

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:

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 (2) provides that such persons are generally subject to the same statutory provisions
9 as the other persons currently supervised by a department of alternative sentencing;
10 and (3) revises the qualifications of the chief of a department of alternative
11 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:

1 **Section 1.** Chapter 211A of NRS is hereby amended by
2 adding thereto a new section to read as follows:
3 ***“Supervised release” means a person who has been charged***
4 ***with or convicted of a misdemeanor, gross misdemeanor or felony***



1 *and who has been released from custody before trial or*
2 *sentencing, subject to the conditions imposed by the court.*

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

5 211A.010 As used in this chapter, unless the context otherwise
6 requires, the words and terms defined in NRS 211A.020 to
7 211A.070, inclusive, *and section 1 of this act* have the meanings
8 ascribed to them in those sections.

9 **Sec. 1.7.** NRS 211A.050 is hereby amended to read as
10 follows:

11 211A.050 "Court" means a court having jurisdiction over a
12 person who is charged with a misdemeanor ~~+~~, *gross misdemeanor*
13 *or felony.*

14 **Sec. 2.** (Deleted by amendment.)

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

16 211A.080 The governing body of each county or city may
17 create a department of alternative sentencing to provide a program
18 of supervision for probationers ~~+~~ *and supervised releasees in*
19 *accordance with any conditions imposed by the court.*

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

21 211A.090 The department : ~~+~~~~shall+~~

22 1. ~~+~~~~Supervise+~~ *May supervise* a probationer ~~+~~ *or a supervised*
23 *releasee* who , as a condition of a suspended sentence , ~~+~~~~or+~~ a
24 sentence to residential confinement ~~+~~ *or pretrial or presentence*
25 *release*, is released under the supervision of the department by the
26 court.

27 2. ~~+~~~~At+~~ *Shall, at* the time a probationer *or a supervised*
28 *releasee* is released under the supervision of the department:

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

33 (b) Explain the terms or conditions to the probationer ~~+~~ *or the*
34 *supervised releasee.*

35 3. ~~+~~~~Be+~~ *Must be* knowledgeable about the conduct and
36 activities of each probationer *and supervised releasee* under the
37 supervision of the department.

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

43 5. ~~+~~~~Collect+~~ *Shall collect* and disburse any money in
44 accordance with the orders of the court and make a written record of
45 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 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 suspended sentence, ~~or~~ residential confinement ~~or pretrial or presentence release.~~



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

2 211A.125 1. The chief or an assistant may arrest a
3 probationer *or a supervised releasee* without a warrant if there is
4 probable cause to believe that the probationer *or the supervised*
5 *releasee* has committed an act that constitutes a violation of a
6 condition of his or her suspended sentence , ~~for~~ residential
7 confinement ~~or~~ *or pretrial or presentence release.*

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

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

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

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

30 211A.127 1. If a probationer has violated a condition of his
31 or her suspended sentence, the court may, upon its own motion or
32 upon the report and recommendation of the chief or an assistant, do
33 any or all of the following:

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

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

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

41 2. *If a supervised releasee has violated a condition of his or*
42 *her pretrial or presentence release, the court may, upon its own*
43 *motion or upon the report and recommendation of the chief or an*
44 *assistant, do any or all of the following:*



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

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

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

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

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

9 211A.130 1. The governing body shall adopt a schedule of
10 fees to be imposed on probationers *or supervised releasees* to defray
11 the cost of the supervision of a probationer ~~H~~ *or a supervised*
12 *releasee*. The schedule adopted must provide for a monthly fee of
13 not less than \$20 for the supervision of a probationer ~~H~~ *or a*
14 *supervised releasee*.

15 2. Except as otherwise provided in subsection 3:

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

19 (b) Payment of the required fee by the probationer *or the*
20 *supervised releasee* is a condition of his or her suspended sentence ,
21 ~~for~~ residential confinement ~~H~~ *or pretrial or presentence release*.

22 3. If the chief determines that payment of the fee would result
23 in economic hardship to a probationer ~~H~~ *or a supervised releasee*,
24 the chief may waive the imposition of, or reduce the amount of, the
25 fee. If the chief waives the imposition of the fee, payment of the fee
26 by the probationer *or the supervised releasee* does not constitute a
27 condition of his or her suspended sentence , ~~for~~ residential
28 confinement ~~H~~ *or pretrial or presentence release*.

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

31 211A.140 1. Except as otherwise provided in NRS 239.0115,
32 any information regarding a probationer *or a supervised releasee*
33 obtained by the chief, an assistant or other employee of the
34 department in the discharge of his or her duties shall be deemed
35 confidential. Except as otherwise provided in subsection 2, the
36 chief, an assistant or other employee of the department shall not
37 disclose such information.

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

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

