

## Amendment No. 155

Assembly Amendment to Assembly Bill No. 181

(BDR 39-95)

**Proposed by:** Assembly Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will:

- (1) REMOVE the 2/3s majority vote requirement from A.B. 181.
- (2) REMOVE the unfunded mandate from A.B. 181.

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<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 underlining is newly added transitory language.

NCA/BAW



Date: 4/14/2011

A.B. No. 181—Provides for the involuntary civil commitment of sexually dangerous persons. (BDR 39-95)



ASSEMBLY BILL NO. 181—ASSEMBLYMEN HORNE, DONDERO LOOP, ANDERSON, CARRILLO; AIZLEY, BROOKS, GOICOECHEA, HANSEN, HOGAN, MASTROLUCA, MUNFORD, NEAL, SEGERBLOM AND SMITH

FEBRUARY 16, 2011

JOINT SPONSORS: SENATORS BREEDEN AND LEE

Referred to Committee on Judiciary

SUMMARY—Provides for ~~the~~ **evaluation by the Advisory Commission on the Administration of Justice of the policies and practices relating to the** involuntary civil commitment of sexually dangerous persons. (BDR ~~(39-95)~~ **14-95**)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 15)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

AN ACT relating to sexually dangerous persons; ~~providing for the~~ **revising the duties of the Advisory Commission on the Administration of Justice to include evaluation of the policies and practices relating to the** involuntary civil commitment of sexually dangerous persons; ~~requiring the Division of Mental Health and Developmental Services of the Department of Health and Human Services to adopt certain regulations;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Federal law authorizes a federal district court to order the civil commitment of a person found to be mentally ill and a danger sexually to the public. (18 U.S.C. § 4248) Additionally, the United States Supreme Court recently upheld a federal law authorizing the civil commitment of sexually dangerous persons. (*United States v. Comstock*, 130 S. Ct. 1949 (2010))

~~Section 15 of this bill authorizes a district attorney to file a petition seeking the civil commitment of a sexually dangerous person, which means a person who has been convicted of a sexually dangerous offense, who suffers from a mental disorder and who is dangerous to the public because the person is likely to commit a sexually dangerous offense. Section 17 of this bill requires a court, within 72 hours after a district attorney files such a petition, to hold a hearing to determine whether probable cause exists to believe that the person is a sexually dangerous person. If the court determines that such probable cause exists, the court is required to schedule a hearing before a jury to determine whether the person is a sexually dangerous person. Section 19 of this bill requires the district attorney to prove by clear and convincing~~

evidence that the person is a sexually dangerous person. If the jury unanimously finds that the person is a sexually dangerous person and that the person requires commitment, the court must enter an order committing the person to the custody of a program for the treatment of sexually dangerous persons established by the Division of Mental Health and Developmental Services of the Department of Health and Human Services. If the jury finds that the person is a sexually dangerous person but does not unanimously find that the person should be civilly committed, the court must order the person to be placed in an alternative course of treatment to be administered by the Division.

Section 22 of this bill requires the Division to select a qualified professional to evaluate the mental health of a person committed to its custody pursuant to this bill at least once each year. Section 23 of this bill provides that if through the evaluation or at any other time during the period of commitment the Administrator of the Division determines that the person no longer suffers from a mental disorder, the person is no longer dangerous to the public and the person is suitable for conditional release to an alternative course of treatment, the court must hold a hearing to determine whether the person should be released. Section 24 of this bill authorizes a person committed to the custody of the Division pursuant to this bill to file a request for release not more than once every 6 months.

