

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.

~

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; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

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

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

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

3 211A.050 “Court” means a court having jurisdiction over a
4 person who is charged with a misdemeanor ~~H~~, *gross misdemeanor*
5 *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:

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

~~(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 ~~and~~ ; 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.*

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 ~~and~~ *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 a probationer ~~and~~ who , as a condition of *pretrial or presentence release*, a suspended sentence or a sentence to residential confinement, is released under the supervision of the department by the court.

2. At the time a probationer is released under the supervision of the department:

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

(b) Explain the terms or conditions to the probationer.

3. Be knowledgeable about the conduct and activities of each probationer under the supervision of the department.

4. Use all reasonable methods to assist a probationer 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.

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

211A.110 The chief shall:



* S B 1 0 1 *

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

5 2. Direct the work of all assistants and employees.

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

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

10 5. After reviewing and considering recognized correctional
11 programs and courses for training correctional staff, develop and
12 provide to assistants and other employees training in methods and
13 policies regarding the investigation and supervision of probationers,
14 the recordkeeping of the department and the reporting on matters
15 relating to probationers.

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

23 7. Advise the court of any probationer who has violated the
24 terms or conditions of his or her *pretrial or presentence release*,
25 suspended sentence or residential confinement.

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

27 211A.125 1. The chief or an assistant may arrest a
28 probationer without a warrant if there is probable cause to believe
29 that the probationer has committed an act that constitutes a violation
30 of a condition of his or her *pretrial or presentence release*,
31 suspended sentence or residential confinement.

32 2. Any other peace officer may arrest a probationer upon
33 receipt of a written order by a chief or an assistant stating that there
34 is probable cause to believe that a probationer has committed an act
35 that constitutes a violation of a condition of his or her *pretrial or*
36 *presentence release*, suspended sentence or residential confinement.

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

43 4. A chief, an assistant or another peace officer may
44 immediately release from custody without any further proceedings
45 any probationer arrested without a warrant pursuant to this section if



1 the chief, assistant or other peace officer determines that there is not
2 probable cause to believe that the person violated the condition of
3 his or her *pretrial or presentence release*, suspended sentence or
4 residential confinement.

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

6 211A.127 1. If a probationer has violated a condition of his
7 or her suspended sentence, the court may, upon its own motion or
8 upon the report and recommendation of the chief or an assistant, do
9 any or all of the following:

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

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

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

17 2. *If a probationer has violated a condition of his or her*
18 *pretrial or presentence release, the court may, upon its own*
19 *motion or upon the report and recommendation of the chief or an*
20 *assistant, do any or all of the following:*

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

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

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

25 3. Before taking any action described in subsection 1 ~~H~~ *or 2*,
26 the court shall provide the probationer with notice of the proposed
27 action and an opportunity to be heard.

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

29 211A.130 1. The governing body shall adopt a schedule of
30 fees to be imposed on probationers to defray the cost of the
31 supervision of a probationer. The schedule adopted must provide for
32 a monthly fee of not less than \$20 for the supervision of a
33 probationer.

34 2. Except as otherwise provided in subsection 3:

35 (a) The department shall charge each probationer the fee set
36 forth in the schedule adopted pursuant to subsection 1.

37 (b) Payment of the required fee by the probationer is a condition
38 of his or her *pretrial or presentence release*, suspended sentence or
39 residential confinement.

40 3. If the chief determines that payment of the fee would result
41 in economic hardship to a probationer, the chief may waive the
42 imposition of, or reduce the amount of, the fee. If the chief waives
43 the imposition of the fee, payment of the fee by the probationer does
44 not constitute a condition of his or her *pretrial or presentence*
45 *release*, suspended sentence or residential confinement.



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

③⑩

