

Amendment No. 999

Senate Amendment to Assembly Bill No. 508 Second Reprint (BDR 14-1378)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

DP/BAW



Date: 5/25/2007

A.B. No. 508—Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)



ASSEMBLY BILL NO. 508—SELECT COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Advisory Commission on Sentencing; **changing the name of the Commission**; revising the membership and duties of the Commission; authorizing the Commission to issue subpoenas; requiring the Commission to hold meetings at least once every 3 months; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 1 of this bill authorizes the Advisory Commission on Sentencing or a member acting on behalf of the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.~~

Section 2 of this bill changes the name of the Advisory Commission on Sentencing to the Advisory Commission on the Administration of Justice and adds: (1) a sitting or retired justice of the Nevada Supreme Court; (2) a representative of an organization that advocates on behalf of inmates; (3) a representative of the Nevada Sheriffs' and Chiefs' Association to the Commission; and (4) a member of the State Board of Parole Commissioners and removes the member appointed by the Nevada Association of Counties. **Section 2** also removes the Attorney General as the Chairman of the Commission. Instead, members are required to elect a Chairman at the first meeting of each odd-numbered year. The Commission is further required to meet at least quarterly.

Section 1 of this bill authorizes the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.

Section 3 of this bill revises the duties of the [Advisory] Commission [on Sentencing] by requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners and to consider whether it is feasible and advisable to establish an oversight or advisory board to perform various functions. **Section 3** also requires the Commission to evaluate the effectiveness of specialty court programs in this State and to evaluate the policies and practices concerning presentence investigations and reports of the Division of Parole and Probation of the Department of Public Safety. **Section 3 also requires the Commission to evaluate, review and comment upon issues relating to juvenile justice.**

25 **Section 4** of this bill makes an appropriation to the ~~[Advisory]~~ Commission ~~for~~
26 ~~Sentencing~~ to enter into a contract with a consultant to assist the Commission in carrying out
27 its duties.

28 **Section 5 of this bill provides that incumbent members of the Commission may serve**
29 **out the remainder of their respective terms. Section 5 requires that new positions and**
30 **vacancies in the Commission be filled in a designated manner. Section 5 also mandates**
31 **that the Commission meet and elect a Chairman by July 31, 2007.**

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

1 **Section 1.** Chapter 176 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 *1. To carry out its powers and duties pursuant to this section NRS 176.0121*
4 *to 176.0129, inclusive, ~~and~~ the Commission, or any member thereof acting on*
5 *behalf of the Commission with a concurrence of a majority of the members of the*
6 *Commission, may issue subpoenas to compel the attendance of witnesses and the*
7 *production of books, records, documents or other papers and testimony.*

8 *2. If any person fails to comply with a subpoena issued by the Commission*
9 *or any member thereof pursuant to this section within 20 days after the date of*
10 *service of the subpoena, the Commission may petition the district court for an*
11 *order of the court compelling compliance with the subpoena.*

12 *3. Upon such a petition, the court shall enter an order directing the person*
13 *subpoenaed to appear before the court at a time and place to be fixed by the court*
14 *in its order, the time to be not more than 20 days after the date of service of the*
15 *order, and show cause why he has not complied with the subpoena. A certified*
16 *copy of the order must be served upon the person subpoenaed.*

17 *4. If it appears to the court that the subpoena was regularly issued by the*
18 *Commission or a member thereof pursuant to this section, the court shall enter*
19 *an order compelling compliance with the subpoena, and upon failure to obey the*
20 *order the person shall be dealt with as for contempt of court.*

21 **Sec. 1.5. NRS 176.0121 is hereby amended to read as follows:**

22 176.0121 As used in NRS 176.0121 to 176.0129, inclusive, "Commission"
23 means the Advisory Commission on ~~[Sentencing]~~ the Administration of Justice.

