

(Reprinted with amendments adopted on April 14, 2021)

FIRST REPRINT

A.B. 393

ASSEMBLY BILL NO. 393—COMMITTEE ON JUDICIARY

MARCH 24, 2021

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to criminal justice.
(BDR 14-484)

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

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal justice; requiring the Executive Director of the Department of Sentencing Policy to assist the Nevada Sentencing Commission in carrying out certain duties; revising provisions relating to certain reports prepared by the Commission; authorizing the Commission to adopt qualifications for members of the Nevada Local Justice Reinvestment Coordinating Council; revising provisions concerning reports of presentence investigations; revising provisions relating to parolees and probationers; removing and replacing certain obsolete terminology; revising provisions concerning the embezzlement of a vehicle and certain marijuana-related offenses; repealing provisions relating to inquiries to determine probable cause when a probationer is in custody for a violation of a condition of probation; repealing provisions requiring the Chief Parole and Probation Officer of the Division of Parole and Probation of the Department of Public Safety to adopt standards to assist in formulating a recommendation concerning the granting of probation or the revocation of parole or probation; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the Nevada Sentencing Commission (hereinafter
- 2 "Commission") to develop a formula to calculate the amount of costs avoided by
- 3 the State each fiscal year as a result of the enactment of Assembly Bill No. 236 of



* A B 3 9 3 R 1 *

the 2019 Legislative Session, which made various changes to criminal law and criminal procedure. Existing law requires the Commission to: (1) use the formula each fiscal year to calculate the costs avoided by the State during the immediately preceding fiscal year; and (2) prepare a biennial report containing the projected amount of costs avoided for the next biennium and recommendations for the reinvestment of the amount of those costs. (NRS 176.01347) **Section 1** of this bill requires the Executive Director of the Department of Sentencing Policy to assist the Commission in carrying out such requirements relating to the use of the formula and the preparation of a biennial report. **Section 5** of this bill makes a conforming change to require the Commission to carry out such duties with the assistance of the Department of Sentencing Policy (hereinafter "Department").

Existing law imposes various duties on the Commission, including a requirement that the Commission, with the assistance of the Department, prepare a biennial report that includes the Commission's recommended changes pertaining to sentencing, its findings and any recommendations for proposed legislation and submit the report to the Governor and the Legislature. (NRS 176.0134) Existing law also requires the Commission to prepare and submit a biennial report to the Governor, the Legislature and the Chief Justice of the Nevada Supreme Court that includes recommendations for improvements, changes and budgetary adjustments. The Commission is also authorized to include in the report additional recommendations for future legislation and policy options to enhance public safety and control corrections costs. (NRS 176.01343) **Section 2** of this bill combines such requirements so the Commission is required to prepare one biennial report that is submitted to the Governor, the Legislature and the Chief Justice of the Nevada Supreme Court. **Section 2** establishes the information to be included in such a report, and **section 4** of this bill makes a conforming change to remove the language referencing the additional report.

Existing law establishes the Nevada Local Justice Reinvestment Coordinating Council (hereinafter "Council"), consisting of members appointed by the governing bodies of counties. (NRS 176.014) **Section 6** of this bill authorizes the Commission to adopt any qualifications that a person must meet before being appointed as a member of the Council and requires each member of the Council to meet any such qualifications.

Existing law provides that a defendant convicted of a sexual offense and sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision if, among other criteria, the offender has been determined to be not likely to pose a threat to the safety of others. (NRS 176.0931) Existing law requires such a determination to be made by a person professionally qualified to conduct psychosexual evaluations who meets certain statutory requirements, including being licensed in this State. (NRS 176.0931, 176.133) **Section 6.5** of this bill allows such a determination to be made by any licensed, clinical professional who has received training in the treatment of sexual offenders.

Existing law requires that reports of presentence investigations include certain specific information and any other information the court requires. (NRS 176.145) **Section 7** of this bill removes the provision concerning other information the court requires to provide uniformity in the information contained in reports of presentence investigations.

Existing law requires the Chief Parole and Probation Officer of the Division of Parole and Probation of the Department of Public Safety (hereinafter "Chief") to adopt standards to assist in formulating a recommendation concerning the granting of probation to an eligible convicted person or the revocation of parole or probation of a convicted person. (NRS 213.10988) Existing law also requires a court to consider such standards and the recommendation of the Chief in determining whether to grant probation to an eligible convicted person. (NRS 176A.100)



Section 35 of this bill repeals the provision requiring the Chief to adopt such standards, and **sections 9 and 15** of this bill accordingly remove the requirement that a court consider such standards when determining whether to grant probation to an eligible convicted person.

Existing law requires an inquiry to determine probable cause to be conducted before a probationer who is in custody for a violation of a condition of probation is returned to court for the violation and establishes provisions relating to such an inquiry. (NRS 176A.580-176A.610) Existing law authorizes the Chief to order such a probationer to be placed in residential confinement instead of detention in a county jail pending such an inquiry. (NRS 176A.530) **Section 35** repeals such provisions, and **sections 13, 14 and 20** of this bill make conforming changes to remove references to such an inquiry.

Existing law requires the Division of Parole and Probation of the Department of Public Safety (hereinafter "Division") to adopt a written system of graduated sanctions for parole and probation officers to use when a parolee or probationer commits a technical violation of parole or probation, as applicable. (NRS 176A.510) **Section 12** of this bill removes references to parole and parolees from such provisions to make the provisions applicable only to probation and probationers, and **section 21** of this bill establishes a new section that applies only to parole and parolees. **Sections 22 and 27** of this bill make conforming changes to indicate the placement of **section 21** within the Nevada Revised Statutes. Existing law also generally requires the Division to administer a risk and needs assessment to each parolee and probationer under the supervision of the Division for the purpose of establishing a level of supervision and develop an individualized case plan for each parolee and probationer. (NRS 213.1078) **Section 23** of this bill removes references to probation and probationers from such provisions to make the provisions applicable only to parole and parolees, and **section 8** of this bill establishes a new section that applies only to probation and probationers.

Sections 3, 10, 11, 13, 16-18, 24-26 and 28-31 of this bill remove the use of the obsolete terms "intensive supervision" and "strict supervision" in the Nevada Revised Statutes with regard to the supervision of probationers and parolees and replace such terms with the term "enhanced supervision."

Existing law provides that there is a reasonable inference that a person has embezzled a vehicle if the person leased or rented the vehicle and willfully and intentionally failed to return the vehicle to its owner within 72 hours after the lease or rental agreement expired. (NRS 205.312) Existing law provides that a person who is guilty of embezzlement is punished in the manner prescribed by law for the stealing or larceny of property of the kind and name of the money, goods, property or effects taken, converted, stolen used or appropriated. (NRS 205.300) Existing law also provides that a person who commits an offense involving a stolen vehicle is guilty of a category C felony and is additionally required to pay restitution. (NRS 205.273) **Section 19** of this bill specifies that a person who is convicted of embezzling a vehicle is also guilty of a category C felony and is additionally required to pay restitution.

