

SENATE BILL NO. 286—SENATORS PARKS, SPEARMAN; BROOKS,
CANCELA, DENIS, D. HARRIS, RATTI AND WOODHOUSE

MARCH 15, 2019

JOINT SPONSORS: ASSEMBLYMEN FUMO; ASSEFA, CARLTON,
CARRILLO, DURAN, EDWARDS, GORELOW, HAMBRICK,
MARTINEZ, MUNK, NGUYEN, TORRES AND WATTS

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to aggregated sentences
and eligibility for parole. (BDR 14-293)

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 offenders; revising provisions relating to the
aggregation of sentences; establishing provisions relating
to the determination of the minimum aggregate term of
imprisonment in certain circumstances for purposes of
determining eligibility for parole; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions relating to the aggregation of sentences
imposed upon a person who is convicted of two or more offenses. (NRS 176.035)
Section 1 of this bill provides that such provisions must not be construed to
prohibit the aggregation of any sentences relating to different cases. **Section 1** also:
(1) provides that if a court imposes certain additional penalties upon a person, the
sentence imposed for the additional penalty must be aggregated with the sentence
imposed for the underlying offense; and (2) authorizes a prisoner upon whom a
sentence for an additional penalty is imposed before October 1, 2019, to elect to
have the sentence imposed for the additional penalty aggregated with the sentence
imposed for the underlying offense. **Section 1** additionally revises provisions
concerning the execution of certain sentences.

Existing law provides that for purposes of determining eligibility for parole, a
prisoner whose sentences have been aggregated may earn credit which must be
deducted from the minimum aggregate term of imprisonment or the maximum
aggregate term of imprisonment, as applicable. (NRS 213.1212) The amount of
credit earned is set forth in different provisions of law and is generally dependent



upon when the prisoner was sentenced and when the offense for which he or she was sentenced was committed. (NRS 209.433-209.449) **Section 2** of this bill: (1) provides that for purposes of determining eligibility for parole, if the sentences of a prisoner are governed by different provisions of law concerning the earning of credits, the Department of Corrections is required to determine the minimum term of each sentence to be aggregated for the purpose of establishing a minimum aggregate term of imprisonment; and (2) establishes the procedure by which the Department is required to determine the minimum term of each sentence. **Section 2** also provides that, at the request of a prisoner, the Department is authorized to disaggregate any aggregated sentences for which parole has not been considered for the purpose of aggregating such sentences with other sentences. **Section 2** additionally provides that if the Department aggregates sentences that are comprised of separate aggregated sentences, the Department is authorized, with certain exceptions, to aggregate all consecutive sentences to create a single aggregated sentence.

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

Section 1. NRS 176.035 is hereby amended to read as follows:

176.035 1. Except as otherwise provided in subsection 3, whenever a person is convicted of two or more offenses, and sentence has been pronounced for one offense, the court in imposing any subsequent sentence may provide that the sentences subsequently pronounced run either concurrently or consecutively with the sentence first imposed. Except as otherwise provided in subsections 3 and 4, if the court makes no order with reference thereto, all such subsequent sentences run concurrently. For offenses committed on or after July 1, 2014, if the court imposes the sentences to run consecutively, the court must pronounce the minimum and maximum aggregate terms of imprisonment pursuant to subsection 2, unless the defendant is sentenced to life imprisonment without the possibility of parole or death.

2. When aggregating terms of imprisonment pursuant to subsection 1:

(a) If at least one sentence imposes a maximum term of imprisonment for life with the possibility of parole, the court must aggregate the minimum terms of imprisonment to determine the minimum aggregate term of imprisonment, and the maximum aggregate term of imprisonment shall be deemed to be imprisonment in the state prison for life with the possibility of parole.

(b) If all the sentences impose a minimum and maximum term of imprisonment, the court must aggregate the minimum terms of imprisonment to determine the minimum aggregate term of imprisonment and must aggregate the maximum terms of



1 imprisonment to determine the maximum aggregate term of
2 imprisonment.