24 **Sec. 2.** NRS 176.0123 is hereby amended to read as follows:

25 176.0123 1. The Advisory Commission on ~~[Sentencing]~~ the Administration
26 of Justice is hereby created. The Commission consists of:

27 (a) One member who is a district judge, appointed by the governing body of
28 the Nevada District Judges Association;

29 (b) *One member who is a justice of the Supreme Court of Nevada or a retired*
30 *justice of the Supreme Court of Nevada, appointed by the Chief Justice of the*
31 *Supreme Court of Nevada;*

32 (c) One member who is a district attorney, appointed by the governing body of
33 the Nevada District Attorneys Association;

34 ~~(d)~~ (d) One member who is an attorney in private practice, experienced in
35 defending criminal actions, appointed by the governing body of the State Bar of
36 Nevada;

37 ~~(e)~~ (e) One member who is a public defender, appointed by the governing
38 body of the State Bar of Nevada;

39 ~~(f)~~ (f) One member who is a representative of a law enforcement agency,
40 appointed by the Governor;

1 ~~(f)~~ (g) One member who is a representative of the Division of Parole and
2 Probation of the Department of Public Safety, appointed by the Governor;

3 ~~(g)~~ (h) One member who has been a victim of a crime or is a representative
4 of an organization supporting the rights of victims of crime, appointed by the
5 Governor;

6 ~~(h)~~ (i) *One member who is a representative of an organization that*
7 *advocates on behalf of inmates, appointed by the Governor;*

8 (j) One member who is a ~~county commissioner,~~ *representative of the Nevada*
9 *Sheriffs' and Chiefs' Association*, appointed by ~~the governing body of~~ the
10 Nevada *Sheriffs' and Chiefs' Association*; ~~of Counties;~~

11 ~~(i)~~ (k) *One member who is a member of the State Board of Parole*
12 *Commissioners, appointed by the State Board of Parole Commissioners;*

13 (l) The Director of the Department of Corrections;

14 ~~(j)~~ (m) Two members who are Senators, one of whom is appointed by the
15 Majority Leader of the Senate and one of whom is appointed by the Minority
16 Leader of the Senate; and

17 ~~(k)~~ (n) Two members who are Assemblymen, one of whom is appointed by
18 the Speaker of the Assembly and one of whom is appointed by the Minority Leader
19 of the Assembly.

20 ↪ If any association listed in this subsection ceases to exist, the appointment
21 required by this subsection must be made by the association's successor in interest
22 or, if there is no successor in interest, by the Governor.

23 2. The Attorney General is an ex officio voting member of the Commission .
24 ~~and shall serve as the Chairman of the Commission.~~

25 3. Each appointed member serves a term of 2 years. Members may be
26 reappointed for additional terms of 2 years in the same manner as the original
27 appointments. Any vacancy occurring in the membership of the Commission must
28 be filled in the same manner as the original appointment ~~and~~ *not later than 30 days*
29 *after the vacancy occurs.*

30 4. The Legislators who are members of the Commission are entitled to
31 receive the salary provided for a majority of the members of the Legislature during
32 the first 60 days of the preceding session for each day's attendance at a meeting of
33 the Commission.

34 5. ~~The members appointed pursuant to paragraphs (a) to (k), inclusive, of~~
35 ~~subsection 1 must be appointed not later than 60 days after the appointment~~
36 ~~of the Legislators who are appointed pursuant to paragraphs (m) and (n) of~~
37 ~~subsection 1.~~

38 ~~6.~~ *At the first regular meeting of each odd-numbered year, the members of*
39 *the Commission shall elect a Chairman by majority vote who shall serve until the*
40 *next Chairman is elected.*

41 ~~7.~~ *6. The Commission shall meet at least once every 3 months and may*
42 *meet at such further times as deemed necessary by the Chairman.*

43 ~~8.~~ *7. A majority of the members of the Commission constitutes a quorum*
44 *for the transaction of business, and a majority of those members present at any*
45 *meeting is sufficient for any official action taken by the Commission.*

46 ~~9.~~ *8. While engaged in the business of the Commission, to the extent of*
47 *legislative appropriation, each member of the Commission is entitled to receive the*
48 *per diem allowance and travel expenses provided for state officers and employees*
49 *generally.*

50 ~~10.~~ *9. To the extent of legislative appropriation, the Attorney General*
51 *shall provide the Commission with such staff as is necessary to carry out the duties*
52 *of the Commission.*

1 **Sec. 3.** NRS 176.0125 is hereby amended to read as follows:

2 176.0125 The Commission shall:

3 1. Identify and study the elements of this State's system of criminal justice
4 which affect the sentences imposed for felonies and gross misdemeanors.

