

## Amendment No. 810

Senate Amendment to Senate Bill No. 395 First Reprint (BDR 14-22)

Proposed by: Senate Committee on Finance

Amends: Summary: Yes 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.

NCA/BAW



Date: 5/22/2013

S.B. No. 395—Requires the Attorney General to prepare and publish certain information. (BDR 14-22)



## SENATE BILL NO. 395—SENATOR SEGERBLOM

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Requires the ~~{Attorney General to prepare and publish}~~ **Advisory Commission on the Administration of Justice to identify and study** certain information. (BDR 14-22)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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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 criminal procedure; requiring the ~~{Attorney General to prepare and publish}~~ **Advisory Commission on the Administration of Justice to identify and study** certain information concerning the collateral consequences of a conviction; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Section ~~11~~ **4** of this bill requires the ~~{Attorney General to prepare and publish a collection of}~~ **Advisory Commission on the Administration of Justice to identify and study** the provisions of existing law which impose or authorize a collateral consequence of conviction and any provisions of existing law allowing relief from those collateral consequences. ~~{Section 1 defines a collateral consequence of conviction as: (1) a legal disability that occurs by operation of law because of a conviction but is not part of the sentence for the crime; or (2) a disadvantage or disability that an administrative agency, civil court or other state actor other than a sentencing court is authorized, but not required, to impose based on a conviction. Under section 2 of this bill, the first such collection must be prepared on or before January 1, 2014, and under section 1, the Attorney General must update the collection not later than 45 days after each regular legislative session. Section 1 also requires the collection to be made available on the Internet not later than 14 days after it is created or updated.}~~

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

Section 1. ~~{Chapter 174 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. **The Attorney General:**~~

~~(a) **Shall identify or cause to be identified any provision in the Nevada Constitution, the Nevada Revised Statutes and the Nevada Administrative Code which imposes a collateral sanction or authorizes the imposition of a**~~

~~disqualification, and any provision of law that may afford relief from a collateral consequence;~~

~~(b) Shall prepare or cause to be prepared a collection of citations to, and the text or short descriptions of, the provisions identified under paragraph (a);~~

~~(c) Shall update or cause to be updated the collection within 45 days after each regular session of the Legislature; and~~

~~(d) In complying with paragraphs (a) and (b), may rely on the study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177.~~

~~2. The Attorney General shall include or cause to be included the following statements in a prominent manner at the beginning of the collection required by subsection 1:~~

~~(a) This collection has not been enacted into law and does not have the force of law;~~

~~(b) An error or omission in this collection, or in any reference work cited in this collection, is not a reason for invalidating a plea, conviction or sentence or for not imposing a collateral sanction or authorizing a disqualification;~~

~~(c) The laws of other jurisdictions and local governments in this State which impose additional collateral sanctions and authorize additional disqualifications are not included in this collection;~~

~~(d) This collection does not include any law or other provision regarding the imposition of or relief from a collateral sanction or a disqualification enacted or adopted after the date on which the collection was prepared or last updated;~~

~~3. The Attorney General shall publish or cause to be published the collection prepared and updated as required by subsection 1. If available, the Attorney General shall also publish or cause to be published, as part of this collection, the title and Internet address of the most recent collection of:~~

~~(a) Collateral consequences imposed by federal law; and~~

~~(b) Any provision of federal law that may afford relief from a collateral consequence;~~

~~4. The collection described in subsection 3 must be made available to the public on the Internet without charge not later than 14 days after it is prepared or updated.~~

~~5. As used in this section:~~

~~(a) "Collateral consequence" means a collateral sanction or a disqualification;~~

~~(b) "Collateral sanction" means a penalty, disability or disadvantage, however denominated, imposed on a person as a result of the person's conviction of an offense which applies by operation of law whether or not the penalty, disability or disadvantage is included in the judgment or sentence. The term does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, administrative assessment or costs of prosecution;~~

~~(c) "Conviction" includes, without limitation, an adjudication of delinquency by a court having jurisdiction over juveniles;~~

~~(d) "Disqualification" means a penalty, disability or disadvantage, however denominated, that an administrative agency, governmental official or court in a civil proceeding is authorized, but not required, to impose on a person on grounds relating to the person's conviction of an offense;~~

~~(e) "Offense" means a felony, gross misdemeanor or misdemeanor or a delinquent act for which a child may be adjudicated delinquent under the laws of this State, another state or the United States.] (Deleted by amendment.)~~

