

ASSEMBLY BILL NO. 112—COMMITTEE ON JUDICIARY

PREFILED JANUARY 30, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the Advisory Commission on the Administration of Justice. (BDR 14-589)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising certain provisions governing the Advisory Commission on the Administration of Justice; repealing certain subcommittees of the Advisory Commission; 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. Additionally, existing law requires the Advisory Commission to submit a report to the Director of the Legislative Counsel Bureau by September 1 of each even-numbered year. (NRS 176.0123, 176.0125) **Sections 2 and 3** of this bill revise the duties of the Advisory Commission. **Section 2:** (1) removes language specifying certain duties of the Advisory Commission and instead generally requires the Advisory Commission, at the discretion of the Chair of the Advisory Commission, to identify and study certain elements of this State's system of criminal justice; and (2) revises the deadline for the Advisory Commission to submit its report to December 1 of each even-numbered year. **Section 3** requires the Advisory Commission to evaluate and review the submittal, storage and testing of sexual assault forensic evidence kits.

Existing law establishes and prescribes the duties of various subcommittees of the Advisory Commission. Such subcommittees include: (1) the Subcommittee on Juvenile Justice; (2) the Subcommittee on Victims of Crime; (3) the Subcommittee to Review Arrestee DNA; and (4) the Subcommittee on Medical Use of Marijuana. (NRS 176.0124-176.01247) **Section 7** of this bill repeals these subcommittees. **Sections 4 and 5** of this bill make conforming changes.

Finally, **section 1** of this bill: (1) requires that a legislative member of the Advisory Commission serve as the Chair of the Advisory Commission; and (2) requires an officer or employee of this State or a political subdivision of this State who is a member of the Advisory Commission to be relieved from his or her duties



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24 as an officer or employee to prepare, attend meetings and perform work for the
25 Advisory Commission without loss of his or her regular compensation.

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

1 **Section 1.** NRS 176.0123 is hereby amended to read as
2 follows:

3 176.0123 1. The Advisory Commission on the
4 Administration of Justice is hereby created. The Commission
5 consists of:

6 (a) One member who is a municipal judge or justice of the
7 peace, appointed by the governing body of the Nevada Judges of
8 Limited Jurisdiction;

9 (b) One member who is a district judge, appointed by the
10 governing body of the Nevada District Judges Association;

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

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

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

19 (f) One member who is a public defender, appointed by the
20 governing body of the State Bar of Nevada;

21 (g) One member who is a representative of a law enforcement
22 agency, appointed by the Governor;

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

26 (i) One member who is a representative of the Central
27 Repository for Nevada Records of Criminal History, appointed by
28 the Governor;

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

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

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

37 (m) One member who is a member of the State Board of Parole
38 Commissioners, appointed by the State Board of Parole
39 Commissioners;



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(n) The Director of the Department of Corrections;
(o) 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

(p) 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.

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

2. The Attorney General is an ex officio voting member of the Commission.

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 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 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 Commission.

5. At the first regular meeting of each odd-numbered year, the members of the Commission shall elect a Chair by majority vote ~~from~~ *from among the legislative members of the Commission.* *Each Chair* shall serve until the next Chair is elected.

6. The 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 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 Commission.

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

9. *A member of the Commission who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Commission and perform any work necessary to carry out the duties of the Commission in the most timely manner practicable. A state agency or political subdivision of this State*



1 *shall not require an officer or employee who is a member of the*
2 *Commission to:*

3 *(a) Make up the time the member is absent from work to carry*
4 *out his or her duties as a member of the Commission; or*

5 *(b) Take annual leave or compensatory time for the absence.*

6 **10.** To the extent of legislative appropriation, the Director of
7 the Legislative Counsel Bureau shall provide the Commission with
8 such staff as is necessary to carry out the duties of the Commission.

9 **Sec. 2.** NRS 176.0125 is hereby amended to read as follows:

10 176.0125 The Commission shall:

11 1. Except as otherwise provided pursuant to NRS 176.0134 ~~H~~
12 *and subject to the discretion of the Chair*, evaluate and study the
13 elements of this State's system of criminal justice.

14 2. ~~Evaluate the effectiveness and efficiency of the Department~~
15 ~~of Corrections and the State Board of Parole Commissioners with~~
16 ~~consideration as to whether it is feasible and advisable to establish~~
17 ~~an oversight or advisory board to perform various functions and~~
18 ~~make recommendations concerning:~~

19 ~~—(a) Policies relating to parole;~~

20 ~~—(b) Regulatory procedures and policies of the State Board of~~
21 ~~Parole Commissioners;~~

22 ~~—(c) Policies for the operation of the Department of Corrections;~~

23 ~~—(d) Budgetary issues; and~~

24 ~~—(e) Other related matters.~~

25 ~~—3. Evaluate the effectiveness of specialty court programs in this~~
26 ~~State with consideration as to whether such programs have the effect~~
27 ~~of limiting or precluding reentry of offenders and parolees into the~~
28 ~~community.~~

29 ~~—4. Evaluate the policies and practices concerning presentence~~
30 ~~investigations and reports made by the Division of Parole and~~
31 ~~Probation of the Department of Public Safety, including, without~~
32 ~~limitation, the resources relied on in preparing such investigations~~
33 ~~and reports and the extent to which judges in this State rely on and~~
34 ~~follow the recommendations contained in such presentence~~
35 ~~investigations and reports.~~