5 2. Evaluate the effectiveness and fiscal impact of various policies and
6 practices regarding sentencing which are employed in this State and other states,
7 including, but not limited to, the use of plea bargaining, probation, programs of
8 intensive supervision, programs of regimental discipline, imprisonment, *sentencing*
9 *recommendations*, mandatory and minimum sentencing, *mandatory sentencing for*
10 *crimes involving the possession, manufacture and distribution of controlled*
11 *substances*, structured or tiered sentencing, enhanced penalties for habitual
12 criminals, parole, credits against sentences, residential confinement and alternatives
13 to incarceration.

14 3. Recommend changes in the structure of sentencing in this State which, to
15 the extent practicable and with consideration for their fiscal impact, incorporate
16 general objectives and goals for sentencing, including, but not limited to, the
17 following:

18 (a) Offenders must receive sentences that increase in direct proportion to the
19 severity of their crimes and their histories of criminality.

20 (b) Offenders who have extensive histories of criminality or who have
21 exhibited a propensity to commit crimes of a predatory or violent nature must
22 receive sentences which reflect the need to ensure the safety and protection of the
23 public and which allow for the imprisonment for life of such offenders.

24 (c) Offenders who have committed offenses that do not include acts of violence
25 and who have limited histories of criminality must receive sentences which reflect
26 the need to conserve scarce economic resources through the use of various
27 alternatives to traditional forms of incarceration.

28 (d) Offenders with similar histories of criminality who are convicted of similar
29 crimes must receive sentences that are generally similar.

30 (e) Offenders sentenced to imprisonment must receive sentences which do not
31 confuse or mislead the public as to the actual time those offenders must serve while
32 incarcerated or before being released from confinement or supervision.

33 (f) Offenders must not receive disparate sentences based upon factors such as
34 race, gender or economic status.

35 (g) Offenders must receive sentences which are based upon the specific
36 circumstances and facts of their offenses, including the nature of the offense and
37 any aggravating factors, the savagery of the offense, as evidenced by the extent of
38 any injury to the victim, and the degree of criminal sophistication demonstrated by
39 the offender's acts before, during and after commission of the offense.

40 4. *Evaluate the effectiveness and efficiency of the Department of*
41 *Corrections and the State Board of Parole Commissioners with consideration as*
42 *to whether it is feasible and advisable to establish an oversight or advisory board*
43 *to perform various functions and make recommendations concerning:*

44 (a) *Policies relating to parole;*

45 (b) *Regulatory procedures and policies of the State Board of Parole*
46 *Commissioners;*

47 (c) *Policies for the operation of the Department of Corrections;*

48 (d) *Budgetary issues; and*

49 (e) *Other related matters.*

50 5. *Evaluate the effectiveness of specialty court programs in this State with*
51 *consideration as to whether such programs have the effect of limiting or*
52 *precluding reentry of offenders and parolees into the community.*

1 6. *Evaluate the policies and practices concerning presentence investigations*
2 *and reports made by the Division of Parole and Probation of the Department of*
3 *Public Safety, including, without limitation, the resources relied on in preparing*
4 *such investigations and reports and the extent to which judges in this State rely*
5 *on and follow the recommendations contained in such presentence investigations*
6 *and reports.*

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

9 (a) The need for the establishment and implementation of evidence-based
10 programs and a continuum of sanctions for children who are subject to the
11 jurisdiction of the juvenile court; and

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

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

16 ~~5. 8.7~~ 9. For each regular session of the Legislature, prepare a
17 comprehensive report including the Commission's recommended changes ~~in the~~
18 ~~structure of sentencing~~ *pertaining to the administration of justice* in this State, the
19 Commission's findings and any recommendations of the Commission for proposed
20 legislation. The report must be submitted to the *Director of the Legislative Counsel*
21 *Bureau for distribution to the* Legislature not later than ~~10 days after the~~
22 ~~commencement of the session.~~ *September 1 of each even-numbered year.*

