assembly Bill 509](#).)

BDR 16-1377—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders.
(Later introduced as [Assembly Bill 510](#).)

BDR 14-1378—Makes various changes to provisions concerning the Advisory Commission on Sentencing. (Later introduced as [Assembly Bill 508](#).)

ASSEMBLYMAN ANDERSON MOVED TO INTRODUCE BDRs 16-1047, 16-1377, AND 14-1378.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Parks:

We will begin the hearing on [Assembly Bill 61](#).

[Assembly Bill 61](#): Makes various changes concerning meetings of the State Board of Parole Commissioners. (BDR 16-150)

Assemblyman William Horne, Clark County Assembly District No. 34:
[Assembly Bill 61](#) came out of the [Assembly Concurrent Resolution 17](#) Committee of the Seventy-Third Session. This bill requires the parole board to follow the Open Meeting Law. [Read overview of [A.B. 61](#).]

Assemblywoman Weber:

What is changing in Section 1, number 3? Is that a three-day notice?

Assemblyman Horne:

I did not research the day requirement.

Assemblywoman Weber:

Does this allow more fluidity for notice?

Assemblyman Horne:

The intent of the legislation is to include the notice provision. This would allow people to witness the parole board deliberations.

Assemblywoman Weber:

I did not realize it was not posted.

Assemblyman Horne:

There were issues raised on how the posting would be done and problems it would pose to the parole board in complying with the Open Meeting Law.

Chair Parks:

Is there anyone present from the State Board of Parole Commissioners (Parole Board)?

Assemblywoman McClain:

Chapter 241 is the Open Meeting Law, so everyone will have to comply.

Assemblyman Anderson:

The requirement was to make the public notice within five days.

Assemblyman Horne:

Further elaboration states that only the victim was allowed to present documents and testimony regarding the crime for which the prisoner was incarcerated. The prisoner should not be denied an advocate.

Chair Parks:

In correspondence which I have received, there has been the presumption that certain documents will be in the prisoner's file for review by the State Board of Parole Commissioners. Somehow, these documents do not seem to be made a part of the file. Was that discussed in the A.C.R. 17 meetings? Did you receive testimony to that effect?

Assemblyman Horne:

There were some complaints about whether or not the Parole Board read or even received the documents.

Assemblywoman McClain:

This is one of the few bills with zero fiscal impact, but it has a caveat.

Assemblyman Horne:

Part of the Parole Board's complaints about open meeting laws is the time expended on a forum for all speakers.

Assemblywoman McClain:

I did not realize we had two fiscal notes on each bill.

Chair Parks:

If the court directs us to, we will be faced with having to implement this requirement, and to implement the full fiscal impact of this requirement as well. The documentations received by the Parole Commissioners should be complete and comprehensive. Is there anyone else who would like to speak?

Barry Smith, Executive Director, Nevada Press Association, Carson City:

I am in support of A.B. 61.

Patricia Hines, Private Citizen, Yerington, Nevada:

[Read directly from prepared testimony ([Exhibit C](#)).] Are meetings and hearings the same thing or are they interchangeable?

Chair Parks:

Can legal counsel offer a comment on that?

Risa Lang, Committee Counsel:

Under Chapter 241 of the *Nevada Revised Statutes* (NRS), meetings and hearings are under the same requirements.

Patricia Hines:

Would that apply to closed meetings which are taped?

Risa Lang:

This amendment would have them comply with any other requirements in NRS Chapter 241.

Patricia Hines:

Part of this recommendation comes from inmates who would like to know what the victim has said. If there is a recording of a victim's testimony, a transcript should be made available to the inmate, so he knows what has been said about him. There is plenty of staff in most of the facilities. [Continued ([Exhibit C](#)).]

Reverend Onie Cooper, Private Citizen, Reno, Nevada:

I am testifying against racial bias and I believe these bills can be improved.

Chair Parks:

We will call you back when we are ready to discuss Assembly Bill 62.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

We are in support of A.B. 61, with a few caveats. All inmates need to be physically present at their Parole Board hearings. We are advised that some inmates attend their Parole Board hearings via teleconference, while the victim and the victim's relatives, friends, and supporters are present in the room with the Parole Board. That gives the victim an unfair advantage. We are asking for parity. We believe that any evidence which was not part of the trial record should not be presented to the Parole Board at a hearing. We do not want the Parole Board to have greater power or authority than the trial judge. We are asking for a complete record of the Parole Board hearing to be made available to the inmate. Tape recorders and transcription procedures currently utilized are problematic. There have been instances when the tape recording was unintelligible. We ask that inmates have a representative at their Parole Board hearings.

