

Amendment No. 331

Senate Amendment to Senate Bill No. 451	(BDR 14-1007)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	
Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 451.	

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.

NCA



Date: 4/19/2017

S.B. No. 451—Makes various changes relating to criminal justice. (BDR 14-1007)



SENATE BILL NO. 451—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION
ON THE ADMINISTRATION OF JUSTICE)

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to criminal justice. (BDR 14-1007)

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 justice; ~~{authorizing certain persons to file a postconviction petition to pay the cost of a genetic marker analysis; requiring a court to order a genetic marker analysis upon the filing of such a petition; requiring a petitioner to pay the cost of such a genetic marker analysis before the analysis is performed;}~~ creating the Nevada Sentencing Commission; prescribing the membership and duties of the Sentencing Commission; enacting various provisions relating to the Sentencing Commission; authorizing the Sentencing Commission to issue subpoenas; revising certain provisions governing the Advisory Commission on the Administration of Justice; authorizing the Sentencing Commission to request the drafting of not more than 1 legislative measure for each regular session of the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{ Existing law authorizes a person convicted of a felony to file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgement of conviction. After such a petition is filed, the court may schedule a hearing on the petition. (NRS 176.0018) Existing law requires the court to order a genetic marker analysis if, after considering the information contained in the petition and any other evidence, the court makes certain findings. (NRS 176.00183) Existing law further requires the petitioner to pay for the cost of the genetic marker analysis unless: (1) the petitioner is incarcerated at the time he or she files the petition and is found to be indigent; and (2) the results of the genetic marker analysis are favorable to the petitioner. If the petitioner is not required to pay the cost of the genetic marker analysis, the expense is a charge against the Department of Corrections. (NRS 176.00187) }~~

~~Section 2 of this bill authorizes a person convicted of a felony to file a postconviction petition requesting to pay the cost of a genetic marker analysis. Section 2 provides that such a petition is generally subject to the same requirements imposed for a postconviction petition for a genetic marker analysis filed pursuant to existing law, but there is no requirement for a~~

hearing on such a petition. Section 14 of this bill requires a court to order a genetic marker analysis if such a petition is filed. Section 15 of this bill provides that a petitioner who files such a petition is required to pay the cost of the genetic marker analysis before the analysis is performed and is not eligible for an exemption from payment.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Advisory Commission, among other duties, to identify and study the elements of this State's system of criminal justice, including certain issues relating to the sentencing of persons convicted of felonies and gross misdemeanors. (NRS 176.0123, 176.0125) **Section 5** of this bill creates the Nevada Sentencing Commission and provides for the membership of the Sentencing Commission. **Section 6** of this bill prescribes the duties of the Sentencing Commission, and includes, among other duties related to the sentencing of offenders convicted of a crime, a duty to make recommendations concerning the adoption of sentencing guidelines. **Section 12** of this bill repeals certain duties of the Advisory Commission on the Administration of Justice under existing law, as those duties are reenacted and replaced in **section 6**.

Existing law prescribes the number of legislative measures which may be requested by various departments, agencies and other entities of this State for each regular session of the Legislature. (NRS 218D.100-218D.220) **Section 17** of this bill authorizes the Nevada Sentencing Commission to request for each regular session of the Legislature the drafting of not more than 1 legislative measure which relates to matters within the scope of the Sentencing Commission.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ~~1. A person convicted of a felony may file a postconviction petition requesting to pay the cost of a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction. If the case involves a sentence of death, the petition must include, without limitation, the date scheduled for the execution, if it has been scheduled.~~

~~2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:~~

~~(a) The Attorney General; and~~

~~(b) The district attorney in the county in which the petitioner was convicted.~~

~~3. A petition filed pursuant to this section must be accompanied by a declaration under penalty of perjury attesting that the information contained in the petition does not contain any material misrepresentation of fact and that the petitioner has a good faith basis relying on particular facts for the request. The petition must include, without limitation:~~

~~(a) Information identifying specific evidence either known or believed to be in the possession or custody of the State that can be subject to genetic marker analysis;~~

~~(b) An identification of the type of genetic marker analysis the petitioner is requesting to be conducted on the evidence identified in paragraph (a); and~~

~~(c) If applicable, the results of all prior genetic marker analysis performed on evidence in the trial which resulted in the petitioner's conviction.~~

~~4. If a petition is filed pursuant to this section, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring each person or agency in possession or custody of the evidence to:~~

