

Amendment No. 554

Assembly Amendment to Assembly Bill No. 91 (BDR 14-740)

Proposed by: Assembly Committee on Judiciary

Amendment Box: Replaces Amendments Nos. 249 and 538.

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

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.

BAW



Date: 4/21/2013

A.B. No. 91—Revises certain provisions relating to programs of regimental discipline. (BDR 14-740)



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:

Existing law authorizes a court to order certain defendants who have been convicted of a felony that does not involve an act of violence to a program of regimental discipline. (NRS 176A.780) This bill revises the eligibility requirements for such a program. ~~By removing the requirement that the felony conviction not involve an act of violence, and replacing it with a requirement that the felony conviction not be for a category A felony.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:**Section 1.** NRS 176A.780 is hereby amended to read as follows:

176A.780 1. If a defendant:

(a) Is male;

(b) Has been convicted of a felony that ~~does~~ ;(1) Does not involve an act of violence; ~~is not a category A felony;~~ or(2) Involves an act of violence, but the district attorney stipulates to the defendant's eligibility to participate in a program of regimental discipline;

(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,

1 the court may order the defendant satisfactorily to complete a program of
2 regimental discipline for 150 days before sentencing the defendant or in lieu of
3 causing the sentence imposed to be executed upon violation of a condition of
4 probation or suspension of sentence.

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

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

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

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

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

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

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

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

32 4. If the defendant is ordered to complete the program in lieu of causing the
33 sentence imposed to be executed upon the violation of a condition of probation and
34 the defendant satisfactorily completes the program, the Director of the Department
35 of Corrections shall, not later than 150 days after the defendant began the program,
36 return the defendant to the court with certification that the defendant satisfactorily
37 completed the program. The court shall direct that:

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

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

43 5. If a defendant is ordered to complete the program of regimental discipline
44 in lieu of causing the sentence imposed to be executed upon the violation of a
45 condition of probation, a failure by the defendant satisfactorily to complete the
46 program constitutes a violation of that condition of probation and the Director of
47 the Department of Corrections shall return the defendant to the court.

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

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

51 209.481 1. ~~That~~ Except as otherwise provided in NRS 176A.780, the
52 Director shall not assign any prisoner to an institution or facility of minimum
53 security if the prisoner:

1 (a) Except as otherwise provided in NRS 484C.400, 484C.410, 484C.430,
2 484C.440, 488.420 and 488.427, is not eligible for parole or release from prison
3 within a reasonable period;

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

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

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

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

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

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