

ASSEMBLY BILL NO. 291—ASSEMBLYMAN OHRENSCHALL

MARCH 14, 2017

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to reports of presentence investigations and general investigations. (BDR 14-1076)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; revising provisions relating to reports of presentence investigations and general investigations; requiring certain information to be included in a presentence report; authorizing the court to order the correction of the factual content of reports of presentence investigations and general investigations by the Division of Parole and Probation of the Department of Public Safety under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to make presentence investigations and reports in certain circumstances and to include certain information and recommendations. (NRS 176.133-176.159) **Section 1** of this bill requires the Division to also include in the report of any presentence investigation: (1) certain information concerning the criminal history of the defendant; and (2) whether information pertaining to the defendant's financial condition has been verified. **Section 1** also requires the Division to include the source of any information as stated in the report, that is related to the defendant's offense, including information from: (1) a police report; (2) an investigative report filed with law enforcement; or (3) any other source available to the Division. Further, **section 1** requires the Division to include any scoresheets or scales used to determine a recommendation: (1) of certain penalties for the defendant; and (2) if appropriate, that the defendant undergo a program of regimental discipline. Additionally, **sections 1 and 2** of this bill change the term "criminal record" to "criminal convictions."

Existing law requires the Division to afford an opportunity to the prosecuting attorney, the counsel for the defendant and the defendant to object to factual errors



in a report of any presentence investigation or general investigation. (NRS 176.156)
Section 4 of this bill authorizes the court to order the Division to correct the
contents of any such report following sentencing of the defendant if the prosecuting
attorney and the defendant stipulate to correcting the contents of any such report
within 180 days after the date on which the judgment of conviction was entered.

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

Section 1. NRS 176.145 is hereby amended to read as follows:
176.145 1. The report of any presentence investigation must
contain:

(a) Any ~~prior~~:

- (1) *Prior criminal ~~record~~ convictions* of the defendant;
- (2) *Unresolved criminal cases involving the defendant;*
- (3) *Incidents in which the defendant has failed to appear in
court when his or her presence was required;*
- (4) *Arrests during the 10 years immediately preceding the
date of the offense for which the report is being prepared; and*
- (5) *Participation in any program in a specialty court or any
diversionary program, including whether the defendant
successfully completed the program;*

(b) Information concerning the characteristics of the defendant,
the defendant's financial condition, *including whether the
information pertaining to the defendant's financial condition has
been verified*, the circumstances affecting the defendant's behavior
and the circumstances of the defendant's offense that may be helpful
in imposing sentence, in granting probation or in the correctional
treatment of the defendant;

(c) Information concerning the effect that the offense committed
by the defendant has had upon the victim, including, without
limitation, any physical or psychological harm or financial loss
suffered by the victim, to the extent that such information is
available from the victim or other sources, but the provisions of this
paragraph do not require any particular examination or testing of the
victim, and the extent of any investigation or examination is solely
at the discretion of the court or the Division and the extent of the
information to be included in the report is solely at the discretion of
the Division;

(d) Information concerning whether the defendant has an
obligation for the support of a child, and if so, whether the
defendant is in arrears in payment on that obligation;

(e) Data or information concerning reports and investigations
thereof made pursuant to chapter 432B of NRS that relate to the
defendant and are made available pursuant to NRS 432B.290;



(f) The results of the evaluation of the defendant conducted pursuant to NRS 484C.300, if such an evaluation is required pursuant to that section;

(g) A recommendation of a minimum term and a maximum term of imprisonment or other term of imprisonment authorized by statute, or a fine, or both;

(h) A recommendation, if the Division deems it appropriate, that the defendant undergo a program of regimental discipline pursuant to NRS 176A.780;

(i) If a psychosexual evaluation of the defendant is required pursuant to NRS 176.139, a written report of the results of the psychosexual evaluation of the defendant and all information that is necessary to carry out the provisions of NRS 176A.110; and

(j) Such other information as may be required by the court.

2. *The Division shall include in the report all scoresheets and scales used in determining any recommendation made pursuant to paragraphs (g) and (h) of subsection 1.*

3. *The Division shall include in the report the source of any information, as stated in the report, related to the defendant's offense, including, without limitation, information from:*

(a) A police report;

(b) An investigative report filed with law enforcement; or

(c) Any other source available to the Division.

4. The Division may include in the report any additional information that it believes may be helpful in imposing a sentence, in granting probation or in correctional treatment.

Sec. 2. NRS 176.151 is hereby amended to read as follows:

176.151 1. If a defendant pleads guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, one or more category E felonies, but no other felonies, the Division shall not make a presentence investigation and report on the defendant pursuant to NRS 176.135, unless the Division has not made a presentence investigation and report on the defendant pursuant to NRS 176.135 within the 5 years immediately preceding the date initially set for sentencing on the category E felony or felonies and:

(a) The court requests a presentence investigation and report; or

(b) The prosecuting attorney possesses evidence that would support a decision by the court to deny probation to the defendant pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

2. If the Division does not make a presentence investigation and report on a defendant pursuant to subsection 1, the Division shall, not later than 45 days after the date on which the defendant is sentenced, make a general investigation and report on the defendant that contains:



* A B 2 9 1 R 1 *

(a) Any prior criminal ~~record~~ *convictions* of the defendant;

(b) Information concerning the characteristics of the defendant, the circumstances affecting the defendant's behavior and the circumstances of the defendant's offense that may be helpful to persons responsible for the supervision or correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of the victim, and the extent of any investigation or examination and the extent of the information included in the report is solely at the discretion of the Division;

(d) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS that relate to the defendant and are made available pursuant to NRS 432B.290; and

(e) Any other information that the Division believes may be helpful to persons responsible for the supervision or correctional treatment of the defendant.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 176.156 is hereby amended to read as follows:

176.156 1. The Division shall disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of:

(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division, in the period provided in NRS 176.153.

(b) Any general investigation made pursuant to NRS 176.151.

➔ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations. *The court may order the Division to correct the contents of any such report following sentencing of the defendant if, within 180 days after the date on which the judgment of conviction was entered, the prosecuting attorney and the defendant stipulate to correcting the contents of any such report.*

2. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.



* A B 2 9 1 R 1 *

1 3. Unless otherwise ordered by a court, upon request, the
2 Division shall disclose the content of a report of a presentence
3 investigation or general investigation to the Division of Public and
4 Behavioral Health of the Department of Health and Human Services
5 for the limited purpose of performing its duties, including, without
6 limitation, evaluating and providing any report or information to the
7 Division concerning the mental health of:

8 (a) A sex offender as defined in NRS 213.107; or

9 (b) An offender who has been determined to be mentally ill.

10 4. Unless otherwise ordered by a court, upon request, the
11 Division shall disclose the content of a report of a presentence
12 investigation or general investigation to the Nevada Gaming Control
13 Board for the limited purpose of performing its duties in the
14 administration of the provisions of chapters 462 to 467, inclusive, of
15 NRS.

16 5. Except for the disclosures required by subsections 1 to 4,
17 inclusive, a report of a presentence investigation or general
18 investigation and the sources of information for such a report are
19 confidential and must not be made a part of any public record.

