

Amendment No. 311

Assembly Amendment to Assembly Bill No. 325

(BDR 14-742)

Proposed by: Assembly Committee on Judiciary

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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.

MNM/BAW



Date: 4/15/2013

A.B. No. 325—Authorizes a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation.
(BDR 14-742)



ASSEMBLY BILL NO. 325—ASSEMBLYMEN MARTIN,
HORNE; AND COHEN

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Authorizes a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation. (BDR 14-742)

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

~

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

AN ACT relating to convicted persons; authorizing a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

NRS 176.158, which was repealed by Senate Bill No. 74 of the 1997 Legislative Session, authorized a court to commit certain convicted persons to the custody of the Director of the Department of Prisons, which is now the Department of Corrections, for a period of not more than 120 days for a complete evaluation. After the period during which the person was committed, the Department of Prisons was required to provide the court with a report of the results of the evaluation and any recommendations which the Department believed would be helpful to the court in determining the proper sentence for the person. (Chapter 257, Statutes of Nevada 1997, pp. 905-07)

Section 1 of this bill reinstates these provisions, but authorizes a court to commit such persons to the custody of the Director of the Department of Corrections for a period of not more than 90 days for a complete evaluation. **Sections 2-4** of this bill restore certain language which was deleted as a result of NRS 176.158 being repealed. **Section 5** of this bill provides a court with the option of committing an eligible person to the custody of the Director of the Department of Corrections for an evaluation pursuant to **section 1** if the person is convicted of a felony for which he or she may be sentenced to imprisonment that is committed on or after October 1, 2013.

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

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

1. If a defendant has:

(a) Been convicted of a felony for which he or she may be sentenced to imprisonment; and

1 (b) Never been sentenced to imprisonment as an adult for more than 6
2 months,

3 ↳ the court may, before sentencing the defendant, commit the defendant to the
4 custody of the Director of the Department of Corrections for not more than 90
5 days. The period of commitment may be extended once for another 60 days at the
6 request of the Department of Corrections. During the time for which a defendant
7 is committed to the custody of the Director, the Director may assign the defendant
8 to appropriate programs of rehabilitation to facilitate the evaluation of the
9 defendant required pursuant to subsection 2.

10 2. The Department of Corrections shall conduct a complete evaluation of
11 the defendant during the time of commitment pursuant to this section and shall
12 inquire into such matters as the defendant's previous delinquency or criminal
13 record, social background and capabilities, mental, emotional and physical
14 health and the resources and programs available to suit his or her needs for
15 rehabilitation.

16 3. The Department of Corrections shall return the defendant to the court
17 not later than the end of the period for which he or she was committed pursuant
18 to this section and provide the court with a report of the results of its evaluation,
19 including any recommendations which it believes will be helpful to the court in
20 determining the proper sentence.

21 4. Upon receiving the report and recommendations, the court shall sentence
22 the defendant to:

23 (a) An appropriate term of imprisonment, the duration of which must be
24 computed from the date of commitment pursuant to subsection 1; or

25 (b) Probation, a condition of which must be that the defendant serve a
26 number of days in the state prison equal to or greater than the number of days
27 spent in confinement pursuant to subsection 1, including the day of commitment.

28 Sec. 2. NRS 176.105 is hereby amended to read as follows:

29 176.105 1. If a defendant is found guilty and is ~~is sentenced~~ :

30 (a) To be committed to the custody of the Director of the Department of
31 Corrections for an evaluation by the Department, the judgment of conviction
32 must set forth the plea, the verdict or finding and the adjudication.

33 (b) Sentenced as provided by law, the judgment of conviction must set forth:

34 ~~(a)~~ (1) The plea;

35 ~~(b)~~ (2) The verdict or finding;

36 ~~(c)~~ (3) The adjudication and sentence, including the date of the sentence, any
37 term of imprisonment, the amount and terms of any fine, restitution or
38 administrative assessment, a reference to the statute under which the defendant is
39 sentenced and, if necessary to determine eligibility for parole, the applicable
40 provision of the statute; and

41 ~~(d)~~ (4) The exact amount of credit granted for time spent in confinement
42 before conviction, if any.

43 2. If the defendant is found not guilty, or for any other reason is entitled to be
44 discharged, judgment must be entered accordingly.

45 3. The judgment must be signed by the judge and entered by the clerk.

46 Sec. 3. NRS 209.341 is hereby amended to read as follows:

47 209.341 The Director shall:

48 1. Establish, with the approval of the Board, a system of initial classification
49 and evaluation for offenders who are committed to the Director for evaluation by
50 the Department or sentenced to imprisonment in the state prison; and

51 2. Assign every person who is committed to the Director for evaluation by
52 the Department or who is sentenced to imprisonment in the state prison to an
53 appropriate institution or facility of the Department. The assignment must be based

on an evaluation of the offender's records, particular needs and requirements for custody.

Sec. 4. NRS 209.385 is hereby amended to read as follows:

209.385 1. Each offender committed to the custody of the Department for ~~evaluation or~~ imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:

- (a) The appropriate approved tests must be administered; and
- (b) The offender must receive counseling regarding the virus.

2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.

3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:

- (a) The Director;
- (b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;
- (c) The manager or warden of the facility or institution at which the offender is confined; and

(d) Each other employee of the Department whose normal duties involve the employee with the offender or require the employee to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

- (a) The results of a supplemental test are positive; and
- (b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, ~~the infamous crime against nature,~~ ~~sexual intercourse in its ordinary meaning,~~ activity or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The Director, with the approval of the Board:

(a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section ~~+~~

~~(a) "Incident";~~ "incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.

~~(b) ["Infamous crime against nature"]; ["Sexual conduct" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.]~~

Sec. 5. The amendatory provisions of this act apply to offenses that are committed on or after October 1, 2013.