Existing law generally provides that a person who is convicted of the possession of 1 ounce or less of marijuana is guilty of a misdemeanor for the first or second offense, a gross misdemeanor for the third offense and a category E felony for the fourth or subsequent offense, and a person who knowingly or intentionally sells, manufactures, delivers or brings into this State, or who is knowingly or intentionally in actual or constructive possession of, 50 pounds or more, but less than 1,000 pounds, of marijuana or 1 pound or more, but less than 20 pounds, of concentrated cannabis is guilty of a category C felony. (NRS 453.336, 453.339) Existing law exempts a person who is 21 years of age or older from state prosecution for the possession, delivery or production of 1 ounce or less of usable cannabis or one-eighth of an ounce of concentrated cannabis. (NRS 678D.200)



Section 32 of this bill generally provides that a person who is convicted of the possession of more than 1 ounce, but less than 50 pounds, of marijuana or more than one-eighth of an ounce, but less than one pound, of concentrated cannabis, is guilty of a category E felony.

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

Section 1. NRS 176.01327 is hereby amended to read as follows:

176.01327 The Executive Director appointed pursuant to NRS 176.01323 shall:

1. Oversee all of the functions of the Department.

2. Serve as Executive Secretary of the Sentencing Commission without additional compensation.

3. Report to the Sentencing Commission on sentencing and related issues regarding the functions of the Department and provide such information to the Sentencing Commission as requested.

4. Assist the Sentencing Commission in determining necessary and appropriate recommendations to assist in carrying out the responsibilities of the Department.

5. Establish the budget for the Department.

6. Facilitate the collection and aggregation of data from the courts, Department of Corrections, Division of Parole and Probation of the Department of Public Safety and any other agency of criminal justice.

7. Identify variables or sets of data concerning criminal justice that are not currently collected or shared across agencies of criminal justice within this State.

8. Assist in preparing and submitting the comprehensive report required to be prepared by the Sentencing Commission pursuant to subsection 11 of NRS 176.0134.

9. *Assist the Sentencing Commission in carrying out its duties pursuant to subsections 2 and 3 of NRS 176.01347 relating to the calculation of the costs avoided by this State for the immediately preceding fiscal year because of the enactment of chapter 633, Statutes of Nevada 2019, and the preparation of a report containing the projected amount of such costs for the next biennium and recommendations for the reinvestment of the amount of the costs.*

10. Take any other actions necessary to carry out the powers and duties of the Sentencing Commission pursuant to NRS 176.0131 to 176.014, inclusive.

Sec. 2. NRS 176.0134 is hereby amended to read as follows:

176.0134 The Sentencing Commission shall:



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

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

15 3. Recommend changes in the structure of sentencing in this
16 State which, to the extent practicable and with consideration for
17 their fiscal impact, incorporate general objectives and goals for
18 sentencing, including, without limitation, the following:

19 (a) Offenders must receive sentences that increase in direct
20 proportion to the severity of their crimes and their histories of
21 criminality.

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

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

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

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

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

41 (g) Offenders must receive sentences which are based upon the
42 specific circumstances and facts of their offenses, including the
43 nature of the offense and any aggravating factors, the savagery of
44 the offense, as evidenced by the extent of any injury to the victim,



1 and the degree of criminal sophistication demonstrated by the
2 offender's acts before, during and after commission of the offense.

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

6 5. Provide training regarding sentencing and related issues,
7 policies and practices, and act as a sentencing policy resource for
8 this State.

9 6. Evaluate the impact of pretrial, sentencing diversion,
10 incarceration and postrelease supervision programs.

11 7. Identify potential areas of sentencing disparity related to
12 race, gender and economic status.

13 8. Propose and recommend statutory sentencing guidelines,
14 based on reasonable offense and offender characteristics which aim
15 to preserve judicial discretion and provide for individualized
16 sentencing, for the use of the district courts. If such guidelines are
17 enacted by the Legislature, the Sentencing Commission shall review
18 and propose any recommended changes.

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

23 10. Provide recommendations and advice to the Executive
24 Director concerning the administration of the Department,
25 including, without limitation:

26 (a) Receiving reports from the Executive Director and providing
27 advice to the Executive Director concerning measures to be taken by
28 the Department to ensure compliance with the duties of the
29 Sentencing Commission.

30 (b) Reviewing information from the Department regarding
31 sentencing of offenders in this State.

32 (c) Requesting any audit, investigation or review the Sentencing
33 Commission deems necessary to carry out the duties of the
34 Sentencing Commission.

35 (d) Coordinating with the Executive Director regarding the
36 procedures for the identification and collection of data concerning
37 the sentencing of offenders in this State.

38 (e) Advising the Executive Director concerning any required
39 reports and reviewing drafts of such reports.

40 (f) Making recommendations to the Executive Director
41 concerning the budget for the Department, improvements to the
42 criminal justice system and legislation related to the duties of the
43 Sentencing Commission.

44 (g) Providing advice and recommendations to the Executive
45 Director on any other matter.



11. For each regular session of the Legislature, with the assistance of the Department, prepare a comprehensive report including ~~the Sentencing Commission's:~~

(a) ~~The Sentencing Commission's recommended~~ **Recommended** changes pertaining to sentencing; ~~and~~
(b) ~~The Sentencing Commission's findings and any recommendations~~ **Findings;**

(c) **Recommendations** for proposed legislation ~~H~~ ;

(d) **Identification of outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 176.01343;**

(e) **Identification of trends observed after the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraph (d) of subsection 1 of NRS 176.01343;**

(f) **Identification of gaps in the State's data tracking capabilities related to the criminal justice system and recommendations for filling any such gaps as required pursuant to paragraph (e) of subsection 1 of NRS 176.01343;**

(g) **Recommendations for improvements, changes and budgetary adjustments; and**

(h) **Additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.**

12. Submit the report prepared pursuant to subsection 11 **not later than January 15 of each odd-numbered year** to:

(a) The Office of the Governor; ~~and~~

(b) The Director of the Legislative Counsel Bureau for distribution to the Legislature ~~not later than January 1 of each odd-numbered year.~~ ; and

(c) **The Chief Justice of the Nevada Supreme Court.**

Sec. 3. NRS 176.0134 is hereby amended to read as follows:

176.0134 The Sentencing Commission shall:

1. Advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to 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, without limitation, the use of plea bargaining, probation, programs of **enhanced** supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and



1 distribution of controlled substances, enhanced penalties for habitual
2 criminals, parole, credits against sentences, residential confinement
3 and alternatives to incarceration.

4 3. Recommend changes in the structure of sentencing in this
5 State which, to the extent practicable and with consideration for
6 their fiscal impact, incorporate general objectives and goals for
7 sentencing, including, without limitation, the following:

8 (a) Offenders must receive sentences that increase in direct
9 proportion to the severity of their crimes and their histories of
10 criminality.

11 (b) Offenders who have extensive histories of criminality or
12 who have exhibited a propensity to commit crimes of a predatory or
13 violent nature must receive sentences which reflect the need to
14 ensure the safety and protection of the public and which allow for
15 the imprisonment for life of such offenders.

16 (c) Offenders who have committed offenses that do not include
17 acts of violence and who have limited histories of criminality must
18 receive sentences which reflect the need to conserve scarce
19 economic resources through the use of various alternatives to
20 traditional forms of incarceration.

21 (d) Offenders with similar histories of criminality who are
22 convicted of similar crimes must receive sentences that are generally
23 similar.

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

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

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

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

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

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

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



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

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

10. Provide recommendations and advice to the Executive Director concerning the administration of the Department, including, without limitation:

(a) Receiving reports from the Executive Director and providing advice to the Executive Director concerning measures to be taken by the Department to ensure compliance with the duties of the Sentencing Commission.