23 **Sec. 3.5. NRS 179A.290 is hereby amended to read as follows:**

24 179A.290 1. The Director of the Department shall establish within the
25 Central Repository a program to compile and analyze data concerning offenders who
26 commit sexual offenses. The program must be designed to:

27 (a) Provide statistical data relating to the recidivism of offenders who commit
28 sexual offenses; and

29 (b) Use the data provided by the Division of Child and Family Services of the
30 Department of Health and Human Services pursuant to NRS 62H.220 to:

31 (1) Provide statistical data relating to the recidivism of juvenile sex
32 offenders after they become adults; and

33 (2) Assess the effectiveness of programs for the treatment of juvenile sex
34 offenders.

35 2. The Division of Parole and Probation and the Department of Corrections
36 shall assist the Director of the Department in obtaining data and in carrying out the
37 program.

38 3. The Director of the Department shall report the statistical data and findings
39 from the program to:

40 (a) The Legislature at the beginning of each regular session.

41 (b) The Advisory Commission on ~~Sentencing~~ *the Administration of Justice*
42 on or before January 31 of each even-numbered year.

43 4. The data acquired pursuant to this section is confidential and must be used
44 only for the purpose of research. The data and findings generated pursuant to this
45 section must not contain information that may reveal the identity of a juvenile sex
46 offender or the identity of an individual victim of a crime.

47 **Sec. 4.** 1. There is hereby appropriated from the State General Fund to the
48 Advisory Commission on ~~Sentencing~~ *the Administration of Justice* the sum of
49 \$50,000 so that the Commission may enter into a contract with a qualified,
50 independent consultant to assist the Commission in carrying out its duties.

51 2. Any remaining balance of the appropriation made by subsection 1 must not
52 be committed for expenditure after June 30, 2009, by the entity to which the
53 appropriation is made or any entity to which money from the appropriation is

1 granted or otherwise transferred in any manner, and any portion of the appropriated
2 money remaining must not be spent for any purpose after September 18, 2009, by
3 either the entity to which the money was appropriated or the entity to which the
4 money was subsequently granted or transferred, and must be reverted to the State
5 General Fund on or before September 18, 2009.

6 **Sec. 5. 1.** The Attorney General shall continue to serve as Chairman of the
7 Advisory Commission on ~~[[Sentencing]]~~ **the Administration of Justice** until the
8 members elect a Chairman . ~~[[at the first regular meeting of the Commission that is~~
9 ~~held after July 1, 2007.]]~~ The Commission shall meet not later than ~~[[120 days after]]~~
10 July ~~[[1]]~~ **31**, 2007, and shall elect a Chairman at that meeting.

11 **2. Notwithstanding the amendatory provisions of this act, a member of**
12 **the Commission, other than the member who is a county commissioner, who is**
13 **-serving a term on July 1, 2007, is entitled to serve out the remainder of the**
14 **term to which he was appointed.**

15 **3. Not later than July 15, 2007:**

16 (a) **The Chief Justice of the Supreme Court shall appoint the member**
17 **described in paragraph (b) of subsection 1 of NRS 176.0123, as amended by**
18 **this act;**

19 (b) **The Governor shall appoint the member described in paragraph (i) of**
20 **subsection 1 of NRS 176.0123, as amended by this act;**

21 (c) **The Nevada Sheriffs' and Chiefs' Association shall appoint the**
22 **member described in paragraph (j) of subsection 1 of NRS 176.0123, as**
23 **amended by this act; and**

24 (d) **The State Board of Parole Commissioners shall appoint the member**
25 **described in paragraph (k) of subsection 1 of NRS 176.0123, as amended by**
26 **this act.**

27 **4. Any vacancy on the Commission that exists on July 1, 2007, must be**
28 **filled not later than July 15, 2007, in the manner described in NRS 176.0123, as**
29 **amended by this act.**

30 **Sec. 6.** This act becomes effective on July 1, 2007.