3 3. Except as otherwise provided in this ~~{subsection,}~~ **section,**
4 whenever a person under sentence of imprisonment for committing
5 a felony commits another crime constituting a felony and is
6 sentenced to another term of imprisonment for that felony, the latter
7 term must not begin until the expiration of all prior terms, including
8 the expiration of any prior aggregated terms. If the person is a
9 probationer at the time the subsequent felony is committed, the court
10 may provide that the latter term of imprisonment run concurrently
11 with any prior terms or portions thereof. ~~{If the person is sentenced~~
12 ~~to a term of imprisonment for life without the possibility of parole,~~
13 ~~the sentence must be executed without reference to the unexpired~~
14 ~~term of imprisonment and without reference to eligibility for~~
15 ~~parole.}~~

16 4. Whenever a person under sentence of imprisonment
17 commits another crime constituting a misdemeanor or gross
18 misdemeanor, the court shall provide expressly whether the sentence
19 subsequently pronounced runs concurrently or consecutively with
20 the one first imposed.

21 5. Whenever a person under sentence of imprisonment
22 commits another crime for which the punishment is death ~~H~~ **or**
23 **imprisonment for life without the possibility of parole,** the sentence
24 must be executed without reference to the unexpired term of
25 imprisonment.

26 6. ***Regardless of whether a person is under sentence of***
27 ***imprisonment, if the person commits another crime for which the***
28 ***punishment is death or imprisonment for life without the***
29 ***possibility of parole, the sentence must be executed without***
30 ***reference to eligibility for parole.***

31 7. ***If a court imposes an additional penalty pursuant to NRS***
32 ***193.161 to 193.1685, inclusive, the sentence imposed for the***
33 ***additional penalty must be aggregated with the sentence imposed***
34 ***for the underlying offense. A prisoner upon whom a sentence for***
35 ***an additional penalty is imposed pursuant to NRS 193.161 to***
36 ***193.1685, inclusive, before October 1, 2019, may elect to have the***
37 ***sentence imposed for the additional penalty aggregated with the***
38 ***sentence imposed for the underlying offense in accordance with***
39 ***subsection 5 of NRS 213.1212.***

40 8. This section does not prevent the State Board of Parole
41 Commissioners from paroling a person under consecutive sentences
42 of imprisonment from a current term of imprisonment to a
43 subsequent term of imprisonment.



1 **9. This section must not be construed to prohibit the**
2 **aggregation of any sentences of imprisonment relating to different**
3 **cases.**

4 **Sec. 2.** NRS 213.1212 is hereby amended to read as follows:

5 213.1212 1. Notwithstanding any other provision of law, if a
6 prisoner is sentenced pursuant to NRS 176.035 to serve two or more
7 consecutive sentences, the terms of which have been aggregated:

8 (a) The prisoner shall be deemed to be eligible for parole from
9 all such sentences after serving the minimum aggregate term of
10 imprisonment; and

11 (b) The Board is not required to consider the prisoner for parole
12 until the prisoner has served the minimum aggregate term of
13 imprisonment.

14 2. ~~For~~ **Except as otherwise provided in subsection 3, for**
15 **purposes of determining parole eligibility, a prisoner whose**
16 **sentences have been aggregated may earn credit pursuant to NRS**
17 **209.433 to 209.449, inclusive, which must be deducted from the**
18 **minimum aggregate term of imprisonment or the maximum**
19 **aggregate term of imprisonment, as applicable. Such credits may be**
20 **earned only to the extent that the credits would otherwise be earned**
21 **had the sentences not been aggregated.**

22 3. **For purposes of determining parole eligibility, if the**
23 **sentences of a prisoner are governed by different provisions of law**
24 **concerning the earning of credits pursuant to NRS 209.433 to**
25 **209.4465, inclusive, the Department of Corrections shall**
26 **determine the minimum term of each sentence to be aggregated**
27 **for the purpose of establishing a minimum aggregate term of**
28 **imprisonment as follows:**

29 (a) **If the parole eligibility of a prisoner is based on credits**
30 **earned pursuant to NRS 209.433 or 209.443, the Department of**
31 **Corrections shall establish a fixed minimum term for that**
32 **sentence based on the assumption that the prisoner will earn all**
33 **future credits to reduce that sentence as provided in NRS 209.433**
34 **or 209.443, as applicable, except for credits earned for donating**
35 **blood or for educational achievements in accordance with any**
36 **regulations adopted by the Board pursuant to subsection 2 of NRS**
37 **209.433 or subsection 3 of NRS 209.443. Any such credits earned**
38 **by a prisoner for donating blood or for educational achievements**
39 **that are awarded after a minimum aggregate term of**
40 **imprisonment is established must be applied only to the maximum**
41 **aggregate term of imprisonment.**

