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

Seventy-Fourth Session
April 12, 2007

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:59 p.m., on Thursday, April 12, 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 John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Mark Stevens, Fiscal Analyst
Craig Hoffecker, Committee Policy Analyst
Matt Nichols, Committee Counsel
Deanna Duncan, Committee Manager
Brooke Bishop, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Philip K. (P.K.) O'Neill, Captain, Records and Technology Division, Department of Public Safety
John Michela, Deputy Attorney General, Office of the Attorney General

Assembly Bill 361: Providing for the establishment of certain standards for state correctional institutions and facilities. (BDR 16-1014)

Chair Parks:
We have one bill today, A.B. 361, that I would request be rereferred to Ways and Means without a recommendation. It does have a fiscal note attached to it.

ASSEMBLYWOMAN WEBER MOVED TO REREFER ASSEMBLY BILL 361 TO THE COMMITTEE ON WAYS AND MEANS WITHOUT RECOMMENDATION.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION CARRIED (ASSEMBLYMAN ANDERSON WAS ABSENT FOR THE VOTE.)

Chair Parks:
We will start our work session (Exhibit C) with Assembly Bill 579.

Assembly Bill 579: Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Craig Hoffecker, Committee Policy Analyst:
This bill makes changes in Nevada law regarding sex offenders and certain offenders convicted of crimes against a child in conformance with the federal Adam Walsh Child Protection and Safety Act of 2006. The bill requires that such offenders register with law enforcement prior to release from prison or within three days after sentencing if not imprisoned. It also requires offenders to notify law enforcement of changes of name, residence, employment, or student status within three days of the change.

The measure also revises the classification of tier levels for community notification for all sex offenders and offenders convicted of a crime against a child, based upon the specific crime committed by the offender. It requires an

offender to personally register before local law enforcement every year for a tier I offender, every 180 days for a tier II offender, or every 90 days for a tier III offender. The bill extends the full period of registration for offenders, requires offenders of all tier levels to be subject to community notification, and excludes certain consensual sexual conduct from registration and community notification requirements. The bill also revises the community notification website in compliance with the Adam Walsh Act and repeals certain laws inconsistent with federal provisions requiring uniform registration and community notification for juveniles at least 14 years of age adjudicated as delinquent for committing certain sexual offenses.

We have several amendments which were proposed (Exhibit C). The first, submitted by Assemblyman Carpenter, amends Section 16, subsections 1 and 2. It adds "or guardian" after "parent" in each instance. The second amendment would amend the bill to provide that a person using information from the community notification website to commit a misdemeanor is guilty of a gross misdemeanor and to commit a gross misdemeanor is guilty of a category E felony.

The third amendment is to amend the bill to add "United States" before Attorney General in Section 41, subsection 3. It would also add a requirement that an offender not be convicted of a sex offense to the list of requirements for reducing the registration period outlined in subsection 3.

The fourth amendment is to amend Section 41, subsection 3 of the bill to begin counting of registration time of the date of initial offender registration, whether in Nevada or the appropriate agency in another jurisdiction with offender registration requirements.

The fifth amendment is to amend Section 23 of the bill to close the loophole where the order and time of committing the sex crimes has changed the tier level assigned to the offender.

The sixth amendment, which was to amend Section 29 of the bill, reflects shared responsibility of community notification between the Central Repository and local law enforcement and allows local law enforcement discretion to engage in additional community notification.

Chair Parks:
There were some additional proposed amendments. The first one was submitted by Patricia Hines, a private citizen, from Yerington, Nevada (Exhibit D). She had several recommendations.

Craig Hoffecker:
As I understand the proposed amendments, they would, for the most part, keep current statute in effect and would make Nevada no longer in substantial compliance with the Adam Walsh Act. Would legal counsel like to elaborate on that?

Matt Nichols, Committee Counsel:
The proposed amendment language would keep current law in effect. In place of the provisions in A. B. 579, Ms. Hines would like to create a committee to study the need to enact the federal law and then have that committee report back to the 2009 Legislature.

The problem I see with the language is that in order to be in substantial compliance with the Adam Walsh Act, specifically Section 126, and for Nevada to be eligible for Sex Offender Management Assistance (SOMA) grant money, we need to be in compliance within two years of the enactment of the federal law. That bill was signed into law on July 26, 2006. So, the timing alone makes the amendments problematic if we want to be in compliance and also be eligible for the grant money.

Chair Parks:
Ms. Hines asked the question, "Are we moving too fast?" As legal counsel pointed out, I do not think we have very much discretion on this. There is a timeline already in place within the Adam Walsh Act. I would like to thank Ms. Hines for her amendment but we will not be able to pursue it at this time.

There was a second amendment to A.B. 579, submitted by the Department of Public Safety (DPS) (Exhibit E).

Philip K. (P.K.) O'Neill, Captain, Records and Technology Division, Department of Public Safety:
The Records and Technology Division of DPS contains the Sex Offenders Unit (SOU). The SOU currently monitors over 6,000 active registered sex offenders in the state of Nevada. After consultation with SOU employees, it has become clear that to truly reassess tier assignments and to make sure they are properly given under the Adam Walsh Act, we need to delay implementation of A.B. 579 until July 1, 2008 (Exhibit E).

This is similar to what happened during the 2005 Legislative Session. The SOU was given a year in which to do sex offender modifications and reassessments. They did say they could accomplish it sooner, but the cost in overtime was substantial, costing over $92,000. It took a substantial amount of hours to get the project done within the October 1, 2005, deadline. This bill

would have that enacting date, as well, unless you add the amendment language.

According to the DPS fiscal staff, due to staff restraints and the estimated cost, we would not be able to absorb the expense. There are also modifications that need to be done to the website regarding the tier level assignments before it can go online. If we delay implementation until July 1, 2008, we would still be within the two-year time frame for compliance with the federal Adam Walsh Act. We would have no problems with our SOMA grant money.

Assemblyman Anderson:
Obviously, we are concerned about the ability of the Central Repository to carry out its function in a timely fashion and as cheaply as we can possibly get by with, which seems to be the bottom line, most of the time. Although our legal counsel agrees that the effective date change would still keep Nevada in compliance, are there parts of the bill that we could enact immediately? Or is the whole thing predicated upon the availability of the information through the appropriate site?

P.K. O'Neill:
I will admit that Mr. Michela probably has the best concept of the bill and its intent. I do not have the language fully memorized, like he has. My concerns with enacting parts of it, however, are that it would cause problems in the tier assignments of new people as they came into the system or as they renewed their registration. Which tier of assignment do we place them in on the website if they are a tier I, which is in the bill? We would be creating a little confusion for my staff and also for law enforcement. I would acquiesce, naturally, to whatever the Committee decides or what Mr. Michela suggests.

John Michela, Deputy Attorney General, Office of the Nevada Attorney General:
I have reviewed the Adam Walsh Act, and I think it would cause more problems than benefits to enact different pieces at different times. All of the sex offenders currently have tier levels. Implementing A.B. 579 in phases would be creating two different tier systems for different offenders. The website is based on tier levels as well as the durational requirements for registration. All of that is based on tier levels. I think in order to move forward on that, the SOU would have to reassess all the offenders as to where they belong on the new tier scheme.

Chair Parks:
Our legal counsel concurs.

Assemblywoman Weber:
I just wanted to determine if the Attorney General's Office and DPS have considered arrangements in their budget to be able to handle this. Were there conversations as it was moving forward to plan ahead, so that the requirements could be met, because of the three-year window to be able to enact it?

P.K. O'Neill:
The Legislative Counsel Bureau (LCB) requested we attach a fiscal note to A.B. 579, which we did. We do have a request in the Governor's recommended budget of additional staffing to the SOU. With that additional staffing we can meet the requirements of this bill or any of the other bills that are currently before the Legislature on sex offender modifications. So, the answer would be "yes" under what we have requested being in the Governor's recommended budget. If we lost that for some reason, then it would post a hardship on meeting and maintaining the dictates of the bill.

Assemblyman Anderson:
I suggest we amend and do pass the bill and accept the recommendations as outlined in the Work Session Document (Exhibit C) as well as change the effective date to July 1, 2008, as suggested by Mr. O'Neil. This would give the State the opportunity to put together the materials to carry out the intent of the federal legislation.

> ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 579.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

Chair Parks:
We will now move to Assembly Bill 508.

Assembly Bill 508: Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

Craig Hoffecker:
This bill revises provisions related to the current Advisory Commission on Sentencing. Currently, this is chaired by the Attorney General. This bill removes the designation of the Attorney General as chairman of the Commission and provides for the members of the Commission to elect a chairman at the first meeting of each calendar year. The Commission must

meet every three months and at other times as deemed necessary by the chairman. The measure adds a retired justice of the Nevada Supreme Court, appointed by the Chief Justice, to the Commission. The bill also revises the duties of the Commission, requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Parole Board. It will consider if it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning actions relating to parole policies for the operation of the Department of Corrections, budgetary issues, and related matters. The bill also provides an appropriation to the Advisory Commission on Sentencing for $50,000 for the Commission to enter into a contract with a consultant to assist the Commission.

There are several amendments proposed (Exhibit F). The first amendment proposed amends Section 1 of the bill to provide that the Chief Justice appoint either a sitting or retired Justice of the Nevada Supreme Court to the Commission.

The second amendment amends Section 1 to add a representative from the Nevada Sheriffs' and Chiefs' Association to the Commission.

The third change amends Section 1 and adds a representative of the Parole Board to the Commission.

The fourth change amends Section 1 to have a representative of the Division of Parole and Probation appointed by the director of the Department of Public Safety instead of the Governor.

