

Amendment No. 26

Senate Amendment to Senate Bill No. 101

(BDR 16-464)

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

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.

VMS/DY



Date: 4/8/2013

S.B. No. 101—Revises provisions relating to departments of alternative sentencing.
(BDR 16-464)



SENATE BILL NO. 101—SENATOR SETTELMAYER

FEBRUARY 11, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to departments of alternative sentencing.
(BDR 16-464)

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 departments of alternative sentencing; authorizing a department of alternative sentencing to supervise certain persons who are released from custody before trial or sentencing; revising the qualifications of the chief of a department of alternative sentencing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of each county or city to create a department of alternative sentencing for the purposes of supervising certain persons convicted of misdemeanors and serving suspended sentences or terms of residential confinement. (Chapter 211A of NRS) This bill: (1) authorizes a department of alternative sentencing to supervise persons charged with or convicted of misdemeanors, gross misdemeanors or felonies who have been released from custody before trial or sentencing, subject to the conditions imposed by the court; ~~and~~ (2) provides that such persons are generally subject to the same statutory provisions as the other persons currently supervised by a department of alternative sentencing ~~+~~; and (3) revises the qualifications of the chief of a department of alternative sentencing to include experience in pretrial or presentence release.

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

Section 1. Chapter 211A of NRS is hereby amended by adding thereto a new section to read as follows:

"Supervised releasee" means a person who has been charged with or convicted of a misdemeanor, gross misdemeanor or felony and who has been released from custody before trial or sentencing, subject to the conditions imposed by the court.

Sec. 1.3. NRS 211A.010 is hereby amended to read as follows:

211A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 211A.020 to 211A.070, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

~~Section 1.~~ **Sec. 1.7.** NRS 211A.050 is hereby amended to read as follows:

211A.050 “Court” means a court having jurisdiction over a person who is charged with a misdemeanor ~~or~~, gross misdemeanor or felony.

Sec. 2. ~~NRS 211A.070 is hereby amended to read as follows:~~

~~211A.070 “Probationer” means a person who [has]:~~

~~1. Has been convicted of a misdemeanor [] and who:~~

~~[1.] (a) Has had his or her sentence suspended pursuant to NRS 4.373 or 5.055, and is serving that suspended sentence; or~~

~~[2.] (b) Has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076, and is serving that term of residential confinement []; or~~

~~2. Has been charged with or convicted of a misdemeanor, gross misdemeanor or felony and who has been released from custody before trial or sentencing, subject to the conditions imposed by the court.~~ (Deleted by amendment.)

Sec. 3. NRS 211A.080 is hereby amended to read as follows:

211A.080 The governing body of each county or city may create a department of alternative sentencing to provide a program of supervision for probationers ~~or~~ and supervised releasees in accordance with any conditions imposed by the court.

Sec. 4. NRS 211A.090 is hereby amended to read as follows:

211A.090 The department: ~~[shall]~~

1. ~~[Supervise]~~ May supervise a probationer ~~or~~ or a supervised releasee who, as a condition of ~~pretrial or presentence release,~~ a suspended sentence ~~or~~ a sentence to residential confinement ~~or~~ or pretrial or presentence release, is released under the supervision of the department by the court.

2. ~~[A]~~ Shall, at the time a probationer or a supervised releasee is released under the supervision of the department:

(a) Provide the probationer or the supervised releasee with a written statement describing the terms or conditions of the ~~pretrial or presentence release,~~ suspended sentence ~~or~~ residential confinement or pretrial or presentence release imposed by the court; and

(b) Explain the terms or conditions to the probationer ~~or~~ or the supervised releasee.

3. ~~[Be]~~ Must be knowledgeable about the conduct and activities of each probationer and supervised releasee under the supervision of the department.

4. ~~[Use]~~ Shall use all reasonable methods to assist a probationer or a supervised releasee under the supervision of the department to improve his or her conduct and comply with the terms or conditions of his or her ~~pretrial or presentence release,~~ suspended sentence ~~or~~ residential confinement ~~or~~ pretrial or presentence release.

5. ~~[Collect]~~ Shall collect and disburse any money in accordance with the orders of the court and make a written record of any money so collected or disbursed.

6. ~~[Cooperate]~~ Shall cooperate with and assist any agency of law enforcement and any agency providing social services as requested by the court, or as necessary to fulfill the duties of the department.

Sec. 4.5. NRS 211A.100 is hereby amended to read as follows:

211A.100 The chief:

1. Must be appointed by the action of a majority of the governing body.

2. Must have at least 5 years of experience, with an increasing level of responsibility, in the field of law enforcement, corrections or supervision of persons on probation, ~~or~~ parole, ~~or~~ or pretrial or presentence release.

3. Is in the unclassified service of the county.

Sec. 5. NRS 211A.110 is hereby amended to read as follows:

211A.110 The chief shall:

1. Hire assistant alternative sentencing officers and other employees as necessary to carry out the responsibilities of the department within the limitations of appropriations to the department by the governing body.

2. Direct the work of all assistants and employees.

3. Be responsible for the fiscal affairs of the department.

4. Be responsible for the completion of any report regarding an investigation or the supervision of a probationer or a supervised releasee and any report requested by the court or the governing body.

5. After reviewing and considering recognized correctional programs and courses for training correctional staff, develop and provide to assistants and other employees training in methods and policies regarding the investigation and supervision of probationers ~~+~~ and supervised releasees, the recordkeeping of the department and the reporting on matters relating to probationers ~~+~~ and supervised releasees.

