

ASSEMBLY BILL NO. 91—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION
ON THE ADMINISTRATION OF JUSTICE)

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions relating to programs of regimental discipline. (BDR 14-740)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 sentencing; revising certain provisions relating to eligibility for a program of regimental discipline; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a court to order certain defendants who have been
2 convicted of a felony that does not involve an act of violence to a program of
3 regimental discipline. (NRS 176A.780) This bill revises the eligibility requirements
4 for such a program.

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

1 **Section 1.** NRS 176A.780 is hereby amended to read as
2 follows:
3 176A.780 1. If a defendant:
4 (a) Is male;
5 (b) Has been convicted of a felony that ~~does~~ :
6 *(1) Does not involve an act of violence; or*
7 *(2) Involves an act of violence, but the district attorney*
8 *stipulates to the defendant's eligibility to participate in a program*
9 *of regimental discipline;*
10 (c) Is at least 18 years of age;



(d) *Has not been incarcerated in jail during his lifetime for a cumulative total of more than 365 days;*

(e) Has never been incarcerated in ~~jail or~~ prison ; ~~as an adult for more than 6 months;~~ and

~~(e)~~ (f) Is otherwise eligible for probation,
→ the court may order the defendant satisfactorily to complete a program of regimental discipline for 150 days before sentencing the defendant or in lieu of causing the sentence imposed to be executed upon violation of a condition of probation or suspension of sentence.

2. If the court orders the defendant to undergo a program of regimental discipline, it:

(a) Shall place the defendant under the supervision of the Director of the Department of Corrections for not more than 190 days, not more than the first 30 days of which must be used to determine the defendant's eligibility to participate in the program.
In determining the defendant's eligibility to participate in the program, the Director shall:

(1) Make all reasonable efforts to accommodate the defendant in the program; and

(2) Consider the facts and circumstances of the defendant's offense based on the police report, the report of the presentence investigation and any other information available to the Director.

(b) Shall, if appropriate, direct the Chief Parole and Probation Officer to provide a copy of the defendant's records to the Director of the Department of Corrections.

(c) Shall require the defendant to be returned to the court not later than 30 days after the defendant is placed under the supervision of the Director, if the defendant is determined to be ineligible for the program.

(d) May require such reports concerning the defendant's participation in the program as it deems desirable.

3. If the defendant is ordered to complete the program before sentencing, the Director of the Department of Corrections shall return the defendant to the court not later than 150 days after the defendant began the program. The Director shall certify either that the defendant satisfactorily completed the program or that the defendant did not, and shall report the results of the Director's evaluation, including any recommendations which will be helpful in determining the proper sentence. Upon receiving the report, the court shall sentence the defendant.

4. If the defendant is ordered to complete the program in lieu of causing the sentence imposed to be executed upon the violation of a condition of probation and the defendant satisfactorily completes the program, the Director of the Department of Corrections shall, not later than 150 days after the defendant began the program, return the



1 defendant to the court with certification that the defendant
2 satisfactorily completed the program. The court shall direct that:

3 (a) The defendant be placed under the supervision of the Chief
4 Parole and Probation Officer; and

5 (b) The Director of the Department of Corrections cause a copy
6 of the records concerning the defendant's participation in the
7 program to be provided to the Chief Parole and Probation Officer.

8 5. If a defendant is ordered to complete the program of
9 regimental discipline in lieu of causing the sentence imposed to be
10 executed upon the violation of a condition of probation, a failure by
11 the defendant satisfactorily to complete the program constitutes a
12 violation of that condition of probation and the Director of the
13 Department of Corrections shall return the defendant to the court.

14 6. Time spent in the program must be deducted from any
15 sentence which may thereafter be imposed.

16 **Sec. 2.** NRS 209.481 is hereby amended to read as follows:

17 209.481 1. ~~The~~ *Except as otherwise provided in NRS*
18 *176A.780, the* Director shall not assign any prisoner to an institution
19 or facility of minimum security if the prisoner:

20 (a) Except as otherwise provided in NRS 484C.400, 484C.410,
21 484C.430, 484C.440, 488.420 and 488.427, is not eligible for parole
22 or release from prison within a reasonable period;

23 (b) Has recently committed a serious infraction of the rules of an
24 institution or facility of the Department;

25 (c) Has not performed the duties assigned to him or her in a
26 faithful and orderly manner;

27 (d) Has ever been convicted of a sexual offense that is
28 punishable as a felony;

29 (e) Has, within the immediately preceding year, been convicted
30 of any crime involving the use or threatened use of force or violence
31 against a victim that is punishable as a felony; or

32 (f) Has attempted to escape or has escaped from an institution of
33 the Department.

34 2. The Director shall, by regulation, establish procedures for
35 classifying and selecting qualified prisoners.