~~(a) Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;~~

~~(b) Within 90 days, prepare an inventory of all evidence relevant to the claims in the petition within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and~~

~~(c) Within 90 days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.~~

~~5. If a petitioner files a petition pursuant to this section and a victim of the crime for which the petitioner was convicted has requested notice pursuant to NRS 178.5698, the district attorney in the county in which the petitioner was convicted shall provide to the victim notice of the fact that the petitioner filed a petition pursuant to this section. (Deleted by amendment.)~~

Sec. 3. The Legislature hereby finds, and declares to be the public policy of this State, that:

1. Sentencing and corrections policies should embody fairness, consistency, proportionality and opportunity.

2. The laws of this State should convey a clear and purposeful rationale regarding sentencing and corrections. The statutes governing criminal justice should articulate the purpose of sentencing, and related policies and practices should be logical, understandable and transparent to stakeholders and the public.

3. A continuum of sentencing and corrections options should be available, with imprisonment reserved for the most serious offenders and adequate community programs for diversion and supervision of other offenders.

4. Sentencing and corrections policies should be resource sensitive as those policies may impact costs, inmate populations and public safety. Criminal justice agencies should strive to effectively measure costs and benefits.

5. Criminal justice information should be a foundation for effective data driven sentencing and corrections policies.

6. Sentencing and corrections policies should reflect current circumstances and needs.

7. Strategies to reduce crime and victimization should involve prevention, treatment, health and labor and must endeavor to utilize all available federal, academic and private resources and expertise.

Sec. 4. As used in sections 4 to 11, inclusive, of this act, "Sentencing Commission" means the Nevada Sentencing Commission created by section 5 of this act.

Sec. 5. 1. The Nevada Sentencing Commission is hereby created. The Sentencing Commission consists of:

(a) One member appointed by the Governor;

(b) One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;

(c) Two members who are judges appointed by the Chief Justice of the Supreme Court of Nevada;

(d) One member who is a representative of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Nevada;

(e) The Director of the Department of Corrections;

(f) The Attorney General;

(g) One member who is a representative of the Office of the Attorney General, appointed by the Attorney General;

(h) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

(i) One member who is a representative of an office of public defender, appointed by the governing body of the State Bar of Nevada;

(j) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

(k) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

(l) One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;

(m) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

(n) One member who is a representative of the Nevada Sheriffs' and Chiefs' Association, appointed by the Nevada Sheriffs' and Chiefs' Association;

(o) One member who is a representative of the Las Vegas Metropolitan Police Department, appointed by the Sheriff of Clark County;

(p) One member who is a representative of the Division of Public and Behavioral Health of the Department of Health and Human Services;

~~(q)~~ (q) One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;

(r) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~(s)~~ (s) Two members who are members of the Assembly, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

2. If any organization listed in subsection 1 ceases to exist, the appointment required pursuant to that subsection must be made by the association's successor in interest, or, if there is no successor in interest, by the Governor.

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Sentencing Commission must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

4. The Legislators who are members of the Sentencing Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Sentencing Commission.

5. At the first regular meeting of each odd-numbered year, the members of the Sentencing Commission shall elect a Chair by majority vote who shall serve until the next Chair is elected.

6. The Sentencing Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chair.

7. A majority of the members of the Sentencing Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Sentencing Commission.

8. While engaged in the business of the Sentencing Commission, to the extent of legislative appropriation, each member of the Sentencing Commission is

1 *entitled to receive the per diem allowance and travel expenses provided for state*
2 *officers and employees generally.*

3 *9. To the extent of legislative appropriation, the Director of the Legislative*
4 *Counsel Bureau shall provide the Sentencing Commission with such staff as is*
5 *necessary to carry out the duties of the Sentencing Commission.*

6 **Sec. 6. The Sentencing Commission shall:**

7 *1. Advise the Legislature on proposed legislation and make*
8 *recommendations with respect to all matters relating to the elements of this*
9 *State's system of criminal justice which affect the sentences imposed for felonies*
10 *and gross misdemeanors.*

11 *2. Evaluate the effectiveness and fiscal impact of various policies and*
12 *practices regarding sentencing which are employed in this State and other states,*
13 *including, without limitation, the use of plea bargaining, probation, programs of*
14 *intensive supervision, programs of regimental discipline, imprisonment,*
15 *sentencing recommendations, mandatory and minimum sentencing, mandatory*
16 *sentencing for crimes involving the possession, manufacture and distribution of*
17 *controlled substances, enhanced penalties for habitual criminals, parole, credits*
18 *against sentences, residential confinement and alternatives to incarceration.*