(b) Reviewing information from the Department regarding sentencing of offenders in this State.

(c) Requesting any audit, investigation or review the Sentencing Commission deems necessary to carry out the duties of the Sentencing Commission.

(d) Coordinating with the Executive Director regarding the procedures for the identification and collection of data concerning the sentencing of offenders in this State.

(e) Advising the Executive Director concerning any required reports and reviewing drafts of such reports.

(f) Making recommendations to the Executive Director concerning the budget for the Department, improvements to the criminal justice system and legislation related to the duties of the Sentencing Commission.

(g) Providing advice and recommendations to the Executive Director on any other matter.

11. For each regular session of the Legislature, with the assistance of the Department, prepare a comprehensive report including the Sentencing Commission's:

(a) Recommended changes pertaining to sentencing;

(b) Findings;

(c) Recommendations for proposed legislation;

(d) Identification of outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 176.01343;

(e) Identification of trends observed after the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and



assessed as required pursuant to paragraph (d) of subsection 1 of NRS 176.01343;

(f) Identification of gaps in the State's data tracking capabilities related to the criminal justice system and recommendations for filling any such gaps as required pursuant to paragraph (e) of subsection 1 of NRS 176.01343;

(g) Recommendations for improvements, changes and budgetary adjustments; and

(h) Additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.

12. Submit the report prepared pursuant to subsection 11 not later than January 15 of each odd-numbered year to:

(a) The Office of the Governor;

(b) The Director of the Legislative Counsel Bureau for distribution to the Legislature; and

(c) The Chief Justice of the Nevada Supreme Court.

Sec. 4. NRS 176.01343 is hereby amended to read as follows:

176.01343 1. The Sentencing Commission shall:

(a) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data from the Department of Corrections:

(1) With respect to prison admissions:

(I) The total number of persons admitted to prison by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age and, if measured upon intake, risk score;

(II) The average minimum and maximum sentence term by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score; and

(III) The number of persons who received a clinical assessment identifying a mental health or substance use disorder upon intake.

(2) With respect to parole and release from prison:

(I) The average length of stay in prison for each type of release by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons released from prison each year by type of release, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;



(III) The recidivism rate of persons released from prison by type of release; and

(IV) The total number of persons released from prison each year who return to prison within 36 months by type of admission, type of release, type of return to prison, including, without limitation, whether such a subsequent prison admission was the result of a new felony conviction or a revocation of parole due to a technical violation, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score.

(3) With respect to the number of persons in prison:

(I) The total number of persons held in prison on December 31 of each year, not including those persons released from a term of prison who reside in a parole housing unit, by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons held in prison on December 31 of each year who have been granted parole by the State Board of Parole Commissioners but remain in custody, and the reasons therefor;

(III) The total number of persons held in prison on December 31 of each year who are serving a sentence of life with or without the possibility of parole or who have been sentenced to death; and

(IV) The total number of persons as of December 31 of each year who have started a treatment program while in prison, have completed a treatment program while in prison and are awaiting a treatment program while in prison, by type of treatment program and type of offense.

(b) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to the following data, which the Division shall collect and report to the Sentencing Commission:

(1) With respect to the number of persons on probation or parole:

(I) The total number of supervision intakes by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The average term of probation imposed for persons on probation by type of offense;

(III) The average time served by persons on probation or parole by type of discharge, felony category and type of offense;



* A B 3 9 3 R 1 *

(IV) The average time credited to a person's term of probation or parole as a result of successful compliance with supervision;

(V) The total number of supervision discharges by type of discharge, including, without limitation, honorable discharges and dishonorable discharges, and cases resulting in a return to prison;

(VI) The recidivism rate of persons discharged from supervision by type of discharge, according to the Division's internal definition of recidivism;

(VII) The number of persons identified as having a mental health issue or a substance use disorder; and

(VIII) The total number of persons on probation or parole who are located within this State on December 31 of each year, not including those persons who are under the custody of the Department of Corrections.

(2) With respect to persons on probation or parole who violate a condition of supervision or commit a new offense:

(I) The total number of revocations and the reasons therefor, including, without limitation, whether the revocation was the result of a mental health issue or substance use disorder;

(II) The average amount of time credited to a person's suspended sentence or the remainder of the person's sentence from time spent on supervision;

(III) The total number of persons receiving administrative or jail sanctions, by type of offense and felony category; and

(IV) The median number of administrative sanctions issued by the Division to persons on supervision, by type of offense and felony category.

(c) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to savings and reinvestment, including, without limitation:

(1) The total amount of annual savings resulting from the enactment of any legislation relating to the criminal justice system;

(2) The total annual costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019, as calculated pursuant to NRS 176.01347; and

(3) The entities that received reinvestment funds, the total amount directed to each such entity and a description of how the funds were used.

(d) Track and assess trends observed after the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data, which the Central Repository for Nevada Records of Criminal History shall collect and report to the Sentencing Commission as reported to the Federal Bureau of Investigation:



(1) The uniform crime rates for this State and each county in this State by index crimes and type of crime; and

(2) The percentage changes in uniform crime rates for this State and each county in this State over time by index crimes and type of crime.

(e) Identify gaps in this State’s data tracking capabilities related to the criminal justice system and make recommendations for filling any such gaps.

~~(f) [Prepare and submit a report not later than the first day of the second full week of each regular session of the Legislature to the Governor, the Director of the Legislative Counsel Bureau for transmittal to the Legislature and the Chief Justice of the Nevada Supreme Court. The report must include recommendations for improvements, changes and budgetary adjustments and may also present additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.~~

—(g)— Employ and retain other professional staff as necessary to coordinate performance and outcome measurement and develop the report required pursuant to this section.

2. As used in this section:

(a) “Technical violation” has the meaning ascribed to it in NRS 176A.510.

(b) “Type of admission” means the manner in which a person entered into the custody of the Department of Corrections, according to the internal definitions used by the Department of Corrections.

(c) “Type of offense” means an offense categorized by the Department of Corrections as a violent offense, sex offense, drug offense, property offense, DUI offense or other offense, consistent with the internal data systems used by the Department of Corrections.

Sec. 5. NRS 176.01347 is hereby amended to read as follows:

176.01347 1. The Sentencing Commission shall develop a formula to calculate for each fiscal year the amount of costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019. The formula must include, without limitation, a comparison of:

(a) The annual projection of the number of persons who will be in a facility or institution of the Department of Corrections which was created by the Office of Finance pursuant to NRS 176.0129 for calendar year 2018; and

(b) The actual number of persons who are in a facility or institution of the Department of Corrections during each year.

2. Not later than December 1 of each fiscal year, the Sentencing Commission shall , *with the assistance of the*



Department, use the formula developed pursuant to subsection 1 to calculate the costs avoided by this State for the immediately preceding fiscal year because of the enactment of chapter 633, Statutes of Nevada 2019, and submit a statement of the amount of the costs avoided to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

3. Not later than August 1 of each even-numbered year, the Sentencing Commission shall , **with the assistance of the Department**, prepare a report containing the projected amount of costs avoided by this State for the next biennium because of the enactment of chapter 633, Statutes of Nevada 2019, and recommendations for the reinvestment of the amount of those costs to provide financial support to programs and services that address the behavioral health needs of persons involved in the criminal justice system in order to reduce recidivism. In preparing the report, the Sentencing Commission shall prioritize providing financial support to:

(a) The Department of Corrections for programs for reentry of offenders and parolees into the community, programs for vocational training and employment of offenders, educational programs for offenders and transitional work programs for offenders;

(b) The Division for services for offenders reentering the community, the supervision of probationers and parolees and programs of treatment for probationers and parolees that are proven by scientific research to reduce recidivism;

(c) Any behavioral health field response grant program developed and implemented pursuant to NRS 289.675;

(d) The Housing Division of the Department of Business and Industry to create or provide transitional housing for probationers and parolees and offenders reentering the community; and

(e) The Nevada Local Justice Reinvestment Coordinating Council created by NRS 176.014 for the purpose of making grants to counties for programs and treatment that reduce recidivism of persons involved in the criminal justice system.

