

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

**Seventy-Fifth Session
February 26, 2009**

The Committee on Corrections, Parole, and Probation was called to order by Chairman William C. Horne at 8:23 a.m. on Thursday, February 26, 2009, in Room 3138 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/75th2009/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 William C. Horne, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman Bernie Anderson
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Bonnie Parnell

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Nicolas C. Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Sean McDonald, Committee Secretary
Nichole Bailey, Committee Assistant

OTHERS PRESENT:

Mark Woods, Deputy Chief, Division of Parole and Probation, Department
of Public Safety
Bernard W. Curtis, Chief, Division of Parole and Probation, Department of
Public Safety

Chairman Horne:

[Roll called]. Today is a work session, and because of that, we do not take testimony again. We may call persons up to clarify past testimony or amendments, et cetera, but we are not going to get into rehashing the positions of witnesses in the hearings. I ask the members, if you have a question, make it succinct and pointed, because if you make it overly broad, it will give those wanting to champion their position a window to jump in and argue their case all over again. We are not going to do that.

[Remarks on protocol.]

Assembly Bill 34: Authorizes prisoners in certain state correctional institutions or facilities to use certain electronic communication devices under certain circumstances. (BDR 16-307)

The first bill, Assembly Bill 34, we are not going to consider today. We are not going to consider it because there are some security issues with the Department of Information and Technology (DoIT). To give Director Skolnik and DoIT an opportunity to determine what those potential issues are, we are going to pull that bill back. It may be considered in the next work session.

We will move on to Assembly Bill 35.

Assembly Bill 35: Revises provisions governing petitions by offenders under lifetime supervision for release from lifetime supervision. (BDR 14-312)

Allison Combs, Committee Policy Analyst:

You should have in front of you a work session document ([Exhibit C](#)). On the last page of that document is A.B. 35. This is the bill that would expand the criteria that the sentencing court or the Parole Board would consider before granting release from a sentence of lifetime supervision. The bill added an additional criterion that would be considered: the person's conduct during his term of lifetime supervision.

During the hearing, two conceptual amendments were raised during the testimony. The first one is on page 2 of the bill, at line 13. Under existing law, the petition could be brought forward when 10 years had elapsed after the person's conviction of an offense that poses a threat to the safety or well-being of others. The proposal was to reduce that time period from 10 years to 3 years. The second amendment was to more narrowly define or clarify the word "conduct" under the new language on page 2 of the bill. The concern was that that language was just too broad.

Chairman Horne:

To address that possible broad language, I believe that Mr. Anthony had a proposal regarding that issue.

Nick Anthony, Committee Counsel:

If it is the Committee's pleasure, what the amendment would propose to do would be to strike line 19, on page 2, line 20, and through the word "after" on line 21. The amendment would read "after considering any report submitted by the Division," and I believe this would clarify the intent of the division to have some input into the process without using the words "appropriate" or "conduct."

Assemblywoman Parnell:

My concern relates more to the first proposed amendment. Currently in statute it is 10 years, and I think going from 10 years to the 3 years causes me some concern. Three years is too short. Maybe seven years would be better. We use seven years a lot in the criminal statutes. I know I would not support decreasing it to that degree.

Chairman Horne:

We had testimony from Mr. Updike, and we reminded him that we are at 10 years, now, because we had reduced it from 15 years a couple of sessions

ago. Ms. Parnell says she is uncomfortable with three years, but maybe seven years would be acceptable.

Assemblywoman Dondero Loop:

My question is what happens if a person spends 10 years in jail? It says, "after his last conviction or release," but that seems to be together. Can somebody clarify that for me? I am uncomfortable with somebody spending 10 years in prison and then coming out and saying, "Well, I did not ever have any problems."

Chairman Horne:

I believe part of that, and Mr. Anthony can clarify if I am wrong, is that you can possibly have a conviction and not be incarcerated, and the time would start ticking when you begin probation. But if you have been incarcerated and you are released, the time would start ticking as of the date of your release. Mr. Anthony nods in the affirmative that that is what the language means.

Assemblywoman Dondero Loop:

Thank you.

Assemblyman Cobb:

Is my understanding correct that they currently do not use reports submitted by the Division of Parole in these determining bodies, whether it be the sentencing court or the Parole Board, in determining whether or not to allow release from lifetime supervision?

Chairman Horne:

I believe that is it. Would that be correct, Mr. Woods?

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

Currently, there is no report that is submitted from our division to the court or the board in these cases.

Chairman Horne:

What is the pleasure of the Committee on A.B. 35?

Assemblyman Gustavson:

Regarding Ms. Parnell's suggestion of seven years instead of ten years, I agree with seven years. I do not like the three years.

Chairman Horne:

Mr. Cobb, you were going to make a motion to Amend and Do Pass. Could you state the amendment?

Assemblyman Cobb:

I believe the proposed amendment would be twofold: (1) strike line 19, line 20, and through the word "after" on line 21, on page 2; and (2) amend the 10-year provision on page 2, line 13, from 10 to 7 years.

ASSEMBLYMAN COBB MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 35.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblywoman Parnell:

I just have a question going back to the seven year time period. I want to know, since the amendment to take it to three that we are working with, did not come from the Parole Board, would it be possible to learn whether or not they are comfortable with lowering the time from 10 years to 7? That would give me a little more comfort.

Chairman Horne:

Is there someone here from the Parole Board? We have no one here from the Parole Board.

Are we going to withdraw the motion?