The fifth amendment amends Section 1 to have a member of the Commission be involved with inmate advocacy and be appointed by the Governor.
The sixth amendment amends Section 1 to provide for the entire Commission to be reappointed within 60 days after the appointment of members of the Legislature.

The seventh change amends the bill to have the newly appointed Commission hold its first meeting within 120 days after July 1, 2007, and elect a new chairman at the meeting.

The eighth amendment amends the bill to provide that the newly elected chairman serve a two-year term that would extend to the 2009 Legislative Session.

The ninth change amends the bill to provide subpoena power to the Commission.

The tenth amendment amends the bill to provide that the Commission report include a review of the Division of Parole and Probation, the inclusion of the division's presentence investigation reports, and the use of the report writer's of the Division as well the use of the 1990 Administrative Code matrix the report writer's used for making sentence recommendations. The report also must include the degree to which judges rely on presentence investigation reports as well as the degree to which judges also follow presentence investigation reports, as well as the recommendations produced by the Division.

The eleventh change amends the bill by adding provisions for the Commission to examine the effectiveness and impact on the prison system of the recommended current sentences for felonies, particularly those involving mandatory minimums and sentences for drug crimes, such as trafficking. The Commission would then report back to the Legislature.

The twelfth change amends the bill for the Parole Board regarding its guidelines and regulatory procedures, which are to be reviewed by the Commission. Recommendations would be made to the 2009 Legislature regarding the effectiveness of the guidelines and regulations.

The thirteenth recommended change amends the bill to charge the Commission with the responsibility of examining the effectiveness of specialty courts and the effect those resources can have on either precluding or limiting the prison populations or dealing with reentry.

The fourteenth change amends the bill to charge the Commission with the responsibility for evaluating effectiveness of sentencing scheme recommendations and to see if they are working or not.
The fifteenth change amends the bill to provide for subcommittees. The final change amends Section 2, subsection 4a, to read, "Policies relating to parole."

Assemblywoman McClain:
Since there are so many recommendations, can we run through each of those one at a time, then take a vote? Or do you want a blanket motion for all of them?

Chair Parks:
Do you want to vote on each one individually? We can readdress any of them again for clarification.

Assemblywoman McClain:
That would be easier. Is there anything in particular that anyone has concerns with?

Assemblyman Anderson:
Is the subpoena power of the Advisory Commission one of the amendments?

Chair Parks:
Yes, it is the ninth recommended amendment. We wanted to have a Commission on Sentencing that brought into its discussions as large a group as possible, from a wide variety of backgrounds. I think this amendment accomplishes that.

Assemblyman Anderson:
I do not have an issue with the expansion of the Commission with the changes suggested by Justice Hardesty to allow a current or retired member of the court. I think it shows the involvement of the court, and it is essential. I have no problem with the Nevada Sheriffs' and Chiefs' Association as a member, either. I was under the impression they already had an appointed member to the Commission.

Chair Parks:
One of the amendments proposes to add a member who is a representative of a law enforcement agency. They are appointed by the Governor.

Assemblyman Anderson:
So, would that preclude having the member provided by the Nevada Sheriffs' and Chiefs' Association?

Chair Parks:
The representative from law enforcement would be appointed by the Governor and then the Nevada Sheriffs' and Chiefs' Association would appoint another member. What that offers is an ability to provide a member from the rural areas and a member from the urban areas. Ostensibly, that is how they want them appointed to the Commission.

Assemblyman Horne:
I am not in favor of the third amendment proposed in the Work Session Document (Exhibit F), which deals with adding a member to the Commission from the Parole Board. Nor am I in favor of the fourth proposed change, which changes the Governor appointing the Parole Board member to the director of the Nevada Department of Public Safety doing it instead. The director works for the Governor. It is in statute that the Governor appoints someone. Having

one of his/her subordinates appoint someone instead seems like something we would not typically do. I am sure the Governor consults with the department and division heads before he makes any appointments. We cannot put into statute that he cannot make a Commission appointment but the subordinate he has appointed can.

Chair Parks:
Well, consistency wise, the Governor does make a number of other appointments. Your recommendation is to delete amendment changes 3 and 4 as outlined in the Work Session Document (Exhibit F).

Assemblyman Horne:
I have no problem with adopting the fifth amendment proposed, which deals with having an inmate advocate on the Commission.

Chair Parks:
There would be balance in the membership of the Commission with the addition of an inmate advocate since we have a victims' advocate. There would then be 17 members, though there would actually be 18 members if we include the Attorney General's office.

Assemblyman Anderson:
So, if we include the Attorney General representative, there would then be 18 members, and that is assuming we add the inmate advocate, the Supreme Court representative, and the Nevada Sheriffs' and Chiefs' Association representative. Would a quorum then be ten, in order to vote or make recommendations? Would we require all ten members to vote or just a majority of those ten present at that particular meeting?

Matt Nichols, Committee Counsel:
That language is not currently in the text, but we can clarify that language in the bill.

Assemblyman Anderson:
In large groups, there is a difficulty in having a quorum present so they can conduct business. Once they reach a decision, assuming that they do, will they have the ability to make a recommendation? Do they all have to agree? Does it have to be six out of the ten? We need to make sure to add the language, "a majority of those present at a meeting, quorum having been met." I am always of the opinion that it is a good idea because of distance. The people on the Commission have other duties. We can help by providing that language, rather than hindering them from reaching a decision by stating it has to be a majority of the total members of the Commission to get anything done. As we do in our

committees, we hinder the power of our committees by having a majority of the total membership be the deciding factor. We do that purposefully. So, I know how difficult it is over a long period of time, expecting them to make a decision. We would like for all of them to be present.

Assemblywoman Weber:
Can the director of Nevada's Department of Corrections and the Attorney General have a representative that could be a designee or alternate to help meet the quorum? I do not know if that takes away from the powers of the individual mentioned in the language of the bill.

Chair Parks:
Having served on various advisory bodies in the past, they tend to be a little more lenient as to what constitutes a quorum. I certainly would not have a problem with the majority or quorum of a body being able to make recommendations.

Assemblyman Anderson:
I do have a problem with alternates being allowed, because then the players who are going to make the decisions are not there to make recommendations. A designee often goes in your place, and then problems are constantly being put off or not addressed. Justice Hardesty mentioned the need for this Commission to be taken seriously and for its work ethics to be such that they would be able to produce a workable document. That was his argument for including a current sitting judge.

Chair Parks:
Have we decided to make it a 17-member commission? Or do we have problems with having 18 members and the sheer quantity? I thought the county commissioner provision was to address issues from a budgetary perspective. We can reduce it to 17 members by removing that provision.

Assemblyman Horne:
I do not see the need for the county commissioner provision.

Chair Parks:
We all agree that the county commissioner provision is to be removed from the composition of the Commission.

Assemblyman Anderson:
I agree. We would not be losing the county point of view because it would be represented by the Nevada Sheriffs' and Chiefs' Association. We would still have the reality of dealing with rural issues, such as the overcrowding of their

jail facilities. A county commissioner is only dealing with the fiscal responsibility and recognizes the impact of providing that particular service, but the reality of the prisoners themselves are handled by the sheriffs.

Chair Parks:
Are there any other concerns with proposed amendments? Most of these provisions are a simple matter of mechanics.

Assemblyman Horne:
For some clarification, on the sixth proposal, it says, "Amend Section 1 to provide for the entire Commission to be reappointed within 60 days after the appointment of members of the Legislature." What is the purpose of that?

Chair Parks:
The members of the Commission that are going to be appointed would be appointed by the leadership of both houses, and the timing would correspond with the first meeting of the Legislative Commission, which usually occurs within 60 days of the end of the legislative session.

Assemblyman Anderson:
The session at which the Legislative Commission generally takes up the appointments is usually held in late August or early September, rather than later—at least that has been the tradition. Many of the statutory committees come up for their appointments before the Legislative Commission at that time. I think the Majority Leader of the Senate and the Speaker usually try to balance those appointments among all the members of both houses so people are not on too many committees, or conversely, so that some people are not left out completely, especially if they have an interest to serve. After the 60 days, leadership can see all at once what the options are for committees and who can serve on them. Most legislators like to serve in many capacities and interests during the interim. They do, however, have to pick and choose so they do not overextend themselves and are not missing meetings.

Chair Parks:
Does that answer your concerns, Mr. Horne? We are recreating, basically, the Commission on Sentencing. There are more than just mechanics to that whole process. Are there any other concerns to the proposed amendments?

Assemblywoman Weber:
Can we summarize the amendments before we vote, so we all know what we are voting on?

Chair Parks:
We have discussed the composition of the Commission, the mechanics of when the members would be appointed, and the timeline for the first meeting. There seems to be a desire of have a makeup of 17 members for the Commission, which would require a quorum of nine. We would be striking the county commissioner as a member.

Assemblyman Horne:
Do we need to have the fifteenth proposed change outlined in the Work Session Document (Exhibit F) providing for the ability of this Commission to create subcommittees? I thought they already had the authority to do that.

Chair Parks:
I added that because we did not have the actual language in there. I presume they have that authority, but it was not specifically mentioned.

Matt Nichols:
Mr. Horne's interpretation is correct. That authority is inherent. The only situation where you would want to specifically provide for subcommittees is if there was going to be a standing subcommittee or a subcommittee the Commission was going to authorize with specific duties or powers, so that they could control what that subcommittee was going to examine. Otherwise, I think that is a power the advisory board would generally have.

Assemblyman Horne:
If we are going to add that language, we would need to make sure it was stated as an option to provide for subcommittees, not a requirement. I do not mind proposed change 16, "policies relating to parole." In Section 2, paragraph 4a it says "actions relating to parole." I think it is appropriate to change it to "policies relating to parole."