Section 21 of this bill requires the Division to adopt regulations: (1) establishing a program for the secure commitment of persons found to be sexually dangerous persons; (2) establishing alternative courses of treatment; and (3) determining the professional qualifications required to evaluate a person alleged to be a sexually dangerous person.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission to study the elements of this State's criminal justice system, among other things. (NRS 176.0123, 176.0125) This bill requires the Commission to evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons

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

**Section 1. (Deleted by amendment.)**

**Sec. 2. (Deleted by amendment.)**

**Sec. 3. (Deleted by amendment.)**

**Sec. 4. (Deleted by amendment.)**

**Sec. 5. (Deleted by amendment.)**

**Sec. 6. (Deleted by amendment.)**

**Sec. 7. (Deleted by amendment.)**

**Sec. 8. (Deleted by amendment.)**

**Sec. 9. (Deleted by amendment.)**

**Sec. 10. (Deleted by amendment.)**

**Sec. 11. (Deleted by amendment.)**

**Sec. 12. (Deleted by amendment.)**

**Sec. 13. (Deleted by amendment.)**

**Sec. 14. (Deleted by amendment.)**

**Sec. 15. (Deleted by amendment.)**

**Sec. 16. (Deleted by amendment.)**

**Sec. 17. (Deleted by amendment.)**

**Sec. 18. (Deleted by amendment.)**

**Sec. 19. (Deleted by amendment.)**

**Sec. 20. (Deleted by amendment.)**

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**Sec. 22. (Deleted by amendment.)**

**Sec. 23. (Deleted by amendment.)**

**Sec. 24. (Deleted by amendment.)**

1 Sec. 25. (Deleted by amendment.)

2 Sec. 26. (Deleted by amendment.)

3 Sec. 27. (Deleted by amendment.)

4 Sec. 28. (Deleted by amendment.)

5 Sec. 29. (Deleted by amendment.)

6 Sec. 30. (Deleted by amendment.)

7 Sec. 31. (Deleted by amendment.)

8 Sec. 32. (Deleted by amendment.)

9 Sec. 33. (Deleted by amendment.)

10 Sec. 34. (Deleted by amendment.)

11 Sec. 35. (Deleted by amendment.)

12 Sec. 36. (Deleted by amendment.)

13 Sec. 37. (Deleted by amendment.)

14 Sec. 38. (Deleted by amendment.)

15 Sec. 39. (Deleted by amendment.)

16 Sec. 40. (Deleted by amendment.)

17 Sec. 41. (Deleted by amendment.)

18 Sec. 42. (Deleted by amendment.)

19 Sec. 43. (Deleted by amendment.)

20 Sec. 44. (Deleted by amendment.)

21 Sec. 45. (Deleted by amendment.)

22 Sec. 46. (Deleted by amendment.)

23 Sec. 47. (Deleted by amendment.)

24 Sec. 48. (Deleted by amendment.)

25 Sec. 49. (Deleted by amendment.)

26 Sec. 50. (Deleted by amendment.)

27 Sec. 51. (Deleted by amendment.)

28 Sec. 52. (Deleted by amendment.)

29 Sec. 53. (Deleted by amendment.)

30 Sec. 54. (Deleted by amendment.)

31 Sec. 55. NRS 176.0125 is hereby amended to read as follows:

32 176.0125 The Commission shall:

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

35 2. Evaluate the effectiveness and fiscal impact of various policies and  
36 practices regarding sentencing which are employed in this State and other states,  
37 including, but not limited to, the use of plea bargaining, probation, programs of  
38 intensive supervision, programs of regimental discipline, imprisonment, sentencing  
39 recommendations, mandatory and minimum sentencing, mandatory sentencing for  
40 crimes involving the possession, manufacture and distribution of controlled  
41 substances, structured or tiered sentencing, enhanced penalties for habitual  
42 criminals, parole, credits against sentences, residential confinement and alternatives  
43 to incarceration.

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

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

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

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

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

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

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

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

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

(a) Policies relating to parole;

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

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

(d) Budgetary issues; and

(e) Other related matters.

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

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

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

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

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

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

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

(a) State Board of Pardons Commissioners to consider an application for clemency; and

(b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

1        11. Evaluate the policies and practices relating to the involuntary civil  
2 commitment of sexually dangerous persons.

3        12. For each regular session of the Legislature, prepare a comprehensive  
4 report including the Commission's recommended changes pertaining to the  
5 administration of justice in this State, the Commission's findings and any  
6 recommendations of the Commission for proposed legislation. The report must be  
7 submitted to the Director of the Legislative Counsel Bureau for distribution to the  
8 Legislature not later than September 1 of each even-numbered year.