

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

**Seventy-Fourth Session
April 3, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:54 p.m., on Tuesday, April 3, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman John Carpenter (Excused)

STAFF MEMBERS PRESENT:

Craig Hoffecker, Committee Policy Analyst
Risa Lang, Committee Counsel
Deanna Duncan, Committee Manager
Gayle Miles, Committee Secretary
Olivia Lloyd, Committee Assistant



OTHERS PRESENT:

Larry Struve, Advocate, Religious Alliance in Nevada (RAIN)
John Emerson, Legislative Advocate, Three Agencies of the United
Methodist Church of northern Nevada
Howard Skolnik, Director, Department of Corrections
Fritz Schlottman, Administrator, Offender Management Division,
Department of Corrections
Teresa Werner, Private Citizen, Carson City, Nevada
Patricia Hines, Private Citizen, Yerington, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada
Patti Edgin, Private Citizen, Las Vegas, Nevada
Tonja Brown, Private Citizen, Carson City, Nevada
Mark Woods, Deputy Chief, Division of Parole and Probation, Department
of Public Safety

Chair Parks:

[Roll called.] We have two bills on our agenda today. We will start with testimony on Assembly Bill 509.

**Assembly Bill 509: Makes various changes to provisions concerning parole.
(BDR 16—1047)**

Larry Struve, Advocate, Religious Alliance in Nevada:

I am here to show the complete support of the concept behind A.B. 509 of the entire Religious Alliance in Nevada (RAIN) community ([Exhibit C](#)). This bill will loosen the law which currently makes it difficult for the Parole Board and prison officials to consider releasing certain prisoners to alternative rehabilitation or treatment programs, while trying to deal with the overcrowding.

The RAIN organization is deeply troubled by the current situation within the Nevada Department of Corrections (NDOC), but we are mainly concerned with what will happen to those incarcerated upon their release.

The fact is 97 percent of the 12,000 prisoners currently within our correctional system will be released into society. This is a fact that is often missed or not even considered when looking at the prison system, its components, and the possible solutions to many problems. We can get tough on crime and extend the length of sentences, but they will still be released into our communities and our churches. If not adequately prepared to reenter society, these individuals will most likely offend again. According to a study by Dr. Jane Forker-Thompson, a RAIN board member, the recidivism rate is between 65 and 75 percent. This proves, to society and the RAIN community, that our current

correctional system is not focused on safety of the public. While incarcerated, these individuals need to be taught ways to keep a job, how to find a home, and how to maintain a household. Without this type of preparation for the real world, they will revert back to all they know, which usually is a life of crime.

Coupled with these reentry issues, the RAIN community is very distressed about the budget decisions the Legislature is dealing with currently. Our members were outraged at the NDOC's budget request moving into the millions, even billions. We all feel that money would be much better spent addressing recidivism with treatment programs and reentry classes versus accommodating those who will recidivate once released. Assembly Bill 509 seems to be the first step in that direction. The RAIN community believes A.B. 509, if passed, begins the desperately needed process of addressing inmates' needs for treatment programs and reentry skills while they are incarcerated.

I have provided copies of three papers written by members of RAIN and approved by the RAIN Board of Directors for public dissemination: "A Dignified and Effective Transition from Prison to Society," ([Exhibit D](#)); "Creating a Humane Criminal Justice System and Significantly Reducing Tax Expenditures," ([Exhibit E](#)); and "How to Reduce Prison Population; Avoid Wasting Millions of Taxpayers Dollars; and Do a More Effective Job of Rehabilitating Criminal Offenders and Juvenile Delinquents" ([Exhibit F](#)).

John Emerson, Legislative Advocate, Three Agencies of the United Methodist Church of northern Nevada:

We, the Three Agencies of the United Methodist Church, are in support of A.B. 509. I represent those church members who are more liberal progressive, and yet we share the same concerns and outrages of the conservative community Mr. Struve alluded to.

Chair Parks:

In Section 2, subsection 2, there was a lot of speculation and guessing on the Legislature's part. Would the NDOC please comment?