42 (b) **If the parole eligibility of a prisoner is based on credits**
43 **earned pursuant to NRS 209.446, the Department of Corrections**
44 **shall establish a fixed minimum term for that sentence based on**
45 **the assumption that the prisoner will earn all future credits to**



1 *reduce that sentence as provided in NRS 209.446, except for*
2 *credits earned for educational achievements pursuant to*
3 *subsection 2 of NRS 209.446 or for meritorious service pursuant*
4 *to subsection 4 of NRS 209.446. Any such credits earned for*
5 *educational achievements or meritorious service that are awarded*
6 *after a minimum aggregate term of imprisonment is established*
7 *must be applied only to the maximum aggregate term of*
8 *imprisonment.*

9 *(c) If a prisoner is eligible to earn a deduction from the*
10 *minimum term of his or her sentence pursuant to subsection 8 of*
11 *NRS 209.4465, the minimum term of the sentence to be*
12 *aggregated must be the minimum term set by the court, and the*
13 *provisions of subsection 9 of NRS 209.4465 must be applied to the*
14 *aggregated sentence.*

15 *(d) If a prisoner is not eligible to earn a deduction from the*
16 *minimum term of his or her sentence, the minimum term of the*
17 *sentence to be aggregated must be the term set by the court or, if*
18 *the court does not set the minimum term, the minimum term*
19 *required by law.*

20 *4. A prisoner whose sentences have been aggregated*
21 *pursuant to subsection 3 may earn credits to reduce the maximum*
22 *aggregate term of imprisonment, as already reduced by any*
23 *presentence credits stipulated in the judgment of conviction or*
24 *other applicable court order, pursuant to NRS 209.4465 or*
25 *209.4475 beginning on the date the prisoner elected to have the*
26 *sentences aggregated or on the date of sentencing.*

27 *5. Except as otherwise provided in subsection 6 and* subsection
28 *3 of NRS 176.035, a prisoner who is serving consecutive sentences*
29 *which have not been aggregated may, by submitting a written*
30 *request to the Director of the Department of Corrections, make an*
31 *irrevocable election to have the sentences aggregated. If the prisoner*
32 *makes such an irrevocable election to have the sentences aggregated*
33 *and:*

34 *(a) The prisoner has not been considered for parole on any of the*
35 *sentences* **§ requested to be aggregated**, *the Department of*
36 *Corrections shall aggregate the sentences in the manner set forth in*
37 *this section and* NRS 176.035 *and the Board is not required to*
38 *consider the prisoner for parole until the prisoner has served the*
39 *minimum aggregate term of imprisonment.*

40 *(b) The prisoner has been considered for parole on one or more*
41 *of the sentences* **§ requested to be aggregated**, *the Department of*
42 *Corrections shall aggregate only the sentences for which parole has*
43 *not been considered. The Board is not required to consider the*
44 *prisoner for parole on the aggregated sentences until the prisoner*
45 *has served the minimum aggregate term of imprisonment.*



6. *At the request of a prisoner, the Department of Corrections may disaggregate any aggregated sentences for which parole has not been considered for the purpose of aggregating such sentences with other sentences pursuant to this section or NRS 176.035.*

7. *Except as otherwise provided in subsection 3 of NRS 176.035, if the Department of Corrections aggregates sentences that are comprised of separate aggregated sentences, the Department of Corrections may aggregate all the consecutive sentences to create a single aggregated sentence.*

8. *The provisions of this section do not establish a basis for any cause of action by a prisoner against the State or its political subdivisions, agencies, boards, commissions, departments, officers or employees relating to any credits the prisoner might have earned if the sentences of the prisoner had not been aggregated.*

Sec. 3. 1. The amendatory provisions of section 1 of this act apply to:

(a) An offense committed on or after October 1, 2019; and
(b) An offense committed before October 1, 2019, if, except as otherwise provided in subsection 7 of NRS 176.035, as amended by section 1 of this act, the person is convicted on or after October 1, 2019.

2. The amendatory provisions of section 2 of this act apply to an offense committed before, on or after October 1, 2019.

