

Amendment No. 995

Senate Amendment to Senate Bill No. 451 First Reprint	(BDR 14-1007)
Proposed by: Senate Committee on Finance	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: No	

Adoption of this amendment will ADD an appropriation where one does not currently exist in S.B. 451 R1.

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.

KCR/BJE



Date: 6/2/2017

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; 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; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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. (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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 8. While engaged in the business of the Sentencing Commission, to the
44 extent of legislative appropriation, each member of the Sentencing Commission is
45 entitled to receive the per diem allowance and travel expenses provided for state
46 officers and employees generally.

47 9. To the extent of legislative appropriation, the Director of the Legislative
48 Counsel Bureau shall provide the Sentencing Commission with such staff as is
49 necessary to carry out the duties of the Sentencing Commission.

50 Sec. 6. The Sentencing Commission shall:

51 1. Advise the Legislature on proposed legislation and make
52 recommendations with respect to all matters relating to the elements of this

1 *State's system of criminal justice which affect the sentences imposed for felonies*
2 *and gross misdemeanors.*

3 2. *Evaluate the effectiveness and fiscal impact of various policies and*
4 *practices regarding sentencing which are employed in this State and other states,*
5 *including, without limitation, the use of plea bargaining, probation, programs of*
6 *intensive supervision, programs of regimental discipline, imprisonment,*
7 *sentencing recommendations, mandatory and minimum sentencing, mandatory*
8 *sentencing for crimes involving the possession, manufacture and distribution of*
9 *controlled substances, enhanced penalties for habitual criminals, parole, credits*
10 *against sentences, residential confinement and alternatives to incarceration.*

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

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

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

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

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

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

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

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

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

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

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

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

46 8. *Propose and recommend statutory sentencing guidelines, based on*
47 *reasonable offense and offender characteristics which aim to preserve judicial*
48 *discretion and provide for individualized sentencing, for the use of the district*
49 *courts. If such guidelines are enacted by the Legislature, the Sentencing*
50 *Commission shall review and propose any recommended changes.*

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

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

3 (a) The Sentencing Commission's recommended changes pertaining to
4 sentencing;

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

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

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

12 Sec. 7. 1. The Chair of the Sentencing Commission may apply for and
13 accept any available grants and may accept any bequests, devises, donations or
14 gifts from any public or private source to carry out the provisions of sections 4 to
15 11, inclusive, of this act.

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

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

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

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

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

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

42 (a) Provide the Sentencing Commission with any available statistical
43 information or research requested by the Sentencing Commission and assist the
44 Sentencing Commission in the compilation and development of information
45 requested by the Sentencing Commission, including, but not limited to,
46 information or research concerning the facilities and institutions of the
47 Department of Corrections, the offenders who are or were within those facilities
48 or institutions, rates of recidivism, the effectiveness of educational and vocational
49 programs and the sentences which are being served or were served by those
50 offenders;

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

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

2. The Division shall:

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

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

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

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

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

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

176.0125 The Commission shall:

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

~~2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, 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. 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.

~~10. 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.

~~11. 8.~~ Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.

~~12. 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.

~~13-1~~ **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. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

3. The Legislative Counsel shall not:

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

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

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

8 **Sec. 18.5. 1. There is hereby appropriated from the State General**
9 **Fund to the Legislative Fund the sum of \$8,336 for the operating and other**
10 **costs relating to the participation of the legislative members of the Nevada**
11 **Sentencing Commission created by section 5 of this act.**

12 **2. Any remaining balance of the appropriation made by subsection 1**
13 **must not be committed for expenditure after June 30, 2019, by the entity to**
14 **which the appropriation is made or any entity to which money from the**
15 **appropriation is granted or otherwise transferred in any manner, and any**
16 **portion of the appropriated money remaining must not be spent for any**
17 **purpose after September 20, 2019, by either the entity to which the money was**
18 **appropriated or the entity to which the money was subsequently granted or**
19 **transferred, and must be reverted to the State General Fund on or before**
20 **September 20, 2019.**

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

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