Howard Skolnik, Director, Department of Corrections:

The NDOC is neutral on A.B. 509. We do have some concerns with the language in the bill as it is written currently. In paragraph 1, section 2, parole is defined as a right. The *Nevada Revised Statutes* (NRS) Chapter 213 does not establish parole as a right. This would make control of inmates within our facilities very difficult because we could no longer punish or reward behavior. Another section that should be reviewed for language is paragraph 5. In section 2, we are also having some difficulty with the definition of capacity. We have been putting beds everywhere we can in order to accommodate the number of

prisoners we have, which increases our capacity, but we need a clear definition of what is meant by the wording in A.B. 509. There are many types of capacity such as design, emergency, or exact capacity. We typically use emergency capacity for our calculations; based on that we determined the NDOC's emergency capacity is 11,894 inmates. Currently, our population is 13,191 inmates. In order to reach the 11,299 inmates, which is the 95 percent of capacity in A.B. 509, the NDOC would have to release 1,894 inmates. Those inmates housed in the NDOC cover a wide spectrum of offenses, and it would be a policy issue for the Legislature, in order to maintain a high level of public safety, to decide who will be released.

Assemblyman Anderson:

Are there some inmates over your emergency capacity limit using non-traditional areas as living space?

Howard Skolnik:

Yes, to a certain point. There are some inmates who must be housed alone, therefore not allowing all the extra space to be used.

Assemblyman Anderson:

In the south, how many beds have we added to expand our capacity?

Howard Skolnik:

We have added 192 beds in Ely, 310 beds in Lovelock, and 156 beds at High Desert. Approximately 600 beds have been added in southern Nevada and they filled up almost instantly.

Assemblywoman Weber:

Capacity is defined by different entities using many different variables. What components does the NDOC use to determine its emergency capacity?

Fritz Schlottman, Administrator, Offender Management Division, Department of Corrections:

The NDOC's emergency capacity is determined by first determining how many beds in single cells have to remain single. Then, add that number to the number of beds in general population in medium custody, where two out of every three beds will be double bunked, and then add the number of beds in general population minimum custody, where every bed will be double bunked.

Howard Skolnik:

The Department has met with public health officials and the fire marshal to discuss the possibility of temporarily housing inmates in our gymnasiums and other non-traditional living areas within our facilities. We have received

approvals to do so, but the NDOC does not want to use such areas for many different reasons: there would be little or no privacy, no protection of property, and we would have to provide a 24 hour fire watch, which currently we do not have the staff to do.

Assemblywoman McClain:

On page 4, sections 8 and 9, am I correct in assuming the Parole Board will be making the determinations on who qualifies for early release based on crime, threat to society, et cetera? Would not this method lead to an initial wave of those less violent and of less risk to society, a majority of which should not have been there in the first place, and then we would be left with the worst?

Howard Skolnik:

I believe you are right. If there are no additional community programming alternatives in place, I am not sure that these individuals will be deterred from returning to our system.

Assemblywoman Weber:

Would any of these individuals paroled be able to go to transitional housing, such as Casa Grande? If not, what would have to be done at these types of facilities to comply with the parole regulations to house such individuals?

Howard Skolnik:

That would require different legislation specifically pertaining to the regulations that mandate transitional facilities. This bill does not pertain to those facilities.

Assemblywoman Weber:

Is that a different section of law?

Howard Skolnik:

Yes, it is.

Assemblywoman Weber:

Thank you. I will work with staff on the possibility of working that into this bill or maybe another.

Teresa Werner, Private Citizen, Carson City, Nevada:

I have a couple points on A.B. 509. I am very happy to see the addition of supportive people. I have a brother in the system, and we support his staying there, so I hope this bill can work both ways.

I have concerns on page 2, regarding the standards used by the Parole Board. The language in the bill states that the form used by the Board at the hearings is

available for the public to view, but I do not see where the actual standards used by the Board are available to the public. That language and unavailability of the standards leads me to believe that the Board can deviate from those set standards whenever they feel it is necessary. I am also not clear on the minimum sentence language; maybe it could be made a little clearer.

In these hearings, I am constantly hearing support for release of the nonviolent offenders, as they will not be a threat to society. This always bothers me because of such offenders as my brother. My brother has been locked up on four separate occasions now, and although he was never charged with a violent crime, he is the most violent person I know. Two times I have been responsible for sending him to prison because he hit his children. He always acts in a violent manner, and yet when he is sentenced, the charges consist of theft or possession of drugs, but never anything labeled as violence. He is always locked up for short periods of time, and therefore, never able to be treated for his abusive behavior.