Assemblyman Carpenter:

I think that seven years is a good compromise. Seven years is quite a long time, and if the person had no incidents, I think seven years would be all right. I would like to know if the people from Parole and Probation are okay with the other amendment. To me that is a little more substantial.

Bernard W. Curtis, Chief, Division of Parole and Probation, Department of Public Safety:

You are talking about the second part of the amendment. That is okay with us. Regarding the first part, I am not so sure about moving from 10 years to 7 years.

Assemblyman Carpenter:

Any reason?

Bernard Curtis:

It was 15, it went to 10, and now it is going to 7. It seems like there are some public safety concerns there, and we do not have all of the information that would justify moving it back down to 7. But, we can live with it. It certainly reduces the work that we have to do in the Division.

Assemblyman Carpenter:

I was just reading the language of the first paragraph we are amending and it says, "not been convicted of an offense," so there are some other criteria in here. They would not be automatically considered for release from lifetime supervision. After the seven years, they would have to have had a good record. That is the only thing I was looking at.

Chairman Horne:

Mr. Carpenter's opinion is that if they have met all of the other criteria, without a blemish, it should be all right to let them go after seven years.

Assemblyman Carpenter:

They have to go to the board, and if there is a report from Parole and Probation that they have really behaved themselves, I think that adds another favorable factor.

Bernard Curtis:

The report that we are going to submit is also going to indicate things that are positive in nature, as well as negative, so the board will get both sides of it.

Chairman Horne:

Mr. Carpenter usually has a pretty good feel for these things.

Assemblyman Ohrenschall:

I support the move to seven years because, when you look at page 2, line 3 of the bill, it says "a person sentenced to lifetime supervision *may* petition." It is not an automatic release from lifetime supervision; it is the right to petition to be released. I do not know if that will create a tremendous new workload for the board. That is a concern, of course. The language is just permissive, so I would support the move to seven years.

Chairman Horne:

And I think Mr. Curtis said that the workload could be less.

Assemblywoman Dondero Loop:

I am struggling a little bit with page 2, line 15, where it says, "the person is not likely." Not likely, to me, is pretty vague. I mean everybody in this room is not likely to do something. Can somebody clarify "not likely" for me?

Chairman Horne:

It is the existing language that is in the law. I believe that the role of the Parole Board is to make a weighted assessment. They cannot give you any guarantees. They cannot say, "this person is not going to 'reoffend.'" They can only make an assessment as to likelihood by mulling over various reports and evidence that they have before them. After doing that, they come to the conclusion that everything they have reviewed indicates that the person is a low risk. I would take "not likely" as being low risk. I think that is what it means. I do not think you are going to get a guarantee, Ms. Dondero Loop. I do not think that is possible in this realm.

Assemblywoman Dondero Loop:

Okay.

Assemblyman Gustavson:

We are talking about sexual predators here, not just those convicted of other crimes. If I remember correctly, they seem to have a high rate of becoming repeat offenders. Maybe the 10 years might be a better guideline than 7 years.

Chairman Horne:

I do not know if we have any experts out there, but I do not think you can really say that anyone convicted of a sexual crime will have a high rate of recidivism. That is why we have varying degrees of sex crimes. You can be convicted of the crime of exposing. There are those offenders who do a lot of time in prison, have to have psycho-sexual evaluations, et cetera, and the likelihood of recidivism is great. For some offenders, the likelihood is not great. Again, they must meet these criteria in order to get to the position to be able to petition the board. Then, the board will make the determination as to whether the person has a high likelihood of "reoffending."

Assemblyman Anderson:

I believe that, given the unique nature of Nevada in allowing for lifetime supervision—I believe we are one of the few states, maybe there are three of us, that allow for lifetime supervision for sexual offenders—and the question of the likelihood of recidivism for that particular part of the population, a 7 year compromise is probably where we should have been when we moved to 10 years from 15. We would have split the time period in half. The fact that it is a "may" and not a "shall" means that the amendment probably should stand as it

was originally suggested in the first amendment. That is the way I would prefer to see it. My other observation is, if this bill, as amended, was successful, it may create a greater burden for the Parole Board. They would have to look at those additional people between 7 and 10 years who may now make application.

Mark Woods:

We are hearing everyone say Parole Board. A lot of these people will go to the sentencing court. If we are looking at a backlog of petitions, they will go both to the Parole Board and the judges. It is going to be spread out. We really do not see that there is going to be a huge burden.

Chairman Horne:

But somebody, the district courts or the Parole Board, will be reviewing the petition?

Mark Woods:

Correct. It is not going to all be on one body.

Chairman Horne:

Our two chief members, Mr. Carpenter and Mr. Anderson, prefer to keep the motion as is. Ms. Parnell is nodding in the affirmative, as well. So, are we going to move with this bill as the motion was stated?

Assemblyman Cobb:

It was my motion.

Chairman Horne:

It was your motion, and we are going to keep it.

Assemblyman Cobb:

Okay.

Chairman Horne:

Any further discussion? [Restated the motion.]

THE MOTION PASSED UNANIMOUSLY.

That ends our work session for the day.

We are passing out some information. It is responses to the questions raised by the Committee to Parole and Probation and the Department of Corrections

([Exhibit D](#)). This is just for your review. It is not for discussion. We got answers to the questions that you had, and here they are.

[Meeting adjourned at 8:49 a.m.]

RESPECTFULLY SUBMITTED:

Sean McDonald
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Corrections, Parole, and Probation

Date: February 26, 2009

Time of Meeting: 8:23 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	C	Allison Combs, Research Division, Legislative Counsel Bureau	Work session document
	D	Allison Combs	Memo dated February 26, 2009, on agency responses