Assemblyman Anderson:
Going back to recommendation 6, regarding the 60-day question, after the appointment of members of the Legislature, would it not be better to make the suggested phrase "not later than 60 days after"? This would give the Legislative Commission the opportunity to appoint as soon as practical because the legislators would be the last members appointed. Since we are expecting them to meet within the first 120 days, putting the "not later" language in there might solve part of the dilemma of waiting to have a meeting.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 508 WITH PROPOSED

AMENDMENTS NOS. 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, AND 16, AS PRESENTED, AND THE FOLLOWING ADDITIONS:

- REMOVAL OF THE COUNTY COMMISSIONER PROVISION;
- ADDITION OF A SHERIFFS' AND CHIEFS' ASSOCIATION REPRESENTATIVE; AND
- ADDITION OF LANGUAGE SPECIFYING THAT A QUORUM IS NINE. A MAJORITY OF THAT QUORUM IS NEEDED TO MAKE RECOMMENDATIONS.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Parks:
We will move on to Assembly Bill 510.

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

Craig Hoffecker:
The bill increases the deduction of sentence time for good behavior from 10 to 20 days per month. It increases the educational credits for earning a General Education Diploma (GED) from 30 days to 60 days, credit for a high school diploma from 60 days to 90 days, and credit for a first associate's degree from 90 days to 120 days. It also revises eligibility requirements for offenders to enter residential confinement by prohibiting an offender convicted of a violent felony crime within the preceding three years or ever convicted of a sexual offense which was punishable as a felony or a Category A or B felony, from serving in residential confinement. The measure eliminates certain requirements of an offender to qualify for residential confinement, especially as it concerns costs of confinement and drug and alcohol treatments. It also reduces the discretion of the Director of the Department of Corrections as it relates to offenders completing treatment and complying with certain conditions. It prohibits the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner was ever convicted of a felony sexual offense and provides that an offender must be within one year, instead of the current two years, of probable release from prison and not been convicted of a violent felony crime within the preceding year instead of the current five years.

There are four amendments which have been proposed. The first amends the bill to allow the Department of Corrections to continue to collect restitution from inmates who have had court orders of restitution. The second change amends the bill regarding victim impact, eliminating the requirements of self-support and restitution to victims under *Nevada Revised Statutes* (NRS) 209.429. The third amendment amends Section 8, subsection 1(c) to allow eligibility for the program when an offender is within two years of probable release from prison. The fourth amendment changes the effective date to July 1, 2008.

Assemblyman Horne:
I do not have any objections to the four proposed amendments. The original language of the bill had one year for probable release from prison, and the amendment changes it back to two years. I believe that is consistent with what we have been trying to do. It is allowing for an opportunity to move someone onto parole and other means of supervision in the prison system. They have earned their spot, to be able to do that.

Assemblywoman Weber:
Is the amendment language correct? Two years instead of one year?

Chair Parks:
We think the one-year provision was an error. Previously it was two years, but someone thought they were improving an inmate's circumstance by reducing it to one year. That is not the reality, however—they were actually compounding the problem this measure is addressing, which is moving inmates onto parole. Are there any further questions?

Assemblyman Carpenter:
Does this mean that if they have a high school diploma, they will get 90 days good time? During a lot of the testimony we have heard, they said inmates have not been getting credit for getting a diploma. I cannot understand the reason for that. If that provision is back in the bill, I think it is good if it specifically provides for that.

> ASSEMBLYWOMAN MCCLAIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 510 WITH THE AMENDMENTS AS PRESENTED.
>
> ASSEMBLYWOMAN WEBER SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

Chair Parks:
In proceeding forward, we will move on to Assembly Bill 416, which is Assemblyman Munford's bill. This will be much more involved than everything we have covered so far.

Assembly Bill 416: Makes various changes to provisions concerning the Department of Corrections. (BDR 16-190)

Craig Hoffecker:
This bill creates the Committee on Prison Oversight to evaluate state prisons and report its findings to the Legislative Commission and the Governor. It also provides for the State Board of Prison Commissioners, the Governor, the Attorney General, and the Secretary of State to have sole authority to proscribe regulations for the Department of Corrections. It requires unclassified employees of the Department of Corrections to undergo a peer review process with the Board of Prison Commissioners to proscribe the process requirements. It requires biennial performance audits for the legislative auditor. It requires the release on parole of certain prisoners when the Department of Corrections determines the total capacity of certain state institutions exceeds 97 percent, giving priority to the release of prisoners who were sentenced for a crime not involving the use of force or violence against the victim. It requires Parole Board hearings to be subject to the open meeting law. It adds whether the crime committed was part of the same act or transaction as another crime for which the prisoner was convicted and takes into account the family and community support available to a prisoner as factors the Parole Board must consider in establishing standards concerning parole release. The bill requires the Parole Board to release certain prisoners on parole after serving the minimum sentence of prison imposed. It requires the officers, employees, or independent contractors of the Department of Corrections whose duties require direct contact with prisoners to be of the same gender as those of the prisoners. The bill provides for penalties of a minimum term of imprisonment of one year to a maximum of ten years as an enhancement for certain crimes.

The bill also includes several features of other measures which were before the Select Committee on Corrections, Parole, and Probation earlier in the session. The various amendments (Exhibit H) I will go through that have been proposed may have been originally intended for Assembly Bill No. 61, Assembly Bill No. 62, Assembly Bill No. 509, or as the current bill, Assembly Bill No. 416.

As a disclaimer, I tried to rework the sections of the original bill listed in the suggested amendments to the corresponding sections of A.B. 416. The list is rather long, so bear with me as I begin going through them.

The first proposed amendment amends Section 3 to provide for monitoring of the store account fund for offenders. It also adds provisions regarding medical care and the availability of schooling, classes, programs, credits, and employment for the inmates.

The second proposed amendment amends Section 4 of the bill to have a solicitation for individuals who may be interested in serving on the committee in specific areas, such as mental health, drug counseling, and social work.

The third proposed amendment amends Section 4 to delete the registered voter requirement to serve on the committee and changes the residency requirement to be based on counties instead of cities.

The fourth amendment reduces the size of the committee and changes the name to Corrections Oversight Committee.

The fifth proposed change amends the bill to provide for an expiration date of July 1, 2011, for the Committee on Prison Oversight.

The sixth proposed amendment amends Section 6 in order to comply with federal rules regarding the inspection of certain information that is classified since it comes from the National Criminal Information Center. The information would have to be declassified for legislators to be cleared to view it.

The seventh change amends the bill by deleting Section 7 regarding same gender employee contact with inmates.

The eighth change amends Section 14, subsection 1, to expand testing to include periodic and random testing of all the Department of Corrections' classified and unclassified employees.

Then ninth amendment changes Section 15, subsection 3(c), by adding that the Prison Oversight Committee be informed of an offender testing positive to a supplemental test for Human Immunodeficiency Virus (HIV).

The tenth change amends Section 15, subsection 5, by adding provisions that the infected inmate get appropriate treatment by a licensed physician in a timely manner.

The eleventh change amends Section 16, subsection 3(b), by adding that a serious infraction is to be explicitly designated and notice of the infraction is to be sent to the Prison Oversight Committee within one day.

The twelfth change would amend Section 23, subsection 5, to specify that the standards, and not just a sample of the form, is made available to the public.

The thirteenth proposed amendment amends Section 23, subsection 6, to require that the report from the Parole Board to the Legislature to be submitted on or before February 1 of each odd-numbered year.

The fourteenth change amends the bill to have an automatic parole if an offender is serving a sentence on a category D or category E felony to their next consecutive sentence by the Department of Corrections without the involvement of the Parole Board. An exception may be made if the inmate is convicted of another crime in prison. When the inmate is on his final sentence, the Parole Board will function and determine whether the offender is paroled to the street.

Item 15 amends Section 24, subsection 1, to allow education credits to reduce minimum sentences while item 16 amends Section 24, subsection 1, so that it does not conflict with NRS 213.10705, stating that "no person has a right to parole."

The seventeenth proposed amendment amends Section 24 to include a provision that if the Parole Board denies parole based on a reasonable probability that the prisoner will be a danger to public safety, the Parole Board must provide its reasons for denying parole, in writing, to the prisoner.

The eighteenth proposed change amends Section 24 to better define what is meant by capacity as used in Section 2.

The nineteenth change has two parts. The first part amends Section 24 to add provisions that on or before January 1 of each even-numbered year, the Parole Board is to comprehensively review the release on parole of prisoners. The evaluation is to include a review of each decision where the Parole Board did not release a prisoner due to a finding of reasonable probability of the prisoner being a danger to public safety. The second part of this amendment amends Section 24 to add provisions requiring the Parole Board to report to the Legislature on or before February 1 of each odd-numbered year on the number and percentage of Parole Board decisions where it did not release a prisoner on parole due to finding a reasonable probability of the prisoner being a danger to public safety. The report must also contain the results and conclusions from the comprehensive Parole Board review. This language was taken from A. B. No. 509.

The twentieth proposed change amends Section 25 of the bill to not require the Division of Parole and Probation to closely supervise released category D and category E offenders.

The twenty-first amendment amends Section 25, subsection 2, to limit photographs or other evidence considered by the Parole Board to be strictly limited to that entered as evidence by the trial judge.

The twenty-second proposed change amends Section 25, subsection 5, to have the Parole Board provide its decisions within 14 days after the date of the parole hearing.

The twenty-third proposed change removes the requirement of Section 25, subsection 5, that the victim be notified of a Parole Board hearing.

The twenty-fourth proposed change amends Section 25, subsection 6, to add requirements that the Parole Board develop procedures for closing portions of its meetings and in doing so define "safety" reasons where closed meetings could be used.