I agree with Mr. Skolnik when he spoke last meeting of needing more funds for the prisons for treatment and rehabilitation programs. I am all for additional funding if it will be used correctly. My brother is never helped by his stays in the system, and he has proven that he never learns anything. I know there are others like my brother, who is labeled as nonviolent, and if this legislation passes, they will most likely be the ones released. Many times the offenders labeled as violent are not, and their crimes were a one-time thing. It could have been self-defense and they were not able to prove it or for many other reasons, but I would most likely take a violent offender over a nonviolent offender. That is why it bothers me when society labels the incarcerated strictly on their charges; I am here to tell you from experience that those labels are not always reflective of the individual. I am all for funding as long as we are helping the incarcerated.

Assemblywoman McClain:

I think you are absolutely right. If we start moving people out of prison because of quotas and not rehabilitating them, then we are doing them no favors and just enabling the revolving door. I think we need to be very careful in regard to release, and this State is definitely lacking in the area of treatment and rehabilitation. Reentry programs work if and when available.

Patricia Hines, Private Citizen, Yerington, Nevada:

I support A.B. 509 in part, but I do have some amendments to the language of the bill. I would like to see a couple sections combined regarding the reporting responsibility of the Parole Board back to the Legislature because the way it is worded is very confusing. We all have the same feeling, in that it appears the

Board can use its own discretion whenever it chooses, and that is definitely something that needs to be addressed. The Board should be required to submit a written report to the Legislature by a certain date at the beginning of each session. Those are the amendments and comments I had on the bill.

Assemblywoman McClain:

The bill says the Board shall adopt regulations or specific standards for each convicted person. Who approves those adopted regulations?

Risa Lang, Committee Counsel:

I believe the Board just adopts them like other agencies adopt regulations, but the Board's regulations are not subject to the review of the Legislature the way other agencies' regulations are.

Chair Parks:

I agree that is the way they work.

Assemblywoman McClain:

Does anyone else provide input when these regulations are in the process of being determined? I will look into that.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

I am wholeheartedly in support of A.B. 509, but I do have some comments. There were two comments made by Mr. Skolnik that I would like to address. With regard to the first comment regarding the punishing or rewarding of behavior, I would suggest the NDOC focus on the job of physically incarcerating, educating, treating, and rehabilitating those in their care. With regard to the second comment about "inmates not playing nice with others," I am very serious when I ask this question: Why is that? Are they psychotic, or are they sociopaths, or is it a question of learning or mental illness? At the A.C.R. No. 17 of the 73rd Legislative Session hearings, a judge testified that 80 percent or more of the young people currently in the juvenile correctional system have mental illnesses and most of them are not being treated for that illness.

Looking at this holistically, within our correctional system there needs to be an emphasis on treatment, reeducation, rehabilitation, and education so these individuals can work and provide for their families upon release. I am suggesting providing all or some of these prior to the first arrest. It is true it can cost thousands of dollars for treatment in community facilities, but it costs even more for one year of incarceration.

Regarding the statement made about parole being a right, that can be semantic or a legal argument, but inmates do have an expectation of parole if they follow the rules within the facility; if the Parole Board follows the rules regulating them; and if the NDOC supplies the necessary programs, training, and education to allow for the receipt of parole when it is their turn. Parole is not a right, but it is an inmate's right to be treated fairly if he is in accordance with objective, explicit criteria.

Patti Edgin, Private Citizen, Las Vegas, Nevada:

I am also in support of A.B. 509, and I strongly feel the Parole Board needs more supervision, more regulation, and more accountability for their actions. I believe NDOC currently has many programs that inmates complete successfully but the Board undermines. When an inmate comes to the Parole Board, the Board decides whether or not to release the inmate, even though he has served his time and should be allowed parole. The Board does not always follow its own standards. An inmate eligible for parole with a point score in line with that eligibility is denied parole with no explanation. This is not fair, and I am glad to see that this Committee is beginning to take a look at that.

Tonja Brown, Private Citizen, Carson City, Nevada:

I am in support of A.B. 509, but I have one addition. The bill should have language requiring the Parole Board to provide a reasonable, written recommendation as to the reasoning behind a parole denial. The Board should not be able to base its denial of parole on whether an inmate has an appeal either in process or pending, and along with that they should not be able to inquire into the nature of an inmate's appeal, particularly when deciding on whether or not to deny parole.