4. Not later than August 1 of each even-numbered year, the Sentencing Commission shall submit the report prepared pursuant to subsection 3 to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 6. NRS 176.014 is hereby amended to read as follows:

176.014 1. The Nevada Local Justice Reinvestment Coordinating Council is hereby created. The Council consists of:

(a) One member from each county in this State whose population is less than 100,000; and



(b) Two members from each county in this State whose population is 100,000 or more.

2. Each member of the Council must be appointed by the governing body of the applicable county **H and must meet any qualifications adopted by the Sentencing Commission pursuant to subsection 7.** The Chair of the Sentencing Commission shall appoint the Chair of the Council from among the members of the Council.

3. The Council shall:

(a) Advise the Sentencing Commission on matters related to any legislation, regulations, rules, budgetary changes and all other actions needed to implement the provisions of Chapter 633, Statutes of Nevada 2019, as they relate to local governments;

(b) Identify county-level programming and treatment needs for persons involved in the criminal justice system for the purpose of reducing recidivism;

(c) Make recommendations to the Sentencing Commission regarding grants to local governments and nonprofit organizations from the State General Fund;

(d) Oversee the implementation of local grants;

(e) Create performance measures to assess the effectiveness of the grants; and

(f) Identify opportunities for collaboration with the Department of Health and Human Services at the state and county level for treatment services and funding.

4. Each member of the Council 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 Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

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

6. To the extent of legislative appropriation, the Sentencing Commission shall provide the Council with such staff as is necessary to carry out the duties of the Council pursuant to this section.

7. The Sentencing Commission may adopt any qualifications that a person must meet before being appointed as a member of the Council.



Sec. 6.5. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 10 consecutive years after the person's last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a ~~person professionally qualified to conduct psychosexual evaluations,~~ **licensed, clinical professional who has received training in the treatment of sexual offenders,** if released from lifetime supervision.

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless the person is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:

(1) An offense that involves:

(I) A victim less than 18 years of age;

(II) A crime against a child as defined in NRS 179D.0357;

(III) A sexual offense as defined in NRS 179D.097;

(IV) A deadly weapon, explosives or a firearm;

(V) The use or threatened use of force or violence;

(VI) Physical or mental abuse;

(VII) Death or bodily injury;

(VIII) An act of domestic violence;

(IX) Harassment, stalking, threats of any kind or other similar acts;



(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(b) ~~["Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.~~

~~—(c)~~ "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 7. NRS 176.145 is hereby amended to read as follows:

176.145 1. The report of any presentence investigation must contain:

(a) Any:

(1) Prior criminal convictions of the defendant;

(2) Unresolved criminal cases involving the defendant;

(3) Incidents in which the defendant has failed to appear in court when his or her presence was required;

(4) Arrests during the 10 years immediately preceding the date of the offense for which the report is being prepared; and

(5) Participation in any program in a specialty court or any diversionary program, including whether the defendant successfully completed the program;

(b) Information concerning the characteristics of the defendant, the defendant's financial condition, including whether the information pertaining to the defendant's financial condition has been verified, the circumstances affecting the defendant's behavior and the circumstances of the defendant's offense that may be helpful in imposing sentence, in granting probation or in the correctional treatment of the defendant;



(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of the victim, and the extent of any investigation or examination is solely at the discretion of the court or the Division and the extent of the information to be included in the report is solely at the discretion of the Division;

(d) Information concerning whether the defendant has an obligation for the support of a child, and if so, whether the defendant is in arrears in payment on that obligation;

(e) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS and NRS 392.275 to 392.365, inclusive, that relate to the defendant and are made available pursuant to NRS 432B.290 or NRS 392.317 to 392.337, inclusive, as applicable;

(f) The results of any evaluation or assessment of the defendant conducted pursuant to NRS 176A.240, 176A.260, 176A.280 or 484C.300; *and*

(g) If a psychosexual evaluation of the defendant is required pursuant to NRS 176.139, a written report of the results of the psychosexual evaluation of the defendant and all information that is necessary to carry out the provisions of NRS 176A.110 . ~~}; and~~

~~—(h) Such other information as may be required by the court.}~~

2. The Division shall include in the report the source of any information, as stated in the report, related to the defendant's offense, including, without limitation, information from:

(a) A police report;

(b) An investigative report filed with law enforcement; or

(c) Any other source available to the Division.

3. The Division may include in the report any additional information that it believes may be helpful in imposing a sentence, in granting probation or in correctional treatment.

Sec. 8. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the Division shall administer a risk and needs assessment to each probationer under the Division's supervision. The results of the risk and needs assessment must be used to set a level of supervision for each probationer and to develop individualized case plans pursuant to subsection 4. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.



2. Except as otherwise provided in subsection 3, on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each probationer. The results of the risk and needs assessment conducted in accordance with this section must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.

3. The provisions of subsections 1 and 2 are not applicable if:

(a) The level of supervision for the probationer is set by the court or by law; or

(b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to NRS 176A.300 to 176A.370, inclusive.

4. The Division shall develop an individualized case plan for each probationer. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each probationer.

5. Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.400 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2, the supervising officer shall seek a modification of the terms and conditions from the court pursuant to subsection 1 of NRS 176A.450.

6. The risk and needs assessment required under this section must undergo periodic validation studies in accordance with the timeline established by the developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.

Sec. 9. NRS 176A.100 is hereby amended to read as follows:

176A.100 1. Except as otherwise provided in this section and NRS 176A.110 and 176A.120, if a person is found guilty in a district court upon verdict or plea of:

(a) Murder of the first or second degree, kidnapping in the first degree, sexual assault, attempted sexual assault of a child who is less than 16 years of age, lewdness with a child pursuant to NRS 201.230, an offense for which the suspension of sentence or the granting of probation is expressly forbidden, or if the person is found to be a habitual criminal pursuant to NRS 207.010, a



1 habitually fraudulent felon pursuant to NRS 207.014 or a habitual
2 felon pursuant to NRS 207.012, the court shall not suspend the
3 execution of the sentence imposed or grant probation to the person.

4 (b) A category E felony, except as otherwise provided in this
5 paragraph, the court shall suspend the execution of the sentence
6 imposed and grant probation to the person. The court may, as it
7 deems advisable, decide not to suspend the execution of the
8 sentence imposed and grant probation to the person if, at the time of
9 sentencing, it is established that the person had previously been two
10 times convicted, whether in this State or elsewhere, of a crime that
11 under the laws of the situs of the crime or of this State would
12 amount to a felony. If the person denies the existence of a previous
13 conviction, the court shall determine the issue of the previous
14 conviction after hearing all relevant evidence presented on the issue
15 by the prosecution and the person. At such a hearing, the person
16 may not challenge the validity of a previous conviction. For the
17 purposes of this paragraph, a certified copy of a felony conviction is
18 prima facie evidence of conviction of a prior felony.

