

Amendment No. 602

Assembly Amendment to Assembly Bill No. 281 First Reprint (BDR 14-243)

Proposed by: Assemblywoman Fiore

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

MKM/BJF



Date: 4/20/2015

A.B. No. 281—Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice. (BDR 14-243)



ASSEMBLY BILL NO. 281—ASSEMBLYMEN FIORE, MOORE, GARDNER, ELLIOT ANDERSON, OHRENSCHALL; PAUL ANDERSON, ARAUJO, ARMSTRONG, BUSTAMANTE ADAMS, CARLTON, CARRILLO, DIAZ, DICKMAN, DOOLING, ELLISON, FLORES, HAMBRICK, HICKEY, JONES, KIRKPATRICK, KIRNER, MUNFORD, NEAL, NELSON, O'NEILL, OSCARSON, SEAMAN, SHELTON, SILBERKRAUS, SPIEGEL, SPRINKLE, STEWART, SWANK, THOMPSON, TITUS, TROWBRIDGE, WHEELER AND WOODBURY

MARCH 13, 2015

JOINT SPONSORS: SENATORS KIHUEN, FORD, SPEARMAN, ATKINSON, PARKS; FARLEY, GUSTAVSON, HARDY, MANENDO, SEGERBLOM, SETTELMAYER AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—~~Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice.~~ Revises provisions relating to traffic laws. (BDR 14-243)

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 the criminal justice system; creating a statutory subcommittee of the Advisory Commission on the Administration of Justice; revising the duties of the Advisory Commission to include the evaluation of certain laws relating to traffic laws and certain laws relating to motor vehicles; providing that under certain circumstances a peace officer is prohibited from taking a person before a magistrate for a violation of certain traffic laws or pursuant to a warrant arising out of a violation of certain traffic laws; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 47 of this bill creates the Subcommittee on Criminal and Civil Violations of Traffic Laws of the Advisory Commission on the Administration of Justice. **Section 47** also: (1) requires the Chair of the Advisory Commission to appoint the members of the Subcommittee; (2) requires the Subcommittee to study issues relating to certain traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws as criminal offenses or civil infractions; and (3) sets forth the salaries and per diem that members of the Subcommittee may receive.

Existing law directs the Advisory Commission to study certain elements of this State's criminal justice system. (NRS 176.0125) **Section 49** of this bill requires the Advisory

Commission to evaluate certain laws relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and whether the State may treat such violations as civil matters.

Under existing law, whenever a person is halted by a peace officer for certain traffic violations and is not required to be taken before a magistrate, the peace officer has the discretion to issue a traffic citation to the person or to take the person before a magistrate. (NRS 484A.730) Section 53 of this bill provides that if a person is halted by a peace officer for a violation of the rules of the road or certain other traffic violations and is not otherwise required to be taken before a magistrate, the person must be given a traffic citation.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

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Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

1 Sec. 39. (Deleted by amendment.)

2 Sec. 40. (Deleted by amendment.)

3 Sec. 41. (Deleted by amendment.)

4 Sec. 42. (Deleted by amendment.)

5 Sec. 43. (Deleted by amendment.)

6 Sec. 44. (Deleted by amendment.)

7 Sec. 45. (Deleted by amendment.)

8 Sec. 46. (Deleted by amendment.)

9 Sec. 47. Chapter 176 of NRS is hereby amended by adding thereto a new
10 section to read as follows:

11 1. *There is hereby created the Subcommittee on Criminal and Civil*
12 *Violations of Traffic Laws of the Commission.*

13 2. *The Chair of the Commission shall appoint the members of the*
14 *Subcommittee and designate one of the members of the Subcommittee as Chair of*
15 *the Subcommittee. The Chair of the Subcommittee must be a member of the*
16 *Commission.*

17 3. *The Subcommittee shall meet at the times and places specified by a call*
18 *of the Chair. A majority of the members of the Subcommittee constitutes a*
19 *quorum, and a quorum may exercise any power or authority conferred on the*
20 *Subcommittee.*

