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Office of the Governor

June 1, 2011

Speaker John Ocegura
Nevada State Assembly
401 South Carson Street
Carson City, NV 89701

RE: Assembly Bill 135 of the 76th Legislative Session

Dear Mr. Speaker:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 135, which is entitled:

AN ACT relating to probation; revising provisions concerning violations of probation; and providing other matters properly relating thereto.

This bill relates to the authority of courts to, upon determination that a person has violated a condition of probation, continue or revoke the probation or suspension of sentence. More specifically, the bill limits courts' discretion to revoke the probation and suspension of sentence to cases where: (1) imprisonment is necessary to protect the community from further criminal activity by the probationer; (2) the probationer is in need of treatment which can most effectively be provided if he or she is imprisoned; (3) the seriousness of the violation or the totality of violations by the probationer warrant revocation of probation and suspension of the sentence; or (4) the violation demonstrates the probationer cannot be supervised pursuant to practices and policies governing probation.

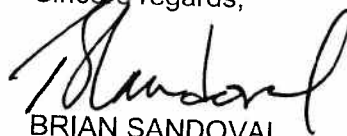
The bill further precludes courts from revoking probation and the suspension of the sentence based on the probationer's failure to pay court imposed administrative assessments, fees and expenses. In addition, before revoking probation and the suspension of the sentence, the bill requires courts to make findings to support the reasons for the revocation and state them on the record.

The requirement that courts state on the record the reasons for revocation of probation and the suspension of a sentence is reasonable. The limits imposed on the discretion of courts to revoke probation and the suspension of a sentence, however, are not. The effective administration of justice requires the proportionate enforcement of criminal sentences. Proportionality is not, though, easily obtained through the application of categorical methodology. Instead, courts require flexibility and discretion in fashioning the appropriate response to a probation violation. Thus, courts have traditionally been

granted latitude in determining the appropriate mechanism by which such sentences are enforced. The revocation of probation and the suspension of a sentence are tools often employed toward that end.

Insofar as this bill limits the cases in which these enforcement mechanisms are available, it undermines the ability of courts to effectively enforce sentences. The Legislature's attempt to categorically define the circumstances under which revocation of probation and the suspension of a sentence are appropriate fails to adequately capture the scope of cases where such revocation is appropriate; therefore, I veto this bill and return it to you without my approval.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

cc: Lieutenant Governor Brian Krolicki, President of the Senate (without enclosure)
The Honorable Steven Horsford, Senate Majority Leader (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
David A Byerman, Secretary of the Senate (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)