19 *3. Recommend changes in the structure of sentencing in this State which, to*
20 *the extent practicable and with consideration for their fiscal impact, incorporate*
21 *general objectives and goals for sentencing, including, without limitation, the*
22 *following:*

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

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

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

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

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

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

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

45 *4. Facilitate the development and maintenance of a statewide sentencing*
46 *database in collaboration with state and local agencies, using existing databases*
47 *or resources where appropriate.*

48 *5. Provide training regarding sentencing and related issues, policies and*
49 *practices, and act as a sentencing policy resource for this State.*

50 *6. Evaluate the impact of pretrial, sentencing diversion, incarceration and*
51 *postrelease supervision programs.*

52 *7. Identify potential areas of sentencing disparity related to race, gender*
53 *and economic status.*

1 8. Propose and recommend statutory sentencing guidelines, based on
2 reasonable offense and offender characteristics which aim to preserve judicial
3 discretion and provide for individualized sentencing, for the use of the district
4 courts. If such guidelines are enacted by the Legislature, the Sentencing
5 Commission shall review and propose any recommended changes.

6 9. Evaluate whether sentencing guidelines recommended pursuant to
7 subsection 8 should be mandatory and if judicial findings should be required for
8 any departures from the sentencing guidelines.

9 10. For each regular session of the Legislature, prepare a comprehensive
10 report including:

11 (a) The Sentencing Commission's recommended changes pertaining to
12 sentencing;

13 (b) The Sentencing Commission's findings and any recommendations for
14 proposed legislation; and

15 (c) A reference to any legislative measure requested pursuant to section 17 of
16 this act.

17 ↪ The report must be submitted to the Director of the Legislative Counsel
18 Bureau for distribution to the Legislature not later than January 1 of each odd-
19 numbered year.

20 Sec. 7. 1. The Chair of the Sentencing Commission may apply for and
21 accept any available grants and may accept any bequests, devises, donations or
22 gifts from any public or private source to carry out the provisions of sections 4 to
23 11, inclusive, of this act.

24 2. Any money received pursuant to this section must be deposited in the
25 Special Account for the Support of the Nevada Sentencing Commission, which is
26 hereby created in the State General Fund. Interest and income earned on money
27 in the Account must be credited to the Account. Money in the Account may only
28 be used for the support of the Sentencing Commission and its activities pursuant
29 to sections 4 to 11, inclusive, of this act.

30 Sec. 8. 1. To carry out its powers and duties pursuant to sections 4 to 11,
31 inclusive, of this act, the Sentencing Commission, or any member thereof acting
32 on behalf of the Sentencing Commission with a concurrence of a majority of the
33 members of the Sentencing Commission, may issue subpoenas to compel the
34 attendance of witnesses and the production of books, records, documents or other
35 papers and testimony.

36 2. If any person fails to comply with a subpoena issued by the Sentencing
37 Commission or any member thereof pursuant to this section within 20 days after
38 the date of service of the subpoena, the Sentencing Commission may petition the
39 district court for an order of the court compelling compliance with the subpoena.

40 3. Upon such a petition, the court shall enter an order directing the person
41 subpoenaed to appear before the court at a time and place to be fixed by the court
42 in its order, the time to be not more than 20 days after the date of service of the
43 order, and show cause why the person has not complied with the subpoena. A
44 certified copy of the order must be served upon the person subpoenaed.

45 4. If it appears to the court that the subpoena was regularly issued by the
46 Sentencing Commission or a member thereof pursuant to this section, the court
47 shall enter an order compelling compliance with the subpoena, and upon failure
48 to obey the order the person shall be dealt with as for contempt of court.

49 Sec. 9. 1. The Department of Corrections shall:

50 (a) Provide the Sentencing Commission with any available statistical
51 information or research requested by the Sentencing Commission and assist the
52 Sentencing Commission in the compilation and development of information
53 requested by the Sentencing Commission, including, but not limited to,

1 information or research concerning the facilities and institutions of the
2 Department of Corrections, the offenders who are or were within those facilities
3 or institutions, rates of recidivism, the effectiveness of educational and vocational
4 programs and the sentences which are being served or were served by those
5 offenders;

6 (b) If requested by the Sentencing Commission, make available to the
7 Sentencing Commission the use of the computers and programs which are owned
8 by the Department of Corrections; and

9 (c) Provide the independent contractor retained by the Department of
10 Administration pursuant to NRS 176.0129 with any available statistical
11 information requested by the independent contractor for the purpose of
12 performing the projections required by NRS 176.0129.