21 4. *The Subcommittee shall consider issues relating to:*

22 (a) *The existing laws of this State concerning the violation of traffic laws and*
23 *laws relating to drivers' licenses and to the registration of and insurance for*
24 *motor vehicles, and the treatment of violations of such laws as criminal offenses;*

25 (b) *The related laws of other states concerning violations of such laws and*
26 *their treatment of violations of such laws as criminal offenses or civil infractions;*

27 (c) *The appropriate and necessary elements of a system to treat violations of*
28 *such laws as civil infractions in this State, including, without limitation,*
29 *computer systems, court procedures, training and staffing; and*

30 (d) *The anticipated fiscal effects of a system to treat violations of such laws*
31 *as civil infractions in this State, including, without limitation, the effects on this*
32 *State and its political subdivisions,*

33 *and shall evaluate, review and submit a report to the Commission with*
34 *recommendations concerning such issues.*

35 5. *Any Legislators who are members of the Subcommittee are entitled to*
36 *receive the salary provided for a majority of the members of the Legislature*
37 *during the first 60 days of the immediately preceding session for each day's*
38 *attendance at a meeting of the Subcommittee.*

39 6. *While engaged in the business of the Subcommittee, to the extent of*
40 *legislative appropriation, each member of the Subcommittee is entitled to receive*
41 *the per diem allowance and travel expenses provided for state officers and*
42 *employees generally.*

43 Sec. 48. NRS 176.0121 is hereby amended to read as follows:

44 176.0121 As used in NRS 176.0121 to 176.0129, inclusive, *and section 47 of*
45 *this act*, "Commission" means the Advisory Commission on the Administration of
46 Justice.

47 Sec. 49. NRS 176.0125 is hereby amended to read as follows:

48 176.0125 The Commission shall:

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

51 2. Evaluate the effectiveness and fiscal impact of various policies and
52 practices regarding sentencing which are employed in this State and other states,
53 including, but not limited to, the use of plea bargaining, probation, programs of

intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

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

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

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

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

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

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

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

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

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

(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. *Evaluate the policies and practices relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, with consideration as to whether it is feasible and advisable to treat such violations as civil matters and, if so, the issues involved in implementing a system to treat such violations as civil matters.*

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

Sec. 50. NRS 176.01255 is hereby amended to read as follows:

176.01255 1. The Chair of the Commission may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of NRS 176.0121 to 176.0129, inclusive, **H**, and section 47 of this act.

2. Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Commission on the Administration of Justice, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used for the support of the

Commission and its activities pursuant to NRS 176.0121 to 176.0129, inclusive ~~††~~,
and section 47 of this act.

Sec. 51. NRS 484A.660 is hereby amended to read as follows:

484A.660 Except for felonies and those offenses set forth in ~~paragraphs (a) to (c), inclusive, of subsection 1~~ subsections 1 to 5, inclusive, of NRS 484A.710, a peace officer at the scene of a traffic accident may issue a traffic citation, as provided in NRS 484A.630, or a misdemeanor citation, as provided in NRS 171.1773, to any person involved in the accident when, based upon personal investigation, the peace officer has reasonable and probable grounds to believe that the person has committed any offense pursuant to the provisions of chapters 482 to 486, inclusive, or 706 of NRS in connection with the accident.