Chair Parks:

We will close the hearing on A.B. 509, and open the hearing on Assembly Bill 510.

Assembly Bill 510: Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16—1377)

Howard Skolnik, Director, Department of Corrections:

The Nevada Department of Corrections (NDOC) is neutral on A.B. 510 as well. It is conceivable that an inmate serving consecutive sentences could be eligible for release prior to completing his minimum sentences. The NDOC is looking at 75 to 100 days to convert the sentence calculations should this bill be passed. If the court orders restitution, specific language within the bill seems to state that the NDOC would not be able to collect that. Inmates would have their

credits for time served doubled; this would greatly impact all levels of our inmate population. But it is a policy issue for the Legislature to decide on the exact intent of the language.

The NDOC will be impacted in different ways between the passing of A.B. 509 and A.B. 510. Assembly Bill 509 will greatly impact our camp inmates and have less of an impact on the medium security inmates; whereas, A.B. 510 will greatly impact all levels of our inmate population. That again will be a policy issue to decide who will be impacted by the language.

Assemblywoman McClain:

Is the difference between the two bills the different types of prisoners within the NDOC?

Howard Skolnik:

Assembly Bill 509 applies to an inmate based on his sentence structure and crime committed and usually affects the less serious offender. Assembly Bill 510 awards double credits for good behavior, and thus would affect all of the offenders we house.

Assemblywoman McClain:

Assuming both bills pass, we could see a whole lot of inmates qualifying for release with no place to go and no rehabilitation to get them there.

Howard Skolnik:

More significantly, we would see a whole lot of inmates having to be released, irrespective of whether they have a place to go or resources to assist them.

Assemblywoman McClain:

Our first concern is public safety, and building more prisons costs a lot of money, but I do not see any concern for public safety in releasing a bunch of people who are going to end up back in prison. Mr. Parks, do these bills have to meet the deadline?

Chair Parks:

We could request an exemption, but we would have to provide a very good reason to support our request.

Howard Skolnik:

I think in terms of impact to victims, the most significant impact is the elimination of the requirement of self-support and restitution to victims, pursuant to NRS 209.429, which deals with driving under the influence (DUI)

issues. That NRS focuses mainly on victims, and this bill does not give victims that same focus.

Assemblywoman McClain:

Because A.B. 509 could possibly empty some camps, and A.B. 510 would make it easier for medium security inmates to be released, could there be some language added regarding a change in sentence in mid-stream, and possibly send those medium security inmates to the camps and not directly out into society?

Howard Skolnik:

Going back to court and being sentenced again is the only way to change an inmate's sentence. Unless this Committee has the power to go back and act retroactively, other than the awarding of time credits, this would apply to all the NDOC's population and not simply the specific population the community would be most comfortable with releasing.

Patti Edgin, Private Citizen, Las Vegas, Nevada:

I would like to comment on Section 7 of A.B. 510. Just because these inmates might have a probable parole date does not mean they will be paroled. Often inmates are denied parole and then told they will not be considered again by the Parole Board for years and years.

Chair Parks:

It does indeed look like we are going in the opposite direction of our intention. We will look into that. Thank you for bringing that to our attention.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

In reference to Sections 5 and 6, I believe there needs to be mention of the mental or physical ability of an inmate to participate. In paragraph 3 and the second sentence in section A, regarding the serious infraction of a rule, this would be a great point of reference for the Prison Oversight Committee to review. Serious infractions of the prison rules need to be documented and need to be objective and not subjective. Sometimes an infraction is determined as an infraction by a staff member for revenge or malicious purposes. In terms of people being released and then creating havoc in the community, I know many who have been incarcerated for simply using a drug which has been deemed illegal by our society or the person has been deemed an alcoholic. Gambling and prostitution are allowed throughout Nevada, and there is drug use and other illegal activities that go on within the casinos that are allowed across the board. The aspect of police and prosecutorial profiling decides who will be incarcerated; it is not always fair or level for all of society. The best practices model is treatment, which is the way to avoid incarceration in the first place

and to prevent it from being repeated in the future. Dr. Austin pointed out that the crime rate is directly related to the perception that young people have of a "have and a have not" society which I find to be true. We can take care of people now with treatment, or we can take care of them down the road and spend ten times the money to incarcerate them.