1       **Sec. 2.** ~~{On or before January 1, 2014, the Attorney General shall prepare or~~  
2 ~~cause to be prepared the collection required by paragraph (b) of subsection 1 of~~  
3 ~~section 1 of this act.}~~ **(Deleted by amendment.)**

4       **Sec. 3.** ~~{1. This section and section 2 of this act become effective upon~~  
5 ~~passage and approval.~~

6       ~~2. Section 1 of this act becomes effective upon passage and approval for the~~  
7 ~~purposes of preparing and publishing the collection required by section 1 of this act,~~  
8 ~~and on January 1, 2014, for all other purposes.}~~ **(Deleted by amendment.)**

9       **Sec. 4.** **NRS 176.0125 is hereby amended to read as follows:**

10       176.0125 The Commission shall:

11       1. Identify and study the elements of this State's system of criminal justice  
12 which affect the sentences imposed for felonies and gross misdemeanors.

13       2. Evaluate the effectiveness and fiscal impact of various policies and  
14 practices regarding sentencing which are employed in this State and other states,  
15 including, but not limited to, the use of plea bargaining, probation, programs of  
16 intensive supervision, programs of regimental discipline, imprisonment, sentencing  
17 recommendations, mandatory and minimum sentencing, mandatory sentencing for  
18 crimes involving the possession, manufacture and distribution of controlled  
19 substances, structured or tiered sentencing, enhanced penalties for habitual  
20 criminals, parole, credits against sentences, residential confinement and alternatives  
21 to incarceration.

22       3. Recommend changes in the structure of sentencing in this State which, to  
23 the extent practicable and with consideration for their fiscal impact, incorporate  
24 general objectives and goals for sentencing, including, but not limited to, the  
25 following:

26       (a) Offenders must receive sentences that increase in direct proportion to the  
27 severity of their crimes and their histories of criminality.

28       (b) Offenders who have extensive histories of criminality or who have  
29 exhibited a propensity to commit crimes of a predatory or violent nature must  
30 receive sentences which reflect the need to ensure the safety and protection of the  
31 public and which allow for the imprisonment for life of such offenders.

32       (c) Offenders who have committed offenses that do not include acts of violence  
33 and who have limited histories of criminality must receive sentences which reflect  
34 the need to conserve scarce economic resources through the use of various  
35 alternatives to traditional forms of incarceration.

36       (d) Offenders with similar histories of criminality who are convicted of similar  
37 crimes must receive sentences that are generally similar.

38       (e) Offenders sentenced to imprisonment must receive sentences which do not  
39 confuse or mislead the public as to the actual time those offenders must serve while  
40 incarcerated or before being released from confinement or supervision.

41       (f) Offenders must not receive disparate sentences based upon factors such as  
42 race, gender or economic status.

43       (g) Offenders must receive sentences which are based upon the specific  
44 circumstances and facts of their offenses, including the nature of the offense and  
45 any aggravating factors, the savagery of the offense, as evidenced by the extent of  
46 any injury to the victim, and the degree of criminal sophistication demonstrated by  
47 the offender's acts before, during and after commission of the offense.

48       4. Evaluate the effectiveness and efficiency of the Department of Corrections  
49 and the State Board of Parole Commissioners with consideration as to whether it is  
50 feasible and advisable to establish an oversight or advisory board to perform  
51 various functions and make recommendations concerning:

52       (a) Policies relating to parole;

(b) Regulatory procedures and policies of the State Board of Parole Commissioners;

(c) Policies for the operation of the Department of Corrections;

(d) Budgetary issues; and

(e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and

(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

(a) State Board of Pardons Commissioners to consider an application for clemency; and

(b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.

12. Identify and study the impacts and effects of collateral consequences of convictions in this State. Such identification and study:

(a) Must cause to be identified any provision in the Nevada Constitution, the Nevada Revised Statutes and the Nevada Administrative Code which imposes a collateral sanction or authorizes the imposition of a disqualification, and any provision of law that may afford relief from a collateral consequence;

(b) May rely on the study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177; and

(c) Must include the posting of a hyperlink on the Commission's website to any study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177.

13. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be

- 1 submitted to the Director of the Legislative Counsel Bureau for distribution to the
  - 2 Legislature not later than September 1 of each even-numbered year.
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