

Amendment No. 1109

Senate Amendment to Assembly Bill No. 326 First Reprint
(BDR 14-1117)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No 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.

BAW



Date: 6/2/2017

A.B. No. 326—Revises provisions relating to reports of presentence investigations and general investigations. (BDR 14-1117)



ASSEMBLY BILL NO. 326—ASSEMBLYMEN
MCCURDY II, YEAGER, AND FUMO

MARCH 20, 2017

JOINT SPONSOR: SENATOR SEGERBLOM

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to reports of presentence investigations and general investigations. (BDR 14-1117)

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 criminal procedure; revising provisions relating to certain information included in reports of presentence investigations; authorizing the court to order the Division of Parole and Probation of the Department of Public Safety to correct the contents of a report of any presentence investigation or general investigation in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Division of Parole and Probation of the Department of Public Safety to include in the report of any presentence investigation any information that it believes may be helpful in imposing a sentence, in granting probation or in correctional treatment. (NRS 176.145) Existing law also generally requires the Division to disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court the factual content of the report of any presentence investigation and the recommendations of the Division not later than 14 calendar days before the defendant will be sentenced. (NRS 176.153)

Section 1 of this bill provides that if the Division includes in the report of any presentence investigation any information relating to the defendant being affiliated with or a member in a criminal gang and the Division reasonably believes such information is disputed by the defendant, the Division is required to provide with the information disclosed, before the defendant will be sentenced, copies of all documentation relied upon by the Division as a basis for including such information in the report. ~~Section 1 also provides that if such information is disputed by the defendant, the Division or the prosecuting attorney is required to prove by clear and convincing evidence that the information is accurate.~~

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 2** 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 176.153 is hereby amended to read as follows:

176.153 1. Except as otherwise provided in ~~this section,~~ *subsection 3*, the Division shall disclose 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, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division.

2. *In addition to the disclosure requirements set forth in subsection 1, if the Division includes in the report of any presentence investigation made pursuant to NRS 176.135 any information relating to the defendant being affiliated with or a member in a criminal gang and the Division reasonably believes such information is disputed by the defendant, the Division shall provide with the information disclosed pursuant to subsection 1 copies of all documentation relied upon by the Division as a basis for including such information in the report, including, without limitation, any field interview cards. ~~If such information is disputed by the defendant, the Division or the prosecuting attorney must prove by clear and convincing evidence that the information is accurate.~~*

3. The defendant may waive the minimum period required by ~~this section,~~ *subsection 1*.

4. *As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.*

Sec. 2. 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 ~~and, if applicable, provide the documentation required pursuant to subsection 2 of NRS 176.153,~~ 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.

3. 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 the Division of Public and Behavioral Health of the Department of Health and Human Services for the limited purpose of performing its duties,

1 including, without limitation, evaluating and providing any report or information to
2 the Division concerning the mental health of:

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

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

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

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

14 **Sec. 3.** The amendatory provisions of this act apply to a report of any
15 presentence investigation or general investigation that is made on or after October
16 1, 2017.