6. Submit a written report, on or before January 31 of each year, to the governing body and to each court having jurisdiction over a probationer or a supervised releasee under the chief's supervision, setting forth in detail the activities of the department during the previous calendar year. The report must include statistical data concerning the department's activities and operations and the probationers or the supervised releasees who were under the supervision of the department during that period.

7. Advise the court of any probationer or supervised releasee who has violated the terms or conditions of his or her ~~pretrial or presentence release~~ ~~+~~ suspended sentence ~~+~~ residential confinement ~~+~~ or pretrial or presentence release.

Sec. 6. NRS 211A.125 is hereby amended to read as follows:

211A.125 1. The chief or an assistant may arrest a probationer or a supervised releasee without a warrant if there is probable cause to believe that the probationer or the supervised releasee has committed an act that constitutes a violation of a condition of his or her ~~pretrial or presentence release~~ ~~+~~ suspended sentence ~~+~~ residential confinement ~~+~~ or pretrial or presentence release.

2. Any other peace officer may arrest a probationer or a supervised releasee upon receipt of a written order by a chief or an assistant stating that there is probable cause to believe that ~~the~~ ~~+~~ the probationer or the supervised releasee has committed an act that constitutes a violation of a condition of his or her ~~pretrial or presentence release~~ ~~+~~ suspended sentence ~~+~~ residential confinement ~~+~~ or pretrial or presentence release.

3. After making an arrest, the chief, assistant or other peace officer shall immediately notify the ~~sentencing~~ ~~+~~ court of the arrest of the probationer or the supervised releasee and shall submit a written report setting forth the act that constituted a violation of a condition of the ~~pretrial or presentence release~~ ~~+~~ suspended sentence ~~+~~ residential confinement or pretrial or presentence release of the probationer ~~+~~ or the supervised releasee.

4. A chief, an assistant or another peace officer may immediately release from custody without any further proceedings any probationer or supervised releasee arrested without a warrant pursuant to this section if the chief, assistant or other peace officer determines that there is not probable cause to believe that the person violated the condition of his or her ~~pretrial or presentence release~~ ~~+~~ suspended sentence ~~+~~ residential confinement ~~+~~ or pretrial or presentence release.

1 **Sec. 7.** NRS 211A.127 is hereby amended to read as follows:

2 211A.127 1. If a probationer has violated a condition of his or her
3 suspended sentence, the court may, upon its own motion or upon the report and
4 recommendation of the chief or an assistant, do any or all of the following:

5 (a) Modify the conditions of the suspension of the sentence.

6 (b) Modify and extend the suspension of the sentence, in whole or in part, for a
7 period of not more than 1 year after the date on which the court finds that the
8 probationer has committed the violation, unless a longer period is authorized by
9 specific statute.

10 (c) Revoke the suspension of the sentence, in whole or in part, and cause all or
11 part of the sentence to be executed.

12 2. *If a ~~probationer~~ supervised releasee has violated a condition of his or*
13 *her pretrial or presentence release, the court may, upon its own motion or upon*
14 *the report and recommendation of the chief or an assistant, do any or all of the*
15 *following:*

16 *(a) Modify the conditions of his or her pretrial or presentence release.*

17 *(b) Revoke his or her pretrial or presentencing release.*

18 *(c) Consider the violation at the time of sentencing.*

19 3. Before taking any action described in subsection 1 ~~or~~ 2, the court shall
20 provide the probationer *or the supervised releasee* with notice of the proposed
21 action and an opportunity to be heard.

22 **Sec. 8.** NRS 211A.130 is hereby amended to read as follows:

23 211A.130 1. The governing body shall adopt a schedule of fees to be
24 imposed on probationers *or supervised releasees* to defray the cost of the
25 supervision of a probationer ~~or~~ *or a supervised releasee*. The schedule adopted
26 must provide for a monthly fee of not less than \$20 for the supervision of a
27 probationer ~~or~~ *or a supervised releasee*.

28 2. Except as otherwise provided in subsection 3:

29 (a) The department shall charge each probationer *or supervised releasee* the
30 fee set forth in the schedule adopted pursuant to subsection 1.

31 (b) Payment of the required fee by the probationer *or the supervised releasee*
32 is a condition of his or her ~~pretrial or presentence release~~ suspended sentence ~~or~~
33 ~~or~~ residential confinement *or pretrial or presentence release*.

34 3. If the chief determines that payment of the fee would result in economic
35 hardship to a probationer ~~or~~ *or a supervised releasee*, the chief may waive the
36 imposition of, or reduce the amount of, the fee. If the chief waives the imposition of
37 the fee, payment of the fee by the probationer *or the supervised releasee* does not
38 constitute a condition of his or her ~~pretrial or presentence release~~ suspended
39 sentence ~~or~~ residential confinement *or pretrial or presentence release*.

40 **Sec. 8.5.** **NRS 211A.140 is hereby amended to read as follows:**

41 211A.140 1. Except as otherwise provided in NRS 239.0115, any
42 information regarding a probationer *or a supervised releasee* obtained by the chief,
43 an assistant or other employee of the department in the discharge of his or her
44 duties shall be deemed confidential. Except as otherwise provided in subsection 2,
45 the chief, an assistant or other employee of the department shall not disclose such
46 information.

47 2. The chief, an assistant or other employee of the department shall disclose
48 information obtained in the discharge of his or her duties to the court or the district
49 attorney upon request, or to any other person as ordered by the court or as provided
50 by law.

51 **Sec. 9.** This act becomes effective on July 1, 2013.