19 (c) Another felony, a gross misdemeanor or a misdemeanor, the
20 court may suspend the execution of the sentence imposed and grant
21 probation as the court deems advisable.

22 2. In determining whether to grant probation to a person, the
23 court shall not consider whether the person has the financial ability
24 to participate in a program of probation secured by a surety bond
25 established pursuant to NRS 176A.300 to 176A.370, inclusive.

26 3. ~~{The court shall consider the standards adopted pursuant to~~
27 ~~NRS 213.10988 and the recommendation of the Chief Parole and~~
28 ~~Probation Officer, if any, in determining whether to grant probation~~
29 ~~to a person.~~

30 ~~—4.~~ If the court determines that a person is otherwise eligible
31 for probation but requires more supervision than would normally be
32 provided to a person granted probation, the court may, in lieu of
33 sentencing the person to a term of imprisonment, grant probation
34 pursuant to the Program of ~~{Intensive}~~ **Enhanced** Supervision
35 established pursuant to NRS 176A.440.

36 ~~{5.}~~ 4. Except as otherwise provided in this subsection, if a
37 person is convicted of a felony and the Division is required to make
38 a presentence investigation and report to the court pursuant to NRS
39 176.135, the court shall not grant probation to the person until the
40 court receives the report of the presentence investigation from the
41 Chief Parole and Probation Officer. The Chief Parole and Probation
42 Officer shall submit the report of the presentence investigation to
43 the court not later than 45 days after receiving a request for a
44 presentence investigation from the county clerk. If the report of the
45 presentence investigation is not submitted by the Chief Parole and



1 Probation Officer within 45 days, the court may grant probation
2 without the report.

3 ~~16.1~~ 5. If the court determines that a person is otherwise
4 eligible for probation, the court shall, when determining the
5 conditions of that probation, consider the imposition of such
6 conditions as would facilitate timely payments by the person of an
7 obligation, if any, for the support of a child and the payment of any
8 such obligation which is in arrears.

9 **Sec. 10.** NRS 176A.310 is hereby amended to read as follows:
10 176A.310 1. The court shall set the conditions of a program
11 of probation secured by a surety bond. The conditions must be
12 appended to and made part of the bond. The conditions may include,
13 but are not limited to, any one or more of the following:

14 (a) Submission to periodic tests to determine whether the
15 probationer is using any controlled substance or alcohol.

16 (b) Participation in a program for the treatment of the use of a
17 controlled substance or alcohol or a program for the treatment of
18 any other impairment.

19 (c) Participation in a program of professional counseling,
20 including, but not limited to, counseling for the family of the
21 probationer.

22 (d) Restrictions or a prohibition on contact or communication
23 with witnesses or victims of the crime committed by the
24 probationer.

25 (e) A requirement to obtain and keep employment.

26 (f) Submission to a Program of ~~Intensive~~ **Enhanced**
27 Supervision.

28 (g) Restrictions on travel by the probationer outside the
29 jurisdiction of the court.

30 (h) Payment of restitution.

31 (i) Payment of fines and court costs.

32 (j) Supervised community service.

33 (k) Participation in educational courses.

34 2. A surety shall:

35 (a) Provide the facilities or equipment necessary to:

36 (1) Perform tests to determine whether the probationer is
37 using any controlled substance or alcohol, if the court requires such
38 tests as a condition of probation;

39 (2) Carry out a Program of ~~Intensive~~ **Enhanced**
40 Supervision, if the court requires such a Program as a condition of
41 probation; and

42 (3) Enable the probationer to report regularly to the surety.

43 (b) Notify the court within 24 hours after the surety has
44 knowledge of a violation of or a failure to fulfill a condition of the
45 program of probation.



3. A probationer participating in a program of probation secured by a surety bond shall:

- (a) Report regularly to the surety; and
- (b) Pay the fee charged by the surety for the execution of the bond.

Sec. 11. NRS 176A.440 is hereby amended to read as follows:

176A.440 1. The Chief Parole and Probation Officer shall develop a program for the ~~intensive~~ **enhanced** supervision of a person granted probation pursuant to subsection ~~4~~ **3** of NRS 176A.100.

2. The Program of ~~Intensive~~ **Enhanced** Supervision must include an initial period of electronic supervision of the probationer with an electronic device approved by the Division. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the probationer's location, including, but not limited to, the transmission of still visual images which do not concern the probationer's activities, and producing, upon request, reports or records of the probationer's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

- (a) Oral or wire communications or any auditory sound; or
- (b) Information concerning the probationer's activities,

↪ must not be used.

Sec. 12. NRS 176A.510 is hereby amended to read as follows:

176A.510 1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of probation . ~~for parole.~~ The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person's ability to successfully complete any conditions of supervision, the severity of the current violation, the person's previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.

2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.



3. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

4. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

5. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of probation .

~~for parole.~~

6. The Division may not seek revocation of probation ~~for parole~~ for a technical violation of the conditions of probation ~~for parole~~ until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the court or Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

7. As used in this section:

(a) "Absconding" has the meaning ascribed to it in NRS 176A.630.

(b) "Responsivity factors" has the meaning ascribed to it in NRS 213.107.

(c) "Technical violation" means any alleged violation of the conditions of probation ~~for parole~~ that does not constitute absconding and is not the commission of a:

(1) New felony or gross misdemeanor;

(2) Battery which constitutes domestic violence pursuant to NRS 200.485;

(3) Violation of NRS 484C.110 or 484C.120;

(4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;

(5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

(6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or



(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised.

➤ The term does not include termination from a specialty court program.

Sec. 13. NRS 176A.540 is hereby amended to read as follows:

176A.540 1. ~~{The}~~ *Except as otherwise provided in subsection 4, the* Chief Parole and Probation Officer may order the residential confinement of a probationer if the Chief Parole and Probation Officer believes that the probationer poses no danger to the community and will appear at a scheduled ~~{inquiry or}~~ court hearing.

2. In ordering the residential confinement of a probationer, the Chief Parole and Probation Officer shall:

(a) Require the probationer to be confined to the probationer's residence during the time the probationer is away from any employment, community service or other activity authorized by the Division; and

(b) Require ~~{intensive}~~ *enhanced* supervision of the probationer, including, without limitation, unannounced visits to the probationer's residence or other locations where the probationer is expected to be to determine whether the probationer is complying with the terms of confinement.

3. An electronic device approved by the Division may be used to supervise a probationer who is ordered to be placed in residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the probationer's location, including, but not limited to, the transmission of still visual images which do not concern the probationer's activities, and producing, upon request, reports or records of the probationer's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the probationer's activities,

➤ must not be used.

4. The Chief Parole and Probation Officer shall not order a probationer to be placed in residential confinement unless the probationer agrees to the order.

5. Any residential confinement must not extend beyond the unexpired maximum term of the original sentence.

Sec. 14. NRS 176A.560 is hereby amended to read as follows:

176A.560 1. The Chief Parole and Probation Officer may terminate the residential confinement of a probationer and order the



detention of the probationer in a county jail pending ~~an inquiry or~~
a court hearing if:

(a) The probationer violates the terms or conditions of the residential confinement; or

(b) The Chief Parole and Probation Officer, in his or her discretion, determines that the probationer poses a danger to the community or that there is a reasonable doubt that the probationer will appear at the ~~inquiry or~~ hearing.