The twenty-fifth proposed change requires the Parole Board to inform the prisoner about what information the Board will be using in making its decision to grant or deny parole. A list of the types of information to be provided could be given to an inmate before a hearing while the ability to look at the inmate's file could be made at the hearing itself.

The twenty-sixth proposed amendment amends Sections 26 through 34 of the bill to make sure the enhancement penalty does not exceed the penalty for the underlying crime.

The twenty-seventh change amends the bill to remove the exemption of the Department of Corrections from most provisions of the Administrative Procedure Act.

The twenty-eighth proposed change amends the bill to have certain responsibilities remain with the Director of the Department of Corrections rather than the Board of Prison Commissioners.

The twenty-ninth proposed change amends the bill where appropriate to allow more inmates to qualify for alternative housing at Casa Grande in Clark County.

Finally, the last amendment amends the bill where appropriate to prohibit the Parole Board from considering where the appeal of an inmate is pending or

asking questions about an appeal in making its determinations to grant or deny parole.

Assemblyman Anderson:
Do we assume that the wording in the original version of the bill will be passed and we are just reviewing and voting on the amendments to that bill? We are not striking any language from the bill itself?

Chair Parks:
I think as we go through and approve certain items in the proposed amendments, they will then be in conflict with what exists in the bill. The amendments will replace what is currently in the language.

Craig Hoffecker:
Yes, you are correct. Many of the amendments do replace sentences or entire sections of the original text in the bill itself.

Chair Parks:
We will be taking a vote on each amendment for A.B. 416 that we just went through. We will do this individually, rather than going through the bill section by section. If we approve the amendment that is in conflict with the existing language, then it would obviously replace the existing language. I think that is the easiest way to do this.

We will start with the first amendment, which deals with legislative audits. It was proposed by County Commissioner Chris Giunchigliani, as outlined in the Work Session Document (Exhibit H). It amends Section 3 and provides for the monitoring of the Store Account Fund and adds provisions concerning medical care and the availability of schooling, classes, programs, and credits. I think the one thing we are looking at is Section 4, which has the composition of the oversight committee.

Assemblyman Anderson:
I thought this was dealing with Section 3, the legislative auditor. I thought Ms. Giunchigliani wanted to make sure that, in addition to those fiscal questions, the other operations of the Department of Corrections were being similarly audited, not just the fiscal questions, which is in Section 3. I gather from what you have raised there would be a separate audit of the elements of the schooling programs and the credits which are earned? In other words, this affects good time credits as far as school activity and work activity is concerned. That was the essence of another section of the bill.

Chair Parks:
I share the opinion you have that, in addition to the financial analysis, the legislative auditor, who also does performance auditing, would, in fact, be undertaking other such activities which are more typically done in a performance audit perspective.

Assemblywoman McClain:
Do you want a consensus on each amendment? Or an actual vote?

Chair Parks:
I think it is going to become quite burdensome if we do an individual vote, so I think we will easily know those items that we do not want to proceed forward with. I think we can discount them. So, I think there is consensus to include the first amendment, and we will just proceed forward.

If there is no more discussion on the first item, we will proceed to the second item. This deals with the composition of the oversight committee. That language is in Section 4. I think the composition that Mr. Munford suggested was probably good and quite varied. I think that we would do better if the committee had some specific interests and backgrounds as opposed to living in a specific geographic area. We wanted to make sure we covered mental health, drug counseling, and social work, which are certainly components to that issue.

Assemblywoman McClain:
I agree they should come from a specific field as opposed to a town.

Chair Parks:
As regards this oversight committee, we are talking about four members from the Senate, four members from the Assembly, and eight other members. Is it the desire of this committee to have the four members from each house serve on this committee?

Assemblywoman McClain:
It seems like too many to me.

Chair Parks:
I would tend to agree but in support of this I would say that when the Select Committee was established, a fair number of our fellow legislators wished the committee could have been bigger so they could have been appointed to it. What is the pleasure of the committee?

Assemblywoman McClain:
If you did three from each house, and maybe seven at-large members, that would give you a committee of thirteen members. That seems like a reasonable size.

Chair Parks:
I concur with you that it would be a good number. The legislative members would be appointed by the Legislative Commission. The Commission would have the opportunity to solicit from the public interested individuals with varying backgrounds who would desire to be added to the oversight committee.

Assemblywoman McClain:
If you do three from each house instead of four, than we need to take off the language dealing with "two of whom must be members of the minority political party."

Chair Parks:
So, if we reduce the number, then we are saying, "At least one whom must be a member of the minority political party."

Assemblywoman McClain:
I think that is standard.

Chair Parks:
Did we discuss a change to the name of the Committee? I think we wanted to also discuss that. While I do not have any heartburn over the name "Oversight Committee," I was leaning more towards the prospect of calling it the "Policy Advisory Committee on Prison Oversight." I think we want to stay more in the area of looking at issues and being an advisory body that recommends policy-level issues.

Assemblywoman McClain:
I would prefer that it did not say "Prisons" and said "Corrections" instead.

Chair Parks:
One of the recommended titles for the committee was "Policy Advisory Commission on Corrections." Does that sound acceptable? Maybe we can consider that as part of the second proposed amendment. So, that takes care of items 2 and 3.

Assemblyman Anderson:
I am a little concerned about the second and third items. It seems to me that with the makeup of the Committee, we are trying to get at certain population areas like Clark County—counties whose populations are greater than 400,000. However, the language is also targeting counties with less than 100,000 to account for some of the rural areas. I am not entirely sold on exactly what the hope is for this committee and what it is intending to accomplish by advising the Department of Corrections on what is going to take place. It is not part of the Executive Branch of government but yet would be composed mostly of citizens who have an interest in policy advisory, people who are providing services in mental health, drug counseling, or social work. Six legislators is a large amount to put on this committee. Our interim committee which dealt with parole and probation was just a six-member committee and this one would have 13 people on it. That makes me a little concerned with where things will be going and what the committee is supposed to do. Is it making recommendations to the Governor or is it making recommendations to the Legislature? I am not sure. I would have to reread the language.

Now you have one legislator from each house on the Sentencing Commission. There would also be three from each house on this oversight commission. Is that right?

Chair Parks:
That would be the makeup. In all likelihood, the legislative member from each house appointed to the Sentencing Commission would in all likelihood not be appointed to the advisory commission. I think the other thing is that by having the Legislative Commission appoint these individuals, they would be able to balance geographic interests as well as expertise.

Assemblyman Anderson:
Are we providing information to the Legislative Commission? Who is going to provide the list of recommendations to the Commission regarding the mental health, drug counselors, and social work professionals? This is in addition to the population question. Would it be by geographic area?

Chair Parks:
It was my proposal to forego the geographic area in favor of appointing individuals with specific expertise, first of all, then the presumption being that when the Legislative Commission makes its appointments, they would also look beyond the qualifications, as to individuals, based on a balanced geographic representation.

Assemblyman Anderson:
The level of expectation is that there are going to be some from counties greater than 400,000 and some from less than 100,000?

Chair Parks:
I would say very definitely so. We can add wording. I know the Legislative Commission appoints a variety of other members to panels, like the Silver Haired Legislative Forum and other advisory committees. If we mirror what is being done in that respect, I think we will cover things.

Assemblywoman McClain:
The Legislative Commission tries to balance things with everyone they appoint, don't they?

Assemblyman Anderson:
Usually we have a list of the names of people who are recommended to us from various groups. In certain cases, we specifically have to pick someone from a particular political party from the north and then someone from a particular political party from the south so that there is balance within the group. That is often one of the more difficult challenges for the Commission, because the recommending body often only wants to send you one name, which makes them the recommender. We usually ask for two or three names to be put forward. We always have difficulty whenever we use the geographical boundaries and have geographical questions, particularly for citizens. We have to be very, very specific so that the appointees are coming from different political groups.
Now I understand Mr. Parks' position a little bit better. I agree with him that we should be looking for people with the appropriate backgrounds. It is easy to identify political groups. It is a little more difficult to identify occupational groups.

Chair Parks:
Assemblyman Carpenter raised a concern about medical expertise. Currently, the language in the bill regards mental health, drug counseling, and social work. I think adding medical expertise to that list would be appropriate. It is a concern.

Assemblywoman Weber:
I was just going to mention, regarding the specific need for certain areas of expertise, the area of reentry. We are deficient on that in so many ways. That can encompass all the other things talked about, but I think reentry issues are relevant. There needs to be someone who is an expert on that issue, and that

could include a variety of people from around the state so that it is in line with the geographic issue discussed earlier.

Chair Parks:
I agree.

Assemblywoman McClain:
Are we going to list seven specific areas? Drug counseling is part of substance abuse. The categories are broad and are just suggestions. Do we have to be specific, to get it into statute?

Chair Parks:
As we indicated, persons from various disciplines who have expertise in those particular areas will be part of the group.

Assemblywoman McClain:
Do you only want one person from each area of expertise? Do some have a larger impact than others?

Chair Parks:
I did not want to get too precise for fear that when you send out a solicitation asking people to volunteer to serve, you may not get all the individuals in the specific areas you are looking for. The attempt is to get the best combination of individuals who can provide the needed expertise in the area.

We can move on from this item, which was the composition regarding six members from the Legislature and seven members from various areas of expertise.

The fifth item was to sunset the oversight committee. Subsequent legislatures, presumably the 2011 Legislature, can make a determination whether or not the committee is worthwhile and should be retained, and at that time they can push the sunset provision back.

The sixth item amends Section 6 of the bill in order to comply with federal rules regarding the inspection of certain information which is classified, since it comes from the National Criminal Information Center. I do not think there are any problems with that.