Pattie Edgin, Private Citizen, Las Vegas, Nevada:

[Read directly from prepared testimony ([Exhibit D](#)).]

Lee Rowland, Attorney, American Civil Liberties Union (ACLU) of Nevada:

The ACLU of Nevada supports A.B. 61. There is no record of these proceedings. When I attended a Parole Board meeting, my paper and pencils were confiscated before I entered the meeting. Not only was there no record, but as an interested attorney, I was not able to take notes on the proceeding. In addition to benefiting inmates, A.B. 61 in tandem with A.B. 62, is a crucial tool for accountability for the Parole Board. This Committee was visited by Dr. James Austin, who is an expert in prison conditions and who has told us that we are under-paroling low-risk prisoners. Access to these hearings which come under the Open Meeting Law in combination with written findings, are going to force the Parole Board to start following the directives of this Legislature. The Open Meeting Law requires only three days' notice. That may reduce the notice given to prisoners. That is not adequate to prepare representation at a hearing.

Risa Lang:

The Open Meeting Law requires three working days as opposed to the five days after the date on which the Board fixes the hearing date.

Tonja Brown, Private Citizen, Carson City, Nevada:

I would like to speak to limiting the discretionary powers of the Board of Parole Commissioners. They should not consider the appeals which are pending in federal court. We are concerned about overcrowding of the prisons. If the Board of Parole Commissioners and the State Board of Pardons Commissioners would stay out of the court system, it would free up a lot of prison beds. These inmates are being discriminated against because they have appeals pending. Inmates are asked monthly if they are appealing their conviction. If their answer is "yes," they are denied parole.

Chair Parks:

The hearing is closed on A.B. 61, and we will open the hearing on Assembly Bill 62.

[Assembly Bill 62](#): Makes various changes concerning parole. (BDR 16-149)

Assemblyman William Horne, Clark County District No. 34:

[Read overview of Assembly Bill 62.]

Assemblywoman McClain:

Does every parole hearing have to have a reason in the case for denial?

Assemblyman Horne:

The intent of the bill is to provide a written reason for denial. It is important to the inmate to begin serving his consecutive sentence. If the inmate has an explanation why he was denied parole, he can make strides to meet guidelines for parole.

Assemblywoman McClain:

Were specific standards discussed?

Assemblyman Horne:

The Committee did not delve into the various standards which have been set into the regulations. The question was whether or not the Parole Board was abiding by its standards.

Assemblywoman Weber:

Is this policy considered part of best practices? Are we the only state that is not doing this?

Assemblyman Horne:

Dr. James Austin had some data on the practices of granting parole in different jurisdictions. Nevada seems to be near the top of the list in maintaining incarceration of inmates.

Assemblywoman Weber:

Nevada may be one of the few states where parole and probation is not aligned with the corrections department. Is there a correlation between policies?

Assemblyman Horne:

There have been discussions on whether or not parole and probation should be under the jurisdiction of the Department of Corrections or the Department of Public Safety. You can make the argument that parole and probation are under the Department of Public Safety because parole and probation are supervising these individuals who are in our community.

Reverend Onie Cooper:

Assembly Bill 62 does not have a diversified group on the Parole Board. [Referred to prepared testimony ([Exhibit E](#)).]

Mark Woods, Acting Major, Division of Parole and Probation, Department of Public Safety:

To my left is Reynolds Johnson who is the commander of our pre-release program. The area we would ask the Committee to consider is an amendment to delete number 4 in Section 3, paragraph 2, line 5. The reason is the bill would require that all the category D's and E's released be supervised at an enhanced level. The NRS 213.122 refers to the current mandatory release program. The majority of individuals who fall under those categories have one year or less remaining on their sentence. The majority of these inmates are high-risk offenders. The Division has a risk and needs tools. The majority of these offenders would score out at a maximum-level supervision, and we would raise them one level to Intensive Supervision (ISU). It is one of the highest levels of supervision we have to offer. We are funded for a 70 to 1 ratio for regular supervision which is maximum security, medium security, and minimum security. When we get down to the ISU level, we are funded at a 30 to 1 ratio. If all of these category D's and E's were released, we would be forced to supervise at an ISU level, which would increase the need for manpower. It is our belief that the majority of D's and E's are not going to be our highest-risk offenders. We feel comfortable that the tool we use is sufficient to supervise them at whatever level the tool says. As of this week, there are 300 category D's and E's in custody. These inmates have done a minimum of 12 months. Per this bill, they would be eligible for release and in

order to supervise them at the ISU level, our manpower would have to increase. We are asking this bill be amended so these people would be supervised as deemed appropriate.