2. A probationer has no right to dispute a decision to terminate the residential confinement.

Sec. 15. NRS 176A.630 is hereby amended to read as follows:

176A.630 1. If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it ~~it~~ and consider the ~~standards adopted pursuant to NRS 213.10988 and~~ system of graduated sanctions adopted pursuant to NRS 176A.510, ~~as~~ if applicable . ~~and the recommendation, if any, of the Chief Parole and Probation Officer.~~ Upon determining that the probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. If the court finds that the probationer committed a violation of a condition of probation by committing a new felony or gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485, violation of NRS 484C.110 or 484C.120, crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor, harassment pursuant to NRS 200.571, stalking or aggravated stalking pursuant to NRS 200.575, violation of a stay away order involving a natural person who is the victim of the crime for which the probationer is being supervised, violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 or by absconding, the court may:

(a) Continue or revoke the probation or suspension of sentence;

(b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;



(c) Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;

(d) Cause the sentence imposed to be executed; or

(e) Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this paragraph. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this paragraph is confidential.

2. If the court finds that the probationer committed one or more technical violations of the conditions of probation, the court may:

(a) Continue the probation or suspension of sentence;

(b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

(c) Temporarily revoke the probation or suspension of sentence and impose a term of imprisonment of not more than:

(1) Thirty days for the first temporary revocation;

(2) Ninety days for the second temporary revocation; or

(3) One hundred and eighty days for the third temporary revocation; or

(d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a fourth or subsequent revocation.

3. Notwithstanding any other provision of law, a probationer who is arrested and detained for committing a technical violation of the conditions of probation must be brought before the court not later than 15 calendar days after the date of arrest and detention. If the person is not brought before the court within 15 calendar days,



* A B 3 9 3 R 1 *

1 the probationer must be released from detention and returned to
2 probation status. Following a probationer's release from detention,
3 the court may subsequently hold a hearing to determine if a
4 technical violation has occurred. If the court finds that such a
5 technical violation occurred, the court may:

6 (a) Continue probation and modify the terms and conditions of
7 probation; or

8 (b) Fully or temporarily revoke probation in accordance with the
9 provisions of subsection 2.

10 4. The commission of one of the following acts by a
11 probationer must not, by itself, be used as the only basis for the
12 revocation of probation:

13 (a) Consuming any alcoholic beverage.

14 (b) Testing positive on a drug or alcohol test.

15 (c) Failing to abide by the requirements of a mental health or
16 substance use treatment program.

17 (d) Failing to seek and maintain employment.

18 (e) Failing to pay any required fines or fees.

19 (f) Failing to report any changes in residence.

20 5. As used in this section:

21 (a) "Absconding" means that a person is actively avoiding
22 supervision by making his or her whereabouts unknown to the
23 Division for a continuous period of 60 days or more.

24 (b) "Technical violation" means any alleged violation of the
25 conditions of probation that does not constitute absconding and is
26 not the commission of a:

27 (1) New felony or gross misdemeanor;

28 (2) Battery which constitutes domestic violence pursuant to
29 NRS 200.485;

30 (3) Violation of NRS 484C.110 or 484C.120;

31 (4) Crime of violence as defined in NRS 200.408 that is
32 punishable as a misdemeanor;

33 (5) Harassment pursuant to NRS 200.571 or stalking or
34 aggravated stalking pursuant to NRS 200.575;

35 (6) Violation of a temporary or extended order for protection
36 against domestic violence issued pursuant to NRS 33.017 to 33.100,
37 inclusive, a restraining order or injunction that is in the nature of a
38 temporary or extended order for protection against domestic
39 violence issued in an action or proceeding brought pursuant to title
40 11 of NRS, a temporary or extended order for protection against
41 stalking, aggravated stalking or harassment issued pursuant to NRS
42 200.591 or a temporary or extended order for protection against
43 sexual assault pursuant to NRS 200.378; or



(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the probationer is being supervised.

➡ The term does not include termination from a specialty court program.

Sec. 16. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. ~~¶¶~~ *Except as otherwise provided in subsection 4, if* a person who has been placed on probation violates a condition of probation, the court may order the person to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that the person be placed under the supervision of the Division and require:

(1) The person to be confined to the person's residence during the time the person is away from any employment, community service or other activity authorized by the Division; and

(2) ~~Intensive~~ *Enhanced* supervision of the person, including, without limitation, unannounced visits to the person's residence or other locations where the person is expected to be in order to determine whether the person is complying with the terms of confinement; or

(b) If the person was placed on probation for a felony conviction, direct that the person be placed under the supervision of the Department of Corrections and require the person to be confined to a facility or institution of the Department for a period not to exceed 6 months. The Department may select the facility or institution in which to place the person.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's location, including, but not limited to, the transmission of still visual images which do not concern the person's activities, and producing, upon request, reports or records of the person's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities,
➡ must not be used.



4. The court shall not order a person to a term of residential confinement unless the person agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of a sentence imposed by the court.

6. As used in this section:

(a) “Facility” has the meaning ascribed to it in NRS 209.065.

(b) “Institution” has the meaning ascribed to it in NRS 209.071.

Sec. 17. NRS 4.3762 is hereby amended to read as follows:

4.3762 1. Except as otherwise provided in subsection 7, in lieu of imposing any punishment other than a minimum sentence required by statute, a justice of the peace may sentence a person convicted of a misdemeanor to a term of residential confinement. In making this determination, the justice of the peace shall consider the criminal record of the convicted person and the seriousness of the crime committed.

2. In sentencing a convicted person to a term of residential confinement, the justice of the peace shall:

(a) Require the convicted person to be confined to his or her residence during the time the convicted person is away from his or her employment, public service or other activity authorized by the justice of the peace; and

(b) Require ~~intensive~~ **enhanced** supervision of the convicted person, including, without limitation, electronic surveillance and unannounced visits to his or her residence or other locations where the convicted person is expected to be to determine whether the convicted person is complying with the terms of his or her sentence.

3. In sentencing a convicted person to a term of residential confinement, the justice of the peace may, when the circumstances warrant, require the convicted person to submit to:

(a) A search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(b) Periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

4. Except as otherwise provided in subsection 5, an electronic device may be used to supervise a convicted person sentenced to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the person, including, but not limited to, the transmission of still visual images which do not concern the activities of the person, and producing, upon request, reports or records of the person’s presence near or within a crime scene or



1 prohibited area or his or her departure from a specified geographic
2 location. A device which is capable of recording or transmitting:

3 (a) Oral or wire communications or any auditory sound; or

4 (b) Information concerning the activities of the person,

5 must not be used.

6 5. An electronic device must be used in the manner set forth in
7 subsection 4 to supervise a person who is sentenced pursuant to
8 paragraph (b) of subsection 1 of NRS 484C.400 for a second
9 violation within 7 years of driving under the influence of
10 intoxicating liquor or a controlled substance.

11 6. A term of residential confinement, together with the term of
12 any minimum sentence required by statute, may not exceed the
13 maximum sentence which otherwise could have been imposed for
14 the offense.

15 7. The justice of the peace shall not sentence a person
16 convicted of committing a battery which constitutes domestic
17 violence pursuant to NRS 33.018 to a term of residential
18 confinement in lieu of imprisonment unless the justice of the peace
19 makes a finding that the person is not likely to pose a threat to the
20 victim of the battery.