The seventh item was the provision relative to same-gender employee contact. It simply deletes that section. I think we heard testimony that it is basically unworkable with regards to efficiency and effectiveness of the opposite gender corrections officer. I think that is obvious.

The eighth item amends Section 14 to expand testing to include periodic random testing of all the Department of Corrections classified and unclassified employees. This was proposed by Konstance Kosuda.

Assemblywoman McClain:
I have a question on Section 8. Why would we give someone sole authority to do something?

Matt Nichols, Committee Counsel:
One of the proposed amendments is to return the authority to the Director of Corrections, so that section would disappear from the bill.

Chair Parks:
Once we get through these amendments, I think major portions of this bill will disappear.

Assemblyman Anderson:
Are we trying to inform the oversight committee of prisoners in the system who have tested positive for HIV? This makes the prison aware an offender with HIV is in the system. I am trying to formulate in my mind the positives and negatives of exposing people to other kinds of criticisms for being HIV positive. I am concerned that they will become targets within the prison system as a result of this.

Assemblywoman McClain:
Along those lines, why would it be the oversight committee's business?

Chair Parks:
Maybe we could have Mr. Hoffecker comment on Amendment 9 for more clarity.

Craig Hoffecker:
If the committee skips ahead to proposed change 28 and agrees to it, Section 15 will disappear. Counsel can comment on that if I am wrong.

Matt Nichols:
Many sections of this bill were brought in and amended to take away from the Director the authority to adopt regulations and to place that authority solely within the State Board of Prison Commissioners. Section 15 is an example of that. If the Committee approves Amendment 28, then Section 15 of the bill will be struck. The amendment would return to the Director the authority to adopt regulations.

Assemblyman Anderson:
If we approve Amendment 28, then we would not have to spend time doing the rest of these that stumble across that question.

Chair Parks:
Does anyone else have any concerns or questions relative to Amendment 28? I am not seeing any, so it is presumed that we will go with that language. Doing so eliminated Amendments 9, 10, and 11. If I might just make a comment regarding Amendment 28 so that we are all seeing this from the same perspective, it is my understanding that when an inmate enters the Department of Corrections, they are tested for HIV upon their entry. Then they are monitored and treated for their health needs relative to the HIV infection.

We are now on Amendment 12, which concerns the Parole Board's standards to the public, amending Section 23, subsection 4, of the bill. There is a typographical error in the Work Session Document (Exhibit H), which just has Section 23 listed. On line 3 of page 20, 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 remain at liberty without violation of the law." What this proposes is to specify that the standards are not just a sample of the form being made available to the public

Assemblyman Anderson:
You might be able to draw the implication that all we are going to be doing is removing from the current statute the term "sample" so that the actual form is what will be provided. The reason we use the term "sample" here is because we are not giving you the sample of a particular individual but a model from the book that contains samples of the types of forms which are being used. It seems we are playing semantics here if we are talking about a filled-out form or we are talking about the form which is going to be actually utilized.

Chair Parks:
My presumption is that the form would be an uncompleted form. In other words, the document with which the evaluation would be completed would be blank. If there are certain points associated with certain factors or elements, then the public will know what those points are in the overall scheme.

Assemblyman Anderson:
I am trying to figure out what happens by removing the word "sample."

Chair Parks:
Quite frankly, I do not think much happens at all. To me, I think it really makes it much more difficult to understand. Perhaps committee counsel can explain this.

Matt Nichols:
I agree if we remove the word "sample," it only creates more confusion because then we are getting into the question of whether "sample" means the form as it is filled out for that particular prisoner or simply a sample form? I am not really sure the amendment accomplishes much other than to create potential confusion.

Chair Parks:
I think the consensus is to scratch that amendment. We will move forward to amendment 13, which requires the Parole Board to report to the Legislature every session. This amends Section 23, subsection 6. It references each regular session of the Legislature, making the report time specific.

Amendment 14 regards institutional parole within the Department of Corrections. It amends the bill to have an automatic parole of offenders serving a sentence on a category D or category E felony to their next consecutive sentence by the Department of Corrections without the involvement of the Parole Board. An exception may be made if the inmate if convicted of another crime while in prison. When the inmate is on final sentence, the Parole Board will function and determine whether the offender is fit to be returned to the streets.

Assemblywoman McClain:
Does that defeat the purpose of letting an offender finish a first sentence early? You parole them off the first sentence and then they go onto the next sentence? They have to serve the whole thing this way, right? For example, if you get two, ten-year sentences, you cannot be paroled less than ten years for the first one before you start the second one.

Assemblyman Horne:
This is dealing with category D and E felonies, which are usually one-to-four year sentences. I suppose they are asking for an automatic parole of those offenders without the involvement of the Parole Board. I am assuming when they become eligible for parole on a one-to-four year sentence, at one year when they are eligible for parole, they automatically would be paroled and put on the street. I do not think that is what we are trying to reach here. You are taking the Parole Board out of the mix and saying the sentence might as well have been one year. That is the effect this is going to have if you adopt this

amendment. Parole would just automatically happen without the consideration of the Parole Board. We are trying to relieve prisoner overcrowding but not like this. This is not the result we want.

Assemblyman Carpenter:
I thought when they were serving two sentences, like the situation with the deadly weapon, now they go to the Parole Board after they have served that first sentence. I think they were trying to get away from having to go to the Parole Board, that they would automatically go on to their next sentence.

Assemblyman Horne:
We have had a bill dealing with consecutive sentences and offenders moving on to a next consecutive sentence after a determination has been made whether they are or are not a danger to society. This current language is basically to have the category Ds and Es automatically sent to their next sentence at the time they become eligible for parole on that first sentence, without any involvement from the Parole Board. For instance, an offender has two consecutive sentences of one-to-four years. At one year, they automatically start serving that consecutive sentence, and the Parole Board has no say in that. I do not think that is what we want to do. I think the Parole Board still should be able to look at things. In one year, this person could be totally not compliant with the rules while incarcerated. However, you still want to be able to say they did not meet the criteria. We still have the criteria that we want them to use in granting parole.

Chair Parks:
Is there anything in the alternative we would like to submit instead? If I am hearing you correctly, basically we do not want to do Amendment 14. Is there something else we might want to consider?

Assemblyman Horne:
I think we have addressed some of those concerns in other pieces of legislation where we talk about the criteria which are going to be used when granting parole so there is not a result of the system dumping offenders for no reason. We are not trying to take the Parole Board completely out of the picture on consideration of these individuals who are incarcerated. We have addressed it by addressing the criteria which they are going to use in making these assessments. Here, for a category D or E felony, you will grant them parole to their next sentence unless they have committed a crime in prison. I do not know if that is the climate we want to set in prison for these guys. They automatically know they are going to go over, at one year or two years, because they are a category D or E felon. I think we have addressed it in other measures.

Chair Parks:
Amendment 15 deals with education credits so they count towards a minimum. It amends Section 24.

Assemblyman Horne:
As regards this language, I think it gets to something we do not want. We talked previously about instances where it seemed the Parole Board was doing a retrying of inmates. Why do we have a sentencing range of two to ten years, for instance? We know the offender is going to do those two years. Then they are supposed to be eligible from there, and they are given a reasonable assessment on that. If we follow the language in this amendment, we are saying that those two years no longer exist. The offender can earn good time or education credits, and they will end up not having to do those two years. The bottom figure which a judge has determined should be the minimum for them to serve will no longer exist. If the judge says an offender is going to do a two to ten year sentence or a two-to-five year sentence but you go in and follow the rules, you will only do a year of it. I do not know the exact formula, but I do not think that this necessarily is the result we want to achieve. We are talking about reducing the minimums of what a judge gives out. We want to give them the opportunity to reduce that maximum, not the minimum.

Assemblyman Carpenter:
How about in Section 24, subsection 2, where it says if they get 97 percent, they have to release these people?

Chair Parks:
We have not gotten to that yet. That is in another bill, isn't it? Or am I thinking about a Senate bill? That is in a Senate bill. We are merging that bill. It is Section 2, subsection 2, of S.B. 509 on page 3. It looks like there is a lot of similar wording for both of those. Before we jump to that, do we want to complete discussion on Amendment 15, the education credits? Are we all in agreement on that one?

Assemblywoman Weber:
I am reading in Section 24, and I want to make sure that what is going on with Amendment 15 is that the sentence of imprisonment imposed must be calculated without consideration of any credits. Now this is going to add the education credits. Further up in that paragraph, I want to make sure we are in agreement on subsection 1 as written in this bill. It does talk about it. It is not in any of these 28 amendments. Is everyone in agreement where there is a consecutive sentence still to be served? The language states that if a prisoner has served the minimum sentence of the imprisonment imposed, he must be released on parole.

Assemblyman Horne:
That is the minimum sentence imposed. That is the sentence the judge gave the offender, like a two-to-five year sentence, with the two being the minimum. By adopting Amendment 15, those credits would count. If you got six months shaved off your sentence, then the sentence would now be one-to-five years. I do not think that is what the judge imposed for the minimum. If you get the credits, I think it should go up to the top end, if I understand your question correctly.

Assemblywoman McClain:
I think she is referring to the language about being released on parole if the minimum sentence has been served. That is what we just addressed in Amendment 14, which we did not agree to.

Assemblywoman Weber:
Thank you for clarifying. I was unclear on that.

Chair Parks:
Amendment 16 amends Section 24, subsection 1, so that it does not conflict with Chapter 213 of NRS.

Assemblywoman McClain:
Amendment 16 was taken care of, basically, by Amendment 14. We are implying there that they have the implicit right to a parole, and we do not want to do that.

Chair Parks:
Mr. Horne, could you shed a little light on that?