Chair Parks:

The line you were referencing was subsection 4, page 5, line 19?

Mark Woods:

The simple fix would be to delete number 4 on line 5.

Tonja Brown:

The Parole Board Commissioners must give a written explanation why an inmate is denied parole.

Patricia Hines:

Assembly Bill 61 and Assembly Bill 62 are tools to get amendments in the record. One of the issues that should be reviewed is in Section 6, page 3. If it is not amended, I would like to see it say the report should be in the first week of the legislative session. Last year it was not out until the end of May, so you could refer to the statistics and procedures which were listed. I would like for this board to consider that maybe it is time we take away this discretionary power of the Parole Board. The Parole Board should have standards by which they can abide. It is not known why the Parole Board went above or beyond its own standards. How can we go about taking the autonomy away from the Parole Board? They compile their own operating procedures, standards, and guidelines. Is there some way we can put the Parole Board under the scrutiny of the Legislative Commission like other state agencies?

Assemblywoman McClain:

Where is this report?

Patricia Hines:

I have a copy.

Assemblywoman McClain:

I am always concerned about any kind of board. This is not specific to Parole and Probation. It circumvents our authority. A former speaker told me he felt the worst thing the legislature ever did was turn over its authority to various boards to write regulations. There are hundreds of reports that everybody is required to submit. We do not stockpile or read every one of them.

Patricia Hines:

Many of the crimes were committed before 1995, yet they do not consider the sentencing standard at the time the crime was committed, they use current standards.

Constance Kosuda:

[Read directly from prepared testimony ([Exhibit F](#)).] There needs to be some independent opportunity to view allegations of recent misconduct which will deny an inmate an opportunity to be released on parole.

Chair Parks:

Would you comment on your reference to Section 2(d)?

Constance Kosuda:

We were concerned about what was meant by the term "sexual deviant." We know there are frequent instances of rape within most places of incarceration. It has come to our attention that the inmate who has been the victim of rape while incarcerated is then charged with a crime. We would like clarification to make sure that in being the victim, you are not charged with the crime. We would like to make sure constitutional rights are protected, and that would include freedom of sexual expression.

Chair Parks:

We will ask legal counsel to look into that.

Pattie Edgin:

When my son was up for parole, we were told not to get our hopes up, that everyone was denied parole at their first hearing. [Referred back to ([Exhibit D](#)).] These inmates are not a risk to society. The Parole Board should be held accountable for denying parole.

Chair Parks:

You reference that your son is at Casa Grande. Does he have a parole date?

Pattie Edgin:

He is eligible for parole in June. They reviewed his parole four months prior to the actual parole date. His two-year minimum sentence was served; he should have been approved for parole at the end of that two-year minimum sentence.

[Document submitted by Donald Hinton. No testimony ([Exhibit G](#)).]

Chair Parks:

We will close the hearing on A.B. 62 and our meeting is adjourned
[at 5:55 p.m.]

RESPECTFULLY SUBMITTED:

Patricia R. Evans
Transcribing Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

**Committee Name: Committee on Select Committee on Corrections,
Parole, and Probation**

Date: March 22, 2007

Time of Meeting: 3:53 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AB 61	C	Patricia Hines, Private Citizen, Yerington, Nevada	Proposed Amendments
AB 61	D	Pattie Edgin, Private Citizen, Las Vegas, Nevada	Letter of support.
AB 62	E	Reverend Onie Cooper, Private Citizen, Reno, Nevada	Proposed Amendments.
AB 62	F	Constance Kosuda, Private Citizen, Las Vegas, Nevada	Proposed Amendments.
AB 62	G	Donald Hinton, Private Citizen, Las Vegas, Nevada	Letter of concerns.