13 2. The Division shall:

14 (a) Provide the Sentencing Commission with any available statistical
15 information or research requested by the Sentencing Commission and assist the
16 Sentencing Commission in the compilation and development of information
17 concerning sentencing, probation, parole and any offenders who are or were
18 subject to supervision by the Division;

19 (b) If requested by the Sentencing Commission, make available to the
20 Sentencing Commission the use of the computers and programs which are owned
21 by the Division; and

22 (c) Provide the independent contractor retained by the Department of
23 Administration pursuant to NRS 176.0129 with any available statistical
24 information requested by the independent contractor for the purpose of
25 performing the projections required by NRS 176.0129.

26 Sec. 10. The Central Repository for Nevada Records of Criminal History
27 shall provide the Sentencing Commission with any statistical data and
28 information required to be collected pursuant to NRS 176.0128, as requested by
29 the Sentencing Commission.

30 Sec. 11. The Department of Administration shall provide the Sentencing
31 Commission with any projections on persons imprisoned, on probation, on parole
32 and serving a term of residential confinement required pursuant to NRS
33 176.0129, as requested by the Sentencing Commission.

34 Sec. 12. NRS 176.0125 is hereby amended to read as follows:

35 176.0125 The Commission shall:

36 1. ~~Identify~~ Except as otherwise provided pursuant to section 6 of this act,
37 evaluate and study the elements of this State's system of criminal justice . ~~which~~
38 ~~affect the sentences imposed for felonies and gross misdemeanors.~~

39 ~~2. Evaluate the effectiveness and fiscal impact of various policies and~~
40 ~~practices regarding sentencing which are employed in this State and other states,~~
41 ~~including, but not limited to, the use of plea bargaining, probation, programs of~~
42 ~~intensive supervision, programs of regimental discipline, imprisonment, sentencing~~
43 ~~recommendations, mandatory and minimum sentencing, mandatory sentencing for~~
44 ~~crimes involving the possession, manufacture and distribution of controlled~~
45 ~~substances, structured or tiered sentencing, enhanced penalties for habitual~~
46 ~~criminals, parole, credits against sentences, residential confinement and alternatives~~
47 ~~to incarceration.~~

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

52 ~~(a) Offenders must receive sentences that increase in direct proportion to the~~
53 ~~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. 2.~~ 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. 3.~~ 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. 4.~~ 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. 5.~~ 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. 6.~~ 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.

~~H0+~~ 7. 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.

~~H1+~~ 8. Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.

~~H2+~~ 9. 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.

~~H3+~~ 10. 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. 13. ~~NRS 176.0911 is hereby amended to read as follows:~~

~~176.0911 As used in NRS 176.0911 to 176.0919, inclusive, and section 2 of this act, unless the context otherwise requires, the words and terms defined in NRS 176.0911 to 176.0919, inclusive, have the meanings ascribed to them in those sections. (Deleted by amendment.)~~

Sec. 14. ~~NRS 176.09183 is hereby amended to read as follows:~~

~~176.09183 1. The court shall order a genetic marker analysis [.] if:~~
~~(a) The petition for the analysis was filed pursuant to NRS 176.0918 and, after considering the information contained in the petition [pursuant to subsection 2 of NRS 176.0918] and any other evidence, [if] the court finds that:~~

~~[(a)] (1) A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;~~

~~[(b)] (2) The evidence to be analyzed exists; and~~

~~[(c)] (3) Except as otherwise provided in subsection 2, the evidence was not previously subjected to a genetic marker analysis [.] ; or~~

~~(b) The petition for the analysis was filed pursuant to section 2 of this act.~~

~~2. If the evidence was previously subjected to a genetic marker analysis, the court shall order a genetic marker analysis pursuant to paragraph (a) of subsection 1 if the court finds that:~~

~~(a) The result of the previous analysis was inconclusive;~~

~~(b) The evidence was not subjected to the type of analysis that is now requested and the requested analysis may resolve an issue not resolved by the previous analysis; or~~

~~(c) The requested analysis would provide results that are significantly more accurate and probative of the identity of the perpetrator than the previous analysis.~~