Assemblyman Horne:
I will try. Amendment 14 was attempting to have an automatic parole for the category D and E felony offenders without any consideration by the Parole Board. That is what Amendment 14 was doing. Not adopting Amendment 14 does not mean we do not want offenders to be able to have parole. We are just stating offenders are not going to get to parole automatically without any review by the Parole Board, which is what Amendment 14 tries to do.

Amendment 16 is attempting to take out the language in Section 24 of the bill where it says, "has served the minimum sentence of imprisonment imposed, he must be released on parole." Amendment 16 takes out this language, because in Section 24, paragraph 1, as I read it, it does not make any consideration for review by the Parole Board, only the eligibility for parole. That is a different thing. An offender can be eligible for parole but not be deemed

appropriate for parole. Corrections would like to strike this language because it is saying basically what Amendment 14 was saying, that you automatically get parole once you are eligible. If we adopt Amendment 16, it would take this language out. So we would need it.

Matt Nichols:
The committee wants to approve Amendment 16. This language would have the effect of removing the bold, italicized language in Section 24, subsection 1, which has essentially the same effect as the proposed Amendment 14, except there is no consideration for what category of felony you have committed. Amendment 14 says automatic parole for a category D or E felony; the language in Section 24, subsection 1 just says, "the minimum sentence of imprisonment." If Amendment 14 goes away, you still want the vote to approve Amendment 16.

Assemblyman Anderson:
It is very clear that we have reached a consensus. The Director of Corrections put forth his concerns with his statement that there was no statutory right to parole, which is a philosophical statement. It is an act of grace from the State. I am backing away from that philosophical statement. I think Amendment 16 is essential to remain part of our philosophy.

Chair Parks:
We are approving Amendment 16, which in effect does remove the new wording in Section 24, subsection 1.

Assemblywoman McClain:
I do not think we have to. The amendment language in the Work Session Document says, "Amend Section 24, subsection 1 so that it is not in conflict with NRS 213.10705 stating that no person has a right to parole." It is obviously already stated there, where it is an act of grace. I do not think we have to state it again here.

Matt Nichols:
I think the practical effect of adopting Amendment 16 is not that we would be reinserting the act of grace language into Section 24 of the bill, but rather Section 24, subsection 1 would disappear. That would make Section 24 consistent with the legislative declaration in NRS 213.10705.

Chair Parks:
Amendment 17 regards written reason for parole denial. This was an area all of us have heard a lot of discussion on as far as hearing complaints from inmates as well as family of inmates.

Assemblyman Anderson:
Will this increase costs for the Parole Board?

Chair Parks:
They do write a letter. They might have to take the boiler plate they currently use and put a part in there that speaks specifically to a particular inmate.

Amendment 18 refers to the definition of total capacity of state institutions.

Assemblyman Anderson:
I am sure the Department of Corrections can tell us what the institutional capacity is for each institution in terms of the number of beds which are available at a particular moment in time. Having worked on facilities committees for schools and recognizing that prisons and schools are two different kinds of institutions, each one still has a design capacity and a maximum capacity by design, which are not the same thing. It is not unusual for a high school, like the one I taught at for many years, to have a design capacity of 2000 students and currently hold 2,400 or 2,500 students. The question would then be how does this happen? When you have students placed in places where they shouldn't be? They do the same with prisoners. There is a perfect place we would like the prisoner to be, so they are safe. As soon as we insert 95 percent or 97 percent into the language, however, as a design we are going to immediately trigger a response for more buildings. We do not know how long that design capacity is a trigger on the other end, so you have to open up the front door, too. I think that is what we are all fearful of, if this language is just opening the doors to let people out. I am a little concerned about it.

Chair Parks:
I think this is in another bill on the Senate side.

Assemblyman Horne:
If we are going to have to define capacity, I think it is a little different when we are talking about capacity of this building or a restaurant or a nightclub. I think we are talking about capacity of a correctional facility with the true sense of it being the modules or housing units for the prisoners. However, if you take capacity and define it as the entire structure, you start including things like the dining area, even though you are placing the offenders in other areas. In other words, if you use the total capacity of the entire facility in making your calculations on capacity, it starts to mean nothing, because if you use that number, then we are putting inmates into those areas that the square footage is not meant to be included in the total. I do not know if we are doing

ourselves a disservice by defining the capacity only to include the modules where they sleep or where they have their lockdown areas.

Assemblywoman McClain:
I have a bigger problem with this whole concept than just how capacity is defined. If we ran the Department of Corrections like it should, theoretically you would only have the worst of the worst in there, and if you did and they became a huge population, then we are letting part of the worst of the worst out on the street because there is not enough room for them. I do not like this whole idea, at all, basing prison population on the number of beds that are there.

Chair Parks:
My only comment would be that this language was placed in there as a safety consideration for both the staff and the inmates. We all realize that an overcrowded facility is dangerous to both inmates and to staff.

Assemblywoman McClain:
I agree with you. I do not believe, however, that this is the way to do it. If we have to build more buildings, we have to build more buildings. Just because we reached a hard number capacity, though, is not a good reason to force us into paying for more prisons or to force the public having to deal with felons being out on the street because there is not enough room for them.

Chair Parks:
It seems to be the opinion of the majority of the members of the committee that we should delete this provision, which deals with Section 24, subsection 2. I think we may end up seeing it again in another bill, and we may have another opportunity to look at it closely. I do not have an issue with deleting it from the bill. If it is not somewhere else for us to see later on, it may be something we want to revisit. It is a policy that has been put in place outside of Nevada.

Not adopting this will render Amendment 19(a) and 19(b) moot.

Assemblyman Anderson:
The only question I would have, then, is that one of the more powerful parts of the suggested language in Amendment 19(b) was that it be consistent relative to reporting. If we are assured that this is the reporting requirement covered in some other section of the legislation and is consistent with what is recommended in an earlier section, it would be fine. I want to make sure that concept is held.

Assemblywoman McClain:
Does amendment 19(a) just require them to do the evaluation? And 19(b) has them report it to the Legislature every other year?

Assemblyman Anderson:
If Section 24 disappears in its entirety, then there is no point in having a report on a section that does not exist anymore.

Chair Parks:
I am a little confused now. I was thinking that one of the things we wanted to do was to get a report provided to the Legislature. Is there another section other than Section 24 that addresses that?

Assemblyman Anderson:
Parts of Section 24, subsections 8 and 9, say "conditions necessary for an orderly conduct of parole under release" and then "prisoners of parole to reduce the population recommendations . . ." I think it would be a very positive thing for the Legislature to have a report that reflected that kind of information. I think the parts we did not like were the percentages in the bill.

Chair Parks:
I am of the opinion that we should at least retain this reporting requirement so that we can see what has taken place.

Matt Nichols:
Even if the committee votes to remove the new language in subsections 1 and 2, the report requirement would still be consistent with the existing provisions of Section 24. We can leave the section in the bill and just amend it to include the report and delete the new language in subsections 1 and 2.

Chair Parks:
Okay. That is fine. I like that. Let us move on to Amendment 20, which deals with not mandating intensive supervision of parolees. This was recommended by Major Woods of the Division of Parole and Probation. This deals with Section 25.

Assemblyman Horne:
I remember Major Woods speaking about how this category of offenders was placed and how it was overtaxing Parole and Probation to do this—putting the offenders in a higher supervisory status—when the offender did not need to be.

Chair Parks:
Yes, that is correct. The reference in the bill is on page 21 at the new subsection 4, starting on line 15.

Matt Nichols:
This language will go away, or will go back to the way it is now in existing law based on the committee's decision to repeal the changes in subsections 1 and 2.

Chair Parks:
If I am reading this correctly, then Amendment 20 would require some new language that would permit the Division of Parole and Probation to not be required to closely supervise category D and E offenders that are put on parole. I think we heard Dr. Austin speak about how he felt that we were spending too much of our effort in the wrong area by closely supervising certain individuals that did not need to be supervised. I am presuming that what Major Woods had suggested was to provide the mechanism to do that.

Assemblyman Horne:
We would want to do it so they had the discretion on choosing the category Ds and Es who would need to be closely supervised and those who would not.

Assemblywoman McClain:
Is that any parolee?

Chair Parks:
It would be any category D or E felony offender who is placed on parole. There is a definitive reason that we do not need to have high levels of supervision. An example might be someone who is 85 years old and needs a walker to get around the assisted living facility that he would be paroled to.

Assemblywoman McClain:
That is a good point. But the discretion is important, too. The offender may have been a category A offender who plea bargained it down to a category D. When they get out, they really need close supervision.

Chair Parks:
That is obviously where the Division of Parole and Probation would make that evaluation.

Assemblyman Anderson:
One of the issues we continue to have with Parole and Probation is that they do not agree with the plea bargain that was made, and then they go back and

relook at that. We would like them to stop that practice and we would like the process to be a little bit more realistic and open. This is one of the things we have been trying to deal with here, in light of the testimony we heard during the interim study. That was one of the big issues raised, on several occasions. I think we recognize we are not happy if you are the victim of a crime. You are never happy with how the other person is being punished. The State, on the other hand, has to make sure that the punishment is realistic and not vengeful.

Assemblyman Horne:
I think there is a slight difference between the Parole Board and its function and Parole and Probation's function. The Parole Board's function is to make a determination after a period of incarceration on the offender's risk of being let out to society. They look at the crime that was committed, the documents that are part of the offenders' file, and the offender's conduct while incarcerated, making an assessment on the offender's risk factor. Parole and Probation has to look at supervising someone at a certain risk level because, despite what was pleaded and eventually sentenced, they look at the individual they have in front of them and the crime they committed, which has to be weighed into being able to supervise them. It is a little different. I understand Assemblyman Anderson's concerns, but I think there is a slight difference.