21 8. The justice of the peace may issue a warrant for the arrest of
22 a convicted person who violates or fails to fulfill a condition of
23 residential confinement.

24 **Sec. 18.** NRS 5.076 is hereby amended to read as follows:

25 5.076 1. Except as otherwise provided in subsection 7, in lieu
26 of imposing any punishment other than a minimum sentence
27 required by statute, a municipal judge may sentence a person
28 convicted of a misdemeanor to a term of residential confinement. In
29 making this determination, the municipal judge shall consider the
30 criminal record of the convicted person and the seriousness of the
31 crime committed.

32 2. In sentencing a convicted person to a term of residential
33 confinement, the municipal judge shall:

34 (a) Require the convicted person to be confined to his or her
35 residence during the time the convicted person is away from his or
36 her employment, public service or other activity authorized by the
37 municipal judge; and

38 (b) Require ~~intensive~~ **enhanced** supervision of the convicted
39 person, including, without limitation, electronic surveillance and
40 unannounced visits to his or her residence or other locations where
41 the convicted person is expected to be in order to determine whether
42 the convicted person is complying with the terms of his or her
43 sentence.



3. In sentencing a convicted person to a term of residential confinement, the municipal judge may, when the circumstances warrant, require the convicted person to submit to:

(a) A search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(b) Periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

4. Except as otherwise provided in subsection 5, an electronic device may be used to supervise a convicted person sentenced to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the person, including, but not limited to, the transmission of still visual images which do not concern the activities of the person, and producing, upon request, reports or records of the person's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the person,
must not be used.

5. An electronic device must be used in the manner set forth in subsection 4 to supervise a person who is sentenced pursuant to paragraph (b) of subsection 1 of NRS 484C.400 for a second violation within 7 years of driving under the influence of intoxicating liquor or a controlled substance.

6. A term of residential confinement, together with the term of any minimum sentence required by statute, may not exceed the maximum sentence which otherwise could have been imposed for the offense.

7. The municipal judge shall not sentence a person convicted of committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement in lieu of imprisonment unless the municipal judge makes a finding that the person is not likely to pose a threat to the victim of the battery.

8. The municipal judge may issue a warrant for the arrest of a convicted person who violates or fails to fulfill a condition of residential confinement.

Sec. 19. NRS 205.312 is hereby amended to read as follows:

205.312 1. Whenever any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner within 72 hours after the lease or rental agreement has



expired, that person may reasonably be inferred to have embezzled the vehicle.

2. A person who is convicted of embezzling a vehicle pursuant to subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 20. NRS 209.432 is hereby amended to read as follows:

209.432 As used in NRS 209.432 to 209.453, inclusive, unless the context otherwise requires:

1. “Offender” includes:

(a) A person who is convicted of a felony under the laws of this State and sentenced, ordered or otherwise assigned to serve a term of residential confinement.

(b) A person who is convicted of a felony under the laws of this State and assigned to the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888.

2. “Residential confinement” means the confinement of a person convicted of a felony to his or her place of residence under the terms and conditions established pursuant to specific statute. The term does not include any confinement ordered pursuant to NRS ~~176A.530~~ 176A.540 to 176A.560, inclusive, 176A.660 to 176A.690, inclusive, 213.15105, 213.15193 or 213.152 to 213.1528, inclusive.

Sec. 21. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of parole. The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person’s ability to successfully complete any conditions of supervision, the severity of the current violation, the person’s previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.



2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

3. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

4. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

5. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of parole.

6. The Division may not seek revocation of parole for a technical violation of the conditions of parole until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

7. As used in this section:

(a) "Absconding" has the meaning ascribed to it in NRS 176A.630.

(b) "Technical violation" means any alleged violation of the conditions of parole that does not constitute absconding and is not the commission of a:

(1) New felony or gross misdemeanor;

(2) Battery which constitutes domestic violence pursuant to NRS 200.485;

(3) Violation of NRS 484C.110 or 484C.120;

(4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;

(5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

(6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or



extended order for protection against sexual assault pursuant to NRS 200.378; or

(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised.

↳ The term does not include termination from a specialty court program.

Sec. 22. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, **and section 21 of this act**, unless the context otherwise requires:

1. “Board” means the State Board of Parole Commissioners.

2. “Chief” means the Chief Parole and Probation Officer.

3. “Division” means the Division of Parole and Probation of the Department of Public Safety.

4. “Residential confinement” means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.

5. “Responsivity factors” means characteristics of a person that affect his or her ability to respond favorably or unfavorably to any treatment goals.

6. “Risk and needs assessment” means a validated, standardized actuarial tool that identifies risk factors that increase the likelihood of a person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending.

7. “Sex offender” means any person who has been or is convicted of a sexual offense.

8. “Sexual offense” means:

(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(b) An attempt to commit any offense listed in paragraph (a); or

(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

9. “Standards” means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

Sec. 23. NRS 213.1078 is hereby amended to read as follows:

213.1078 1. Except as otherwise provided in ~~subsections~~ **subsection 3**, ~~and 5,~~ the Division shall administer a risk and needs assessment to each ~~probationer and~~ parolee under the Division’s



supervision. The results of the risk and needs assessment must be used to set a level of supervision for each ~~{probationer and}~~ parolee and to develop individualized case plans pursuant to subsection ~~{6.}~~ 4. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.

2. ~~{Except as otherwise provided in subsection 3, on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each probationer. The results of the risk and needs assessment conducted in accordance with this section must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.~~

~~—3. The provisions of subsections 1 and 2 are not applicable if:~~

~~—(a) The level of supervision for the probationer is set by the court or by law; or~~

~~—(b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to NRS 176A.300 to 176A.370, inclusive.~~

~~—4.}~~ Except as otherwise provided in subsection ~~{5.}~~ 3, on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each parolee. The results of the risk and needs assessment conducted in accordance with this subsection must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the parolee of the change.

~~{5.}~~ 3. The provisions of subsections 1 and ~~{4}~~ 2 are not applicable if the level of supervision for the parolee is set by the Board or by law.

~~{6.}~~ 4. The Division shall develop an individualized case plan for each ~~{probationer and}~~ parolee. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each ~~{probationer or}~~ parolee.

~~{7.}~~ Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.400 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2, the supervising officer shall seek a modification



~~of the terms and conditions from the court pursuant to subsection 1 of NRS 176A.450.~~

~~8.1~~ 5. Upon a finding that a condition of parole or the level of parole supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or ~~4.1~~ 2, the supervising officer shall submit a request to the Board to modify the condition or level of supervision set by the Board. The Division shall provide written notification to the parolee of any modification.

~~19.1~~ 6. The risk and needs assessment required under this section must undergo periodic validation studies in accordance with the timeline established by the developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.

Sec. 24. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in this section and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,
➤ the prisoner must be released on parole 12 months before the end of his or her maximum term or maximum aggregate term, as applicable, as reduced by any credits the prisoner has earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that the prisoner committed the offense for which the prisoner was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his or her current term of imprisonment to his or her subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:

(a) The prisoner has served the minimum term or the minimum aggregate term of imprisonment imposed by the court, as applicable;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or



* A B 3 9 3 R 1 *

1 (2) Been housed in disciplinary segregation.