Patricia Hines, Private Citizen, Yerington, Nevada:

I do, in part, support A.B. 510. There are a couple amendments I would like to suggest. There is a list of what qualifies for residential confinement, yet the list is presented in two sections of the bill, and each contains different items; but they should be the same. The credits are a great part, but those sections should be rectified along with a few other sections as well. When the credits are given for higher education, there are discrepancies in who gives them and the amounts for each degree. It will be a big job to restructure the good time credit system within the NDOC, but I feel, as do many others, that it needs to be done. There is a conflict in the language of time frames regarding a second offense of a convicted felon; that also needs to be reviewed.

Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

The Division of Parole and Probation (DPP) will remain neutral on both A.B. 509 and A.B. 510. As we previously testified before the Legislature regarding the release of Category D and E offenders to the DPP, our budget already includes the new staff needed to accept these people, but it was set for their coming out on a two-year biennium. That means, if our budget is approved, we could not hire that staff for 18 months. If these bills pass, there would be a huge surge coming out at once, and it would overwhelm our system. We do not currently have the staff to handle such a surge. If we do get staff, it takes at least a year to train the officers before they are ready for duty.

Assemblywoman McClain:

Did you provide a fiscal note on A. B. 510?

Mark Woods:

It should be here at the Legislature, but I have not seen it.

Assemblywoman McClain:

It should be exempt.

Mark Woods:

The passing of these bills would not affect our fiscal note overall because we are prepared to handle these individuals anyway. We just planned for them to

come to the DPP over a period of time. These bills will cause a huge surge at once.

Chair Parks:

The DPP did not submit a fiscal note with A.B. 510.

Assemblyman Horne:

Once the surge passes, things will even out, right?

Mark Woods:

Yes.

Assemblyman Horne:

There is no effective date in A.B. 510, so the date would be July 1, 2008, and that would give you time to prepare.

Chair Parks:

Since there is not an effective date specifically mentioned in A.B. 510, it would go into effect October 1, 2007. Mr. Woods, are you saying it would take an additional year to get new staff fully trained and up to speed?

Mark Woods:

We are assuming we can fill every position requested by July 1, 2007, versus waiting to hire them.

Assemblyman Horne:

After the budget passes, the DPP would have a year, until July 1, 2008, to prepare and accept this surge upon their release.

Assemblywoman Weber:

How many new staff members have you requested, and will that request cover the impact created by the passing of A.B. 509?

Mark Woods:

We have accounted for the majority of the officers needed, but we were going to hire some July 1, 2007, and then some more by October 1, 2007, and so on in phases. We are still asking for the same number, but we would like to hire them sooner in order to get them trained. I do not know the exact number requested.

Patricia Hines:

Can the DPP request emergency funds from the Interim Finance Committee (IFC) if needed?

Chair Parks:

Our hope is that before we leave on June 4, 2007, that we will have a comprehensive plan in place that addresses the various contingencies. You are right; the DPP could request additional funds from the IFC if determined necessary.

We will close the hearing on A.B. 510 which concludes the items listed on our agenda. We are adjourned [at 5:30 p.m.].

RESPECTFULLY SUBMITTED:

Brooke Bishop
Transcribing Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

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

Date: April 3, 2007

Time of Meeting: 3:54 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 509	C	Larry Struve, Advocate, Religious Alliance in Nevada (RAIN)	Written testimony, including studies from various members of RAIN
A.B. 509	D	Larry Struve provided from <i>Social Principles: The Book of Resolutions of The United Methodist Church</i>	"A Dignified and Effective Transition from Prison to Society."
A.B. 509	E	Larry Struve provided from <i>Social Principles: The Book of Resolutions of The United Methodist Church</i>	"Creating a Humane Criminal Justice System and Significantly Reducing Tax Expenditures."
A.B. 509	F	Larry Struve provided from <i>Social Principles: The Book of Resolutions of The United Methodist Church</i>	"How to Reduce Prison Population; Avoid Wasting Millions of Taxpayers Dollars; and Do a More Effective Job of Rehabilitating Criminal Offenders and Juvenile Delinquents."