~~2. If the court orders a genetic marker analysis pursuant to subsection 1 or 2, the court shall:~~

~~(a) [Order] Subject to the provisions of subsection 4, order the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State and the petitioner in the integrity of the evidence and the analysis process.~~

~~(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:~~

~~(1) Be operated by this state or one of its political subdivisions, when possible; and~~

~~(2) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.~~

~~(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:~~

~~(1) Be specified in the order; and~~

~~(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.~~

~~(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.~~

~~(e) Order the preservation of evidence used in [a] the genetic marker analysis [performed pursuant to this section and NRS 176.0918 and 176.09187] for purposes of a subsequent proceeding or analysis, if any.~~

~~(f) Order the results of the genetic marker analysis [performed pursuant to this section and NRS 176.0918 and 176.09187] to be sent to the State Board of Parole Commissioners if the results of the genetic marker analysis are not favorable to the petitioner.~~

~~4. Notwithstanding the provisions of paragraph (a) of subsection 3, if the petition for a genetic marker analysis was filed pursuant to section 2 of this act, the forensic laboratory ordered to perform the analysis pursuant to paragraph (c) of subsection 3 shall not perform the analysis until the petitioner pays the cost of the analysis, as required by subsection 3 of NRS 176.09187.~~

~~5. If the court orders a genetic marker analysis pursuant to subsection 1 or 2, the State may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution within 30 days after the notice of the entry of the order by filing a notice of appeal with the clerk of the district court.~~

~~[5.] 6. The court shall enter an order dismissing a petition filed pursuant to NRS 176.0918 or section 2 of this act if:~~

~~(a) The requirements for ordering a genetic marker analysis pursuant to this section and NRS 176.0918 and 176.09187 are not satisfied; or~~

~~(b) The results of a genetic marker analysis performed [pursuant to this section and NRS 176.0918 and 176.09187] as the result of the petition are not favorable to the petitioner.~~

~~[6.] 7. If the court enters an order dismissing a petition filed pursuant to NRS 176.0918 [.] or section 2 of this act, the person aggrieved by the order may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution within 30 days after the notice of the entry of the order by filing a notice of appeal with the clerk of the district court.] (Deleted by amendment.)~~

1 **Sec. 15.** ~~[NRS 176.09187 is hereby amended to read as follows:~~

2 ~~176.09187 1. If the results of a genetic marker analysis performed as the~~
3 ~~result of a petition filed pursuant to [this section and] NRS 176.0918 [and~~
4 ~~176.09183] or section 2 of this act are favorable to the petitioner:~~

5 ~~(a) The petitioner may bring a motion for a new trial based on the ground of~~
6 ~~newly discovered evidence pursuant to NRS 176.515; and~~

7 ~~(b) The restriction on the time for filing the motion set forth in subsection 3 of~~
8 ~~NRS 176.515 is not applicable.~~

9 ~~2. For the purposes of a genetic marker analysis, [pursuant to this section and~~
10 ~~NRS 176.0918 and 176.09183,] a person who files a petition pursuant to NRS~~
11 ~~176.0918 or section 2 of this act shall be deemed to consent to the:~~

12 ~~(a) Submission of a biological specimen by the petitioner to determine genetic~~
13 ~~marker information; and~~

14 ~~(b) Release and use of genetic marker information concerning the petitioner.~~

15 ~~3. [The] Except as otherwise provided in subsection 4, the petitioner shall~~
16 ~~pay the cost of a genetic marker analysis performed as the result of a petition filed~~
17 ~~pursuant to [this section and] NRS 176.0918 [and 176.09183, unless] or section 2~~
18 ~~of this act. If the petition was filed pursuant to section 2 of this act, the petitioner~~
19 ~~must pay the cost of the analysis before the analysis is performed.~~

20 ~~4. The petitioner is not responsible for paying the cost of a genetic marker~~
21 ~~analysis performed as the result of a petition filed pursuant to NRS 176.0918 if~~
22 ~~the petitioner is incarcerated at the time the petitioner files the petition, is found to~~
23 ~~be indigent pursuant to NRS 171.188 and the results of the genetic marker analysis~~
24 ~~are favorable to the petitioner.~~

25 ~~5. If the petitioner is not required to pay the cost of the analysis pursuant to~~
26 ~~[this] subsection [.] 4, the expense of an analysis [ordered] performed as the result~~
27 ~~of a petition filed pursuant to [this section and] NRS 176.0918 [and 176.09183] is a~~
28 ~~charge against the Department of Corrections and must be paid upon approval by~~
29 ~~the Board of State Prison Commissioners as other claims against the State are paid:~~