Sec. 52. NRS 484A.710 is hereby amended to read as follows:

484A.710 ~~††~~ Any peace officer may, without a warrant, arrest a person if the officer has reasonable cause for believing that the person has committed any of the following offenses:

~~†(a) 1.~~ 1. Homicide by vehicle;

~~†(b) 2.~~ 2. A violation of NRS 484C.110 or 484C.120;

~~†(c) 3.~~ 3. A violation of NRS 484C.430;

~~†(d) 4.~~ 4. A violation of NRS 484C.130;

~~†(e) 5.~~ 5. Failure to stop, give information or render reasonable assistance in the event of an accident resulting in death or personal injuries in violation of NRS 484E.010 or 484E.030;

~~†(f) 6.~~ 6. Failure to stop or give information in the event of an accident resulting in damage to a vehicle or to other property legally upon or adjacent to a highway in violation of NRS 484E.020 or 484E.040;

~~†(g) 7.~~ 7. Reckless driving;

~~†(h) 8.~~ 8. Driving a motor vehicle on a highway or on premises to which the public has access at a time when the person's driver's license has been cancelled, revoked or suspended; or

~~†(i) 9.~~ 9. Driving a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person pursuant to NRS 483.490.

~~12. Whenever any person is arrested as authorized in this section, the person must be taken without unnecessary delay before the proper magistrate as specified in NRS 484A.750, except that in the case of either of the offenses designated in paragraphs (f) and (g) of subsection 1, a peace officer has the same discretion as is provided in other cases in NRS 484A.730.~~

Sec. 53. NRS 484A.730 is hereby amended to read as follows:

484A.730 1. Whenever any person is halted by a peace officer for any violation of ~~chapters~~ chapter 484A ~~to~~ or 484B of NRS and is not required to be taken before a magistrate, the person must be given a traffic violation.

2. Whenever any person is halted by a peace officer for any violation of chapter 484C, 484D or 484E ~~†, inclusive,~~ of NRS and is not required to be taken before a magistrate, the person may, in the discretion of the peace officer, either be given a traffic citation, or be taken without unnecessary delay before the proper magistrate. ~~†The~~

3. Whenever a person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS, the person must be taken before the magistrate in any of the following cases:

~~††~~ (a) When the person does not furnish satisfactory evidence of identity or when the peace officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court;

~~††~~ (b) When the person is charged with a violation of NRS 484D.580 relating to the refusal of a driver of a vehicle to submit the vehicle to an inspection and test;

~~3+~~ (c) When the person is charged with a violation of NRS 484D.675 relating to the failure or refusal of a driver of a vehicle to submit the vehicle and load to a weighing or to remove excess weight therefrom; or

~~4+~~ (d) When the person is charged with a violation of NRS 484C.110 or 484C.120, unless the person is incapacitated and is being treated for injuries at the time the peace officer would otherwise be taking the person before the magistrate.

~~Sec. 54.~~ NRS 484A.760 is hereby amended to read as follows:

484A.760 Whenever any person is taken into custody by a peace officer for the purpose of taking him or her before a magistrate or court as authorized or required in chapters 484A to 484E, inclusive, of NRS upon any charge other than a felony or the offenses enumerated in ~~paragraphs (e) to (e), inclusive, of subsection~~ subsections 1 to 5, inclusive, of NRS 484A.710, and no magistrate is available at the time of arrest, and there is no bail schedule established by the magistrate or court and no lawfully designated court clerk or other public officer who is available and authorized to accept bail upon behalf of the magistrate or court, the person must be released from custody upon the issuance to the person of a misdemeanor citation or traffic citation and the person signing a promise to appear, as provided in NRS 171.1773 or 484A.630, respectively.

~~Sec. 51.~~ Sec. 55. The Subcommittee on Criminal and Civil Violations of Traffic Laws of the Advisory Commission on the Administration of Justice appointed pursuant to section 47 of this act shall submit a report of its findings and any recommendations for legislation to the Advisory Commission not later than 30 days before the date of the meeting at which the Advisory Commission considers findings and recommendations of the Advisory Commission for proposed legislation to the 79th Session of the Nevada Legislature. At that meeting, the Advisory Commission shall consider any recommendation for proposed legislation submitted to the Advisory Commission by the Subcommittee.

~~Sec. 52.~~ Sec. 56. The amendatory provisions of sections 47 to 50, inclusive, of this act expire by limitation on July 31, 2017.