Chair Parks:
How does the committee feel about Amendment 20? I think this is an area for some cost savings by giving the Division of Parole and Probation this ability.

Assemblyman Carpenter:
It seems to me with the way it reads that we are not requiring them to closely supervise released category D and E offenders, but if they feel it is necessary they can do so. I think we should leave it in.

Chair Parks:
I think what we would be doing is probably having to put language in that would permit them to create that level of parole supervision. In effect, I think they were already doing it. They are simply doing it by assigning large numbers of inmates to a parole officer who does not have sufficient time to closely supervise all the individuals that are assigned to him. In effect, that is what that parole officer is doing. They are letting certain parolees slide from month to month because all indications are the person is on good behavior and doing everything they should.

Assemblywoman McClain:
I tend to agree with you about what Dr. Austin was telling us, too. If we can pattern it after the concept he presented, we will be in a better position. I think it will work.

Chair Parks:
We have heard there are numerous other parole and probation operations that, in effect, put certain inmates in a category of minimal supervision. We may need to have some wording added.

The next item is Amendment 21, which regards evidence submitted to the Parole Board, amending Section 25, subsection 2, to limit photographs and other information.

Assemblyman Horne:
I think this was the area Mr. Anderson was speaking on earlier. We are trying to get them not to retry cases and consider evidence that was never considered at the trial, which is how they are making some of their determinations. There is a reason why a judge determined certain things should not have been considered at trial. We should not be considering it at a parole hearing.

Chair Parks:
So you are in agreement with the recommendation? No further questions? Okay. We will move on to Amendment 22, which deals with time allowed for decision of parole. I think this is one of the things we have heard about the most. The decision rendered by the Parole Commission comes mid-month, after the month the inmate had the parole hearing. Is there a recommendation or comments by the committee?

Assemblywoman Weber:
I just wanted to determine if we needed to distinguish between calendar and working days.

Chair Parks:
I know that in statute, we use both calendar and working days. I think when it comes to activities of departments and agencies of the State, we quite often use working days. I do not want to prejudice anyone, but my thinking was somewhere in the range of 14 days to 21 days, somewhere between two and three weeks, as the outside amount of time. Any thoughts?

Assemblywoman McClain:
That sounds fine. So 14 days is two weeks in calendar days? Do we want to put calendar in there? Or do you want to give them a little outside edge and go with 15 working days, which gives them three weeks?

Chair Parks:
I would defer to those individuals who have a little better knowledge of the Parole Board.

Assemblyman Anderson:
I do not have any knowledge of what would be a reasonable amount of time. It seems to me that if we are trying to avoid the long delay, if we say three weeks or 15 working days, we are putting a huge amount of time in there. If we say 14 working days, we are still giving them quite a bit of time. If a parole hearing is held on a Tuesday, the Parole Board would have 3 weeks, basically. We need to clarify between working days and calendar days for the purposes of this. I think we are concerned with it not being a month before the Parole Board gets around to issuing a decision.

Chair Parks:
If we used the ten working days and it included, for example, the Christmas holiday, someone that had a parole hearing December 24 would have to wait awhile because of the holidays.

Assemblyman Horne:
We can do ten working days and if the final day of that falls on a holiday, it would go to the next working day. Regardless of when they had that decision or hearing in the working week, if it was counted out and fell on a Monday, and it was Christmas, then December 26 would be the next working day. That would be the date by which the decision would have to be made.

Chairman Parks:
Shall we go with ten working days? That automatically excludes holidays because they are not working days.

Amendment 23 regards no victim notification of a parole hearing. It would remove the requirement of Section 25, subsection 5, that the victim be notified of a Parole Board hearing. I think the language arose from not being able to notify the victim; what do you do in that particular case?

Craig Hoffecker:
As I believe subsection 5 is trying to explain, the prisoner cannot be considered for parole until the victim has been notified. One of the concerns was that

there might be times when you are not able to find and notify the victim; as a result, the parole consideration is delayed.

Assemblywoman McClain:
It is just in cases where they cannot find the victim to notify them?

Chair Parks:
That would be correct.

Matt Nichols, Committee Counsel:
Would then the amendment be to clarify that in circumstances where the victim cannot be found or notice cannot be given to the victim, the prisoner's right to be considered for parole will not be impeded?

Chair Parks:
Proposed Amendment 24 deals with the procedure for closing a parole hearing. This deals with subsection 6, adding a requirement that the Parole Board develop procedures for closing portions of its meetings. Does that sound reasonable? Okay.

Amendment 25 deals with inmate information used by the Parole Board to make decisions.

Assemblyman Anderson:
I hate to go back but in Amendment 24, Section 25, subsection 6, the concern was the safety reason needed to be further defined. The question that was raised dealt with the exact nature of the safety reasons. Does bill drafting need to further define that for us? I do not believe the regulations established by the Department of Corrections for the management of the prison system come before the Legislative Commission.

Assemblywoman McClain:
This bill is creating another entity where things will go. Is that not the plan? Or did we miss something? Will the oversight committee we are creating in this bill have oversight over the regulations the Parole Board puts together?

Chair Parks:
Looking at the wording, it is basically an area of responsibility dealing with Corrections. It does not specifically go into the functions or activities of either the Parole Board or the Division of Parole and Probation.

Let's continue with Amendment 25. It seems everyone is satisfactory with that wording.

Amendment 26 deals with crime enhancement penalties. It amends Sections 26 through 34 to make sure the enhancement penalties do not exceed the penalty for the underlying crime.

Assemblyman Horne:
I am assuming those are when they are in aggregate. You can have an underlying crime and have multiple enhancements. Theoretically, if you had a two-to-five year penalty for an underlying crime, you could have a weapons enhancement and a gang enhancement, and then your enhancements would end up equaling more than the underlying penalty.

Matt Nichols:
This recommendation, from the way I read it, would require some language in each of these sections to specify that the maximum term of not more than ten years would not exceed the maximum term for the underlying offense. We can obviously change that to take into consideration Mr. Horne's concern about the aggregate amount of the enhanced penalties not exceeding the length of the underlying sentence if that is something you wish to do.

Assemblyman Horne:
My concern and, from my understanding, that of the Washoe County and the Clark County Public Defenders' offices, is in making the recommendation regarding enhancements so that an offender, for example, does not get a two-to-five year sentence and ends up, with enhancements, getting four-to-ten years instead.

Assemblyman Anderson:
I think Mr. Horne has clearly outlined what the choices are here. I would hate to endanger the bill by putting that particular element in there. While I think it is an important part of the overall bill, and I realize this is going to be an omnibus bill, are there not a couple of measures in Judiciary that we are trying to do this with?

Assemblyman Horne:
We have a bill in this committee tomorrow that deals with weapon enhancements.

Assemblyman Anderson:
I guess we can add that language here. I would support that because I think it is one of the overall issues that deal with the unintended consequences of the enhancements we passed. That has, in effect, ramped up the length of time people are staying incarcerated beyond what the primary offense was. If we had approached the primary offense with a realistic sentence, then these

enhancements would not be so prevalent in the current district attorneys' choices. They take every enhancement they can use. As a result, they have overused them. Our problem is that we have moved so far to one side, moving to the other and finding middle ground will be very, very difficult. There is a middle ground that needs to be located. Leave it in, and we will see what happens.

Matt Nichols:
I just wanted to clarify for drafting purposes that not only will there be new language in each of these sections but the consecutive additional sentence will not exceed the length of the sentence for the underlying crime, and the aggregate amount of the consecutive sentences cannot exceed the length of the sentence for the underlying crime. Is that the intent?

Assemblyman Anderson:
Let me make sure I understand. If the judge finds an offender guilty of a category B or C felony, and the minimum/maximum is 2 to 20 years, and for the crime itself he gives the offender a sentence of ten years, then for each of the underlying enhancements he cites, they would not be able to extend it beyond 20 years in the cumulative because that was the maximum which is allowed under that particular statute.

Matt Nichols:
That is how I understand Mr. Horne's request.

Assemblyman Anderson:
I just want to make sure we all understand what the cumulative effect is. It is not going to be able to push a sentence out to 30 years if the maximum for that particular crime was 2 to 20 years. The maximum you could possibly get would be the 20 years. As an offender paroles out of each of those along the way it is possible he will be there, depending on the number of enhancements, the entire 20 years.

Assemblyman Horne:
I want to make sure that when we are talking about penalties, we are talking about the underlying sentence imposed by the judge. We are not referring to the penalty a particular crime carries by statute. We are going by what sentence was imposed. There are sentences where you can get up to a life sentence because its statutorily permissible, but an offender only ends up getting two to ten years; however, the enhancements can go on forever because what is on the books says "life." I do not think that is the intent of what we want. It should be what is imposed by the judge.

Matt Nichols:
Just to go over this one more time, to get it right. To go back to Mr. Anderson's example, if the defendant is sentenced to a term of 10 years for a crime where a sentence of 20 years could be imposed, the additional penalty would still be based on the ten years that was imposed by the judge. If you had two sentence enhancements, such as a firearm and a gang-related enhancement, those together could only equal ten years, which, in the aggregate, would match the sentence imposed for the underlying crime. If you only had a single enhancement it could be as long as ten years.

Chair Parks:
The next recommendation is Amendment 27, which deals with administrative regulations. It amends the bill to remove the exemption of the Department of Corrections for most provisions of the Administrative Procedures Act.