30 ~~[4.] 6. The remedy provided by this section and NRS 176.0918 and~~
31 ~~176.09183 and section 2 of this act is in addition to, is not a substitute for and is~~
32 ~~not exclusive of any other remedy, right of action or proceeding available to a~~
33 ~~person convicted of a crime.] (Deleted by amendment.)~~

34 **Sec. 16.** ~~[NRS 176.0919 is hereby amended to read as follows:~~

35 ~~176.0919 1. After a judge grants a petition requesting a genetic marker~~
36 ~~analysis pursuant to NRS 176.0918 [, 176.09183 and 176.09187,] or section 2 of~~
37 ~~this act, if the case involves a sentence of death and a judge determines that the~~
38 ~~genetic marker analysis cannot be completed before the date of the execution of the~~
39 ~~petitioner, the judge shall stay the execution of the judgment of death pending the~~
40 ~~results of the analysis.~~

41 ~~2. If the case involves a sentence of death and the results of an analysis~~
42 ~~ordered and conducted as the result of a petition filed pursuant to NRS 176.0918 [,~~
43 ~~176.09183 and 176.09187] or section 2 of this act are not favorable to the~~
44 ~~petitioner:~~

45 ~~(a) Except as otherwise provided in paragraph (b), the Director of the~~
46 ~~Department of Corrections shall, in due course, execute the judgment of death.~~

47 ~~(b) If the judgment of death has been stayed pursuant to subsection 1, the judge~~
48 ~~shall cause a certified copy of the order staying the execution of the judgment and a~~
49 ~~certified copy of the report of genetic marker analysis that indicates results which~~
50 ~~are not favorable to the petitioner to be immediately forwarded by the clerk of the~~
51 ~~court to the district attorney. Upon receipt, the district attorney shall pursue the~~
52 ~~issuance of a new warrant of execution of the judgment of death in the manner~~
53 ~~provided in NRS 176.495.] (Deleted by amendment.)~~

1 **Sec. 17.** Chapter 218D of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 1. *For a regular session, the Nevada Sentencing Commission created by*
4 *section 5 of this act may request the drafting of not more than 1 legislative*
5 *measure which relates to matters within the scope of the Commission. The*
6 *request must be submitted to the Legislative Counsel on or before September 1*
7 *preceding the regular session.*

8 2. *A request made pursuant to this section must be on a form prescribed by*
9 *the Legislative Counsel. A legislative measure requested pursuant to this section*
10 *must be prefiled on or before the third Wednesday in November preceding the*
11 *regular session. A legislative measure that is not prefiled on or before that day*
12 *shall be deemed withdrawn.*

13 3. *The Legislative Counsel shall not assign a number to a request for the*
14 *drafting of a legislative measure submitted pursuant to this section to establish*
15 *the priority of the request until sufficient detail has been received to allow*
16 *complete drafting of the legislative measure.*

17 **Sec. 18.** NRS 218D.100 is hereby amended to read as follows:

18 218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, *and*
19 *section 17 of this act* apply to requests for the drafting of legislative measures for a
20 regular session.

21 2. Except as otherwise provided by a specific statute, joint rule or concurrent
22 resolution, the Legislative Counsel shall not honor a request for the drafting of a
23 legislative measure if the request:

24 (a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220,
25 inclusive, *and section 17 of this act* for the requester; or

26 (b) Is submitted by an authorized nonlegislative requester pursuant to NRS
27 218D.175 to 218D.220, inclusive, *and section 17 of this act* but is not in a subject
28 related to the function of the requester.

29 3. The Legislative Counsel shall not:

30 (a) Assign a number to a request for the drafting of a legislative measure to
31 establish the priority of the request until sufficient detail has been received to allow
32 complete drafting of the legislative measure.

33 (b) Honor a request to change the subject matter of a request for the drafting of
34 a legislative measure after it has been submitted for drafting.

35 (c) Honor a request for the drafting of a legislative measure which has been
36 combined in violation of Section 17 of Article 4 of the Nevada Constitution.

37 **Sec. 19.** The provisions of subsection 1 of NRS 218D.380 do not apply to
38 any provision of this act which adds or revises a requirement to submit a report to
39 the Legislature.

40 **Sec. 20.** This act becomes effective on July 1, 2017.