36 ~~—5. Evaluate, review and comment upon issues relating to~~
37 ~~juvenile justice in this State, including, but not limited to:~~

38 ~~—(a) The need for the establishment and implementation of~~
39 ~~evidence-based programs and a continuum of sanctions for children~~
40 ~~who are subject to the jurisdiction of the juvenile court; and~~

41 ~~—(b) The impact on the criminal justice system of the policies and~~
42 ~~programs of the juvenile justice system.~~

43 ~~—6. Identify and study issues relating to the application of~~
44 ~~chapter 241 of NRS to meetings held by the:~~



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~~—(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;~~

~~—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.~~

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

~~—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.~~

~~—10.] Recommend standards, policies and procedures for integrated criminal justice information sharing between criminal justice agencies in this State and the Central Repository for Nevada Records of Criminal History.~~

~~{11.} 3. Provide a copy of any recommendations described in subsection {10} 2 to the Director of the Department of Public Safety.~~

~~{12.} 4. 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} December 1 of each even-numbered year.~~



Sec. 3. NRS 176.0125 is hereby amended to read as follows:
176.0125 The Commission shall:

1. Except as otherwise provided pursuant to NRS 176.0134 and subject to the discretion of the Chair, evaluate and study the elements of this State's system of criminal justice.

2. Recommend standards, policies and procedures for integrated criminal justice information sharing between criminal justice agencies in this State and the Central Repository for Nevada Records of Criminal History.

3. Provide a copy of any recommendations described in subsection 2 to the Director of the Department of Public Safety.

4. Evaluate and review issues relating to the submittal, storage and testing of sexual assault forensic evidence kits, including, without limitation, the review of any report required pursuant to NRS 200.3788.

5. 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 December 1 of each even-numbered year.

6. As used in this section, "sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.

Sec. 4. Section 4.5 of chapter 431, Statutes of Nevada 2017, at page 2891, is hereby amended to read as follows:

Sec. 4.5. The department or division designated by the Attorney General pursuant to section 1.7 of this act to establish a statewide program to track sexual assault forensic evidence kits shall, on or before July 1, 2021, submit to the Governor and the ~~{Subcommittee to Review DNA of the}~~ Advisory Commission on the Administration of Justice ~~{created by NRS 176.01246, as amended by section 3.1 of this act,}~~ a report concerning the status of the program and a plan for launching the program, including a plan for phased implementation.

Sec. 5. Section 8 of chapter 431, Statutes of Nevada 2017, at page 2891, is hereby amended to read as follows:

Sec. 8. 1. This section and sections 1, 1.3, 2, 3.3 to 4, inclusive, 5 and 6 of this act become effective on October 1, 2017.

2. Sections 1.7, 2.5 ~~{, 3.1}~~ and 4.5 of this bill become effective on January 1, 2021.



Sec. 6. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 7. 1. NRS 176.0124, 176.01245, 176.01246 and 176.01247 are hereby repealed.

2. Section 3.1 of chapter 431, Statutes of Nevada 2017, at page 2889, is hereby repealed.

Sec. 8. 1. This section and sections 1, 2 and 4 to 7, inclusive, of this act become effective on July 1, 2019.

2. Section 3 of this act becomes effective on January 1, 2021.

**LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA**

176.0124 Subcommittee on Juvenile Justice: Creation; Chair; members; duties; salaries and per diem.

176.01245 Subcommittee on Victims of Crime: Creation; Chair; members; duties; salaries and per diem.

176.01246 Subcommittee to Review Arrestee DNA: Creation; Chair; members; duties; salaries and per diem.

176.01247 Subcommittee on Medical Use of Marijuana: Creation; Chair; members; duties; salaries and per diem.

Section 3.1 of chapter 431, Statutes of Nevada 2017, at page 2889:

Sec. 3.1. NRS 176.01246 is hereby amended to read as follows:

176.01246 1. There is hereby created the Subcommittee to Review DNA of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee which must include, without limitation:

(a) A member experienced in defending criminal actions.

(b) A member of a minority community organization whose mission includes the protection of civil rights for minorities.

3. The Chair of the Commission shall designate one of the members of the Subcommittee as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may



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exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues relating to DNA and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues. The issues considered by the Subcommittee and the report submitted by the Subcommittee must include, without limitation:

(a) The costs and procedures relating to the methods, implementation and utilization of the provisions for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons;

(b) The collection and review of information concerning the number of requests for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons and the number and percentage of such requests that are denied; and

(c) The submittal, storage and testing of sexual assault forensic evidence kits, including, without limitation, the review of any report required pursuant to section 1.7 of this act.

6. Any Legislators who are members of the Subcommittee 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 Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses as provided for state officers and employees generally.

8. As used in this section:

(a) "Biological specimen" has the meaning ascribed to it in NRS 176.09112.

(b) "DNA" has the meaning ascribed to it in NRS 176.09114.

(c) "DNA profile" has the meaning ascribed to it in NRS 176.09115.

(d) "DNA record" has the meaning ascribed to it in NRS 176.09116.

(e) "Sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.