Matt Nichols:
Mr. Anderson touched on this briefly earlier when he mentioned that the regulations for Department of Corrections' facilities are not reviewed by the Legislative Commission. I think the intent here is to take the Department of Corrections out of that statute, which exempts them from the Administrative Procedures Act. There would be other ramifications as well, such as the Legislative Commission being in a position to approve the regulations adopted by the Department of Corrections. The reference is in NRS 233B.039 which reads in subsection 1, "The following agencies are entirely exempted from the requirements of this chapter," which is the Administrative Procedures Act. The entities involved would be the Governor, the Department of Corrections, the Nevada System of Higher Education, the Office of the Military, and the State Gaming Control Board. There are limited exceptions for other departments, as well.

Assemblyman Horne:
I think at this juncture it might be a bit overreaching. I do not think we are there yet. We are trying to make some moves but I do not think we are able to start having them report to the Legislative Commission.

Chair Parks:
We will pass on Amendment 27. We do not need to revisit Amendment 28. Amendment 29 deals with providing greater access to Casa Grande. As you are aware, we are only utilizing half of the housing facility at Casa Grande because of restrictions we imposed. This would remove those restrictions.

Assemblyman Anderson:
I support the idea that we should move in this direction and trying to utilize as much of Casa Grande as we can.

Chair Parks:
I think everyone is in accord on that. We will proceed forward with Amendment 30, which deals with the pending appeal of inmates. It amends the bill where appropriate to prohibit the Parole Board from considering whether the appeal of an inmate is pending and prohibit it from asking questions about an appeal in making its determination. This was recommended by Ms. Brown. Is there any problem with trying to word this language?

Assemblyman Horne:
We already did a bill on not considering the safety of the community if the offender was looking at a consecutive sentence. Part of the evaluation language was making a determination that an offender was a risk to the community. If they had a consecutive sentence, they were not going to get paroled; they were going to start serving their consecutive sentence. We do not want the Parole Board to add that category when they are looking at consecutive sentences because it is unfair in denying their parole. If you have this new language and the offender is appealing a consecutive sentence, we still have the provision in the language saying the Parole Board cannot use those criteria because the consecutive sentence is still in place. The Parole Board may still believe there are risks to the community, but they do not apply because the consecutive sentence is still in place. If the Parole Board grants parole and then the offender appeals and wins, the consecutive sentence goes away. The person is released and the consideration for the dangerousness to society is not considered. That is a loophole I see as a possibility. Unlikely, but it is there.

Assemblyman Anderson:
This particular amendment is well intended. It makes sure the Parole Board is not doing a second look back at the underlying circumstances of the original crime. I think we have already handled that particular issue in an earlier amendment already suggested. I do think if there is a pending appeal that is being made to the underlying sentence, then in truth the offender—since there is a pending appeal out there—is not really guilty of the crime because the appeal may set them free. Until that issue is resolved, he/she is really not under the jurisdiction of the correctional system or the Parole Board. The offender may be physically there, but until those questions are all answered and closed, you really cannot say that person is guilty of a crime until the whole appeal process is finished with—just as a philosophical argument. That is the reason it would be important for the Parole Board to have certain

information, knowing that they have that jurisdiction, knowing if an offender has accepted his guilt or does not feel he had an unfair trial, or even if he has ended all of his remedies as he perceives them and now wishes to look to the grace of the State.

Chair Parks:
It seems to me that we heard testimony that the Parole Board goes to great lengths to dump someone strictly because he currently has an appeal on file, when the Board perhaps should not be considering anything having to do with that appeal as it regards parole. That is being handled through another jurisdiction.

Assemblyman Horne:
Just for clarification, if the appeal that is being considered is because of one crime, a 2-to-20 year sentence, for example, and they are in the middle of that appeal process, and the offender is also up for parole during that process—if that is the only crime, I think it is inappropriate for the Parole Board to deny parole just because there is an appeal pending. I was just mentioning that if the appeal has to deal with a consecutive sentence, say, for instance, an offender has been convicted of both a robbery and a murder by way of the felony murder statute, you have to meet conditions on that for that murder to apply. The offender in question did not actually commit the murder, someone else did. They are saying that the felony murder statute applied to them incorrectly. The offender may have conspired to commit the robbery or driven the getaway car but he had no idea the other person was going to kill someone. The offender is stating the rule was inappropriately applied at trial. The offender is appealing the murder part of his sentence. That appeal should not be considered by the Parole Board, because it is a consecutive sentence to the underlying crime. If the Board's considering the appeal of the underlying crime in of itself, all by itself, that is inappropriate.

Matt Nichols:
I think we could create some language that says, in essence, that in making a determination on whether to grant parole, the Board cannot consider whether an offender has appealed the sentence for the crime for which he is now eligible for parole. I think that will address both of Mr. Horne's concerns. Because if the committee determines that it is inappropriate to consider the appeal, it captures that language, touching on the situation described earlier where an appeal for a consecutive sentence is pending while the prisoner is up for parole on the current sentence.

Chair Parks:
We have now gone through all the amendments pending for the bill. At this point, we need to act on the bill as a whole and decide whether or not there is anything else currently within A.B. 416 we either passed over or wanted to take a second look at.

Assemblyman Anderson:
I am a little bit concerned about Section 2 of the existing bill. I need to be reassured relative to the peer review question of employees that is being considered here. I apparently missed this part of the presentation where employees do a peer review process. I was not sure why they were doing that. I do not believe we do that for other state employees. While the people in the Department of Corrections fall under an unusual category to be sure, are we harming the intent of the bill or the sponsor's intent?

Chair Parks:
Given the fact that this is an advisory board, I think your concerns are possibly well founded.

Assemblyman Anderson:
I would feel very uncomfortable with this, given the open-endedness of this group, that they would not have the expertise to recognize the peer review process, especially as we have changed it to categorical in nature, with counselors and social workers and drug counselors.

Chair Parks:
This would be a requirement on the State Prison Board and not on the advisory committee.

Assemblyman Anderson:
The Governor, Lt. Governor, and Attorney General are going to review the statute regarding peer review and the documents of the correctional officers at the prison facilities?

Chair Parks:
They are going to review, comprehensively, the process adopted by the Board.

Matt Nichols:
One solution in keeping the peer review is that Section 2 was drafted with the idea in mind that the other 15 sections of the bill that took regulatory authority over the department away from the Director, and vested it in the board, were going to survive. With those sections coming out, you can change the State Board of Prison Commissioners here to the Director or to the Department of

Corrections so that the Department is involved. I think that would match more closely the committee's intent in removing those sections where the Director had his authority to adopt regulations taken away.

Assemblyman Anderson:
If I understand correctly, we would no longer have them reporting to the Board we just got done destroying, which will not exist anymore. We would move the responsibility to the Director of the Department of Corrections, and then I still think we are dealing with the issue of the peer review process. Is this what our intent is? I have heard the frustration of people who maintain that correctional officers do need to be properly examined by someone, and this was their attempt at peer reviewing, which is less threatening than other kinds of evaluations. I think this is a Government Affairs kind of issue and not something we need to address, so, I would like to take that part out.

Chair Parks:
This language actually deals with unclassified employees, which are mainly the appointed positions.

Assemblyman Anderson:
Then I am okay with the language. The amendment does not affect the people I was concerned with.

Chair Parks:
The language states the Director shall review the process. The Board of Prison Commissioners is reviewing the activities of the Director of the Department of Corrections.

Matt Nichols:
It only affects officers in the unclassified service. With that recognition, does it make more sense for the State Board of Prison Commissioners to oversee the peer review? If we are only talking about appointed officers, then the intent would be to leave the language as is?

Chair Parks:
That is my perception of things. Are we ready to make a motion?

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 416 WITH PRESENTED AMENDMENTS NOS. 1 through 3, 5, 6, 7, 13, 16, 17, 19(a) and 19(b), and 20 through 26 and 28 through 30.
>
> ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Let's take one last look at our remaining bills. Two bills that we heard that are on hold are A.B. 377 and A.B. 405. Both of those are sex offender bills. Also, in the Senate, we have S.B. 232 that has been given an Amend and Do Pass out of committee. That will be coming over to us. What I would like to suggest is that when we receive S.B. 232, we look at the recommendations in A.B. 377 and A.B. 405 to see how we might enhance the Senate's bill. I do not know what the pleasure of the committee is. These are obviously bills that are significantly similar. The Senate's bill has the lowest BDR number. It was the first bill requested, which would put it in place as taking the lead. We would not take action on either of our bills.

Assemblyman Anderson:
Ms. Weber had an issue earlier dealing with people who get out on parole. Will we have an opportunity to readdress that particular issue relative to the whole process in another bill that is coming from the other house? Or is that going to be part of Dr. Austin's presentation?

Chair Parks:
I think we are going to be covered by both. Dr. Austin will be here on Tuesday, April 17, 2007. He is scheduled to testify in at least three different committees.

I would like to go into recess instead of adjourning our meeting this evening. This will allow our staff to review the elements of the bills we have passed and determine if anything needs to be changed. If so, we will be able to do a behind-the-bar meeting on the Floor to address those issues if any arise [this meeting recessed at 7:53 p.m.].

RESPECTFULLY SUBMITTED:

_____
Brooke Bishop
Committee Secretary

APPROVED BY:

_____
Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

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

Date: April 12, 2007 **Time of Meeting: 3:53 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 579	C	Research Division, Legislative Counsel Bureau	Committee Work Session Document
A.B. 579	D	Patricia Hines, Private Citizen, Yerington, Nevada	Email to Mr. Parks with proposed amendments.
A.B. 579	E	Philip K. (P.K.) O'Neill, Captain, Records and Technology Division, Department of Public Safety	Email to Mr. Parks with a proposed amendment.
A.B. 508	F	Research Division, Legislative Counsel Bureau	Committee Work Session Document
A.B. 510	G	Research Division, Legislative Counsel Bureau	Committee Work Session Document
A.B. 416	H	Research Division, Legislative Counsel Bureau	Committee Work Session Document