

Amendment No. 339

Assembly Amendment to Assembly Bill No. 291	(BDR 14-1076)
Proposed by: Assembly Committee on Corrections, Parole, and Probation	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	☐	Lost ☐	Adopted	☐	Lost ☐
Concurred In	☐	Not ☐	Concurred In	☐	Not ☐
Receded	☐	Not ☐	Receded	☐	Not ☐

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.

VG/BAW



Date: 4/19/2017

A.B. No. 291—Revises provisions relating to presentence investigations and reports. (BDR 14-1076)



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 ~~reports,~~ **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 ~~reports,~~ **general investigations;** requiring certain information to be included in a presentence report; ~~revising the limitation of time for disclosure,~~ **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** ~~removes the requirement that~~ **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 ~~disclose the factual content of the report of any presentence investigation and the recommendations of the Division to the prosecuting attorney, the counsel for the defendant, the defendant and the court not later than 14 calendar days before the defendant will be sentenced, unless the defendant waives the minimum period.~~ (NRS 176.153) **Section 3** of this bill increases the time limitation for such disclosure from 14 to 21 calendar days, and removes the requirement to include the recommendations of the Division, **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 ~~freed~~ 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) ~~Any~~ 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.*

~~3.4~~ 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) Any prior criminal ~~freedom~~ *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. ~~NRS 176.153 is hereby amended to read as follows:~~

~~176.153 Except as otherwise provided in this section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than [14] 21 calendar days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 : [and the recommendations of the Division.] The defendant may waive the minimum period required by this section. (Deleted by amendment.)~~

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

2 176.156 1. The Division shall disclose to the prosecuting attorney, the
3 counsel for the defendant and the defendant the factual content of the report of:

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

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

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

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

19 3. Unless otherwise ordered by a court, upon request, the Division shall
20 disclose the content of a report of a presentence investigation or general
21 investigation to the Division of Public and Behavioral Health of the Department of
22 Health and Human Services for the limited purpose of performing its duties,
23 including, without limitation, evaluating and providing any report or information to
24 the Division concerning the mental health of:

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

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

27 4. Unless otherwise ordered by a court, upon request, the Division shall
28 disclose the content of a report of a presentence investigation or general
29 investigation to the Nevada Gaming Control Board for the limited purpose of
30 performing its duties in the administration of the provisions of chapters 462 to 467,
31 inclusive, of NRS.

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