2 3. If a prisoner who meets the criteria set forth in subsection 2
3 is determined to be a high risk to reoffend in a sexual manner
4 pursuant to NRS 213.1214, the Board is not required to release the
5 prisoner on parole pursuant to this section. If the prisoner is not
6 granted parole, a rehearing date must be scheduled pursuant to
7 NRS 213.142.

8 4. The Board shall prescribe any conditions necessary for the
9 orderly conduct of the parolee upon his or her release.

10 5. Each parolee so released must be supervised closely by the
11 Division, in accordance with the plan for **enhanced** supervision
12 developed by the Chief pursuant to NRS 213.122.

13 6. If a prisoner meets the criteria set forth in subsection 1 and
14 there are no current requests for notification of hearings made in
15 accordance with subsection 4 of NRS 213.131 or, if the Board is not
16 required to provide notification of hearings pursuant to NRS
17 213.10915, the Board has not been notified by the automated victim
18 notification system that a victim of the prisoner has registered with
19 the system to receive notification of hearings, the Board may grant
20 parole to the prisoner without a meeting. If the Board finds that
21 there is a reasonable probability that a prisoner considered for
22 release on parole pursuant to subsection 1 will be a danger to public
23 safety while on parole, the Board may require the prisoner to serve
24 the balance of his or her sentence and not grant the parole. If,
25 pursuant to this subsection, the Board does not grant the parole
26 provided for in subsection 1, the Board shall provide to the prisoner
27 a written statement of its reasons for denying parole.

28 7. If the Board finds that there is a reasonable probability that a
29 prisoner considered for release on parole pursuant to subsection 2
30 will be a danger to public safety while on parole, the Board is not
31 required to grant the parole and shall schedule a rehearing pursuant
32 to NRS 213.142. Except as otherwise provided in subsection 3 of
33 NRS 213.1519, if a prisoner is not granted parole pursuant to this
34 subsection, the criteria set forth in subsection 2 must be applied at
35 each subsequent hearing until the prisoner is granted parole or
36 expires his or her sentence. If, pursuant to this subsection, the Board
37 does not grant the parole provided for in subsection 2, the Board
38 shall provide to the prisoner a written statement of its reasons for
39 denying parole, along with specific recommendations of the Board,
40 if any, to improve the possibility of granting parole the next time the
41 prisoner may be considered for parole.

42 8. If the prisoner is the subject of a lawful request from another
43 law enforcement agency that the prisoner be held or detained for
44 release to that agency, the prisoner must not be released on parole,
45 but released to that agency.



9. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

10. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled.

Sec. 25. NRS 213.122 is hereby amended to read as follows:

213.122 The Chief shall develop a statewide plan for the ~~strict~~ **enhanced** supervision of parolees released pursuant to NRS 213.1215. In addition to such other provisions as the Chief deems appropriate, the plan must provide for the supervision of such parolees by assistant parole and probation officers whose caseload allows for enhanced supervision of the parolees under their charge unless, because of the remoteness of the community to which the parolee is released, enhanced supervision is impractical.

Sec. 26. NRS 213.124 is hereby amended to read as follows:

213.124 1. Upon the granting of parole to a prisoner, the Board may require the parolee to submit to a program of ~~intensive~~ **enhanced** supervision as a condition of his or her parole.

2. The Chief shall develop a program for the ~~intensive~~ **enhanced** supervision of parolees required to submit to such a program pursuant to subsection 1. The program must include an initial period of electronic supervision of the parolee with an electronic device approved by the Division. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the parolee's location, including, but not limited to, the transmission of still visual images which do not concern the parolee's activities, and producing, upon request, reports or records of the parolee's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the parolee's activities,

↪ must not be used.

Sec. 27. NRS 213.150 is hereby amended to read as follows:

213.150 The Board may:

1. Make and enforce regulations covering the conduct of paroled prisoners.



2. Retake or cause to be retaken and imprisoned any prisoner so upon parole, subject to the procedures prescribed in NRS 213.151 to 213.1519, inclusive ~~[1]~~, and section 21 of this act.

Sec. 28. NRS 213.15193 is hereby amended to read as follows:

213.15193 1. Except as otherwise provided in ~~[subsection]~~ subsections 4 and 6, the Chief may order the residential confinement of a parolee if the Chief believes that the parolee does not pose a danger to the community and will appear at a scheduled ~~[inquiry or]~~ hearing.

2. In ordering the residential confinement of a parolee, the Chief shall:

(a) Require the parolee to be confined to his or her residence during the time the parolee is away from his or her employment, community service or other activity authorized by the Division; and

(b) Require ~~[intensive]~~ enhanced supervision of the parolee, including, without limitation, unannounced visits to his or her residence or other locations where the parolee is expected to be to determine whether the parolee is complying with the terms of his or her confinement.

3. An electronic device approved by the Division may be used to supervise a parolee who is ordered to be placed in residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the parolee, including, without limitation, the transmission of still visual images which do not concern the activities of the parolee, and producing, upon request, reports or records of the parolee's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee,
➔ must not be used.

4. The Chief shall not order a parolee to be placed in residential confinement unless the parolee agrees to the order.

5. Any residential confinement must not extend beyond the unexpired maximum term of the original sentence of the parolee.

6. The Chief shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to be placed in residential confinement unless the Chief makes a finding that the parolee is not likely to pose a threat to the victim of the battery.



Sec. 29. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in ~~{subsection}~~
subsections 5 and 7, if a parolee violates a condition of his or her
parole, the Board may order the parolee to a term of residential
confinement in lieu of suspending his or her parole and returning the
parolee to confinement. In making this determination, the Board
shall consider the criminal record of the parolee and the seriousness
of the crime committed.

2. In ordering the parolee to a term of residential confinement,
the Board shall:

(a) Require:

(1) The parolee to be confined to his or her residence during
the time the parolee is away from his or her employment,
community service or other activity authorized by the Division; and

(2) ~~{Intensive}~~ **Enhanced** supervision of the parolee,
including, without limitation, unannounced visits to his or her
residence or other locations where the parolee is expected to be in
order to determine whether the parolee is complying with the terms
of his or her confinement; or

(b) Require the parolee to be confined to a facility or institution
of the Department of Corrections for a period not to exceed 6
months. The Department may select the facility or institution in
which to place the parolee.

3. An electronic device approved by the Division may be used
to supervise a parolee ordered to a term of residential confinement.
The device may be capable of using the Global Positioning System,
but must be minimally intrusive and limited in capability to
recording or transmitting information concerning the location of the
parolee, including, but not limited to, the transmission of still visual
images which do not concern the activities of the parolee, and
producing, upon request, reports or records of the parolee's presence
near or within a crime scene or prohibited area or his or her
departure from a specified geographic location. A device which is
capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee,

↪ must not be used.

4. A parolee who is confined to a facility or institution of the
Department of Corrections pursuant to paragraph (b) of
subsection 2:

(a) May earn credits to reduce his or her sentence pursuant to
chapter 209 of NRS; and

(b) Shall not be deemed to be released on parole for purposes of
NRS 209.447 or 209.4475 during the period of that confinement.



* A B 3 9 3 R 1 *

5. The Board shall not order a parolee to a term of residential confinement unless the parolee agrees to the order.

6. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

7. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

8. As used in this section:

(a) “Facility” has the meaning ascribed to it in NRS 209.065.

(b) “Institution” has the meaning ascribed to it in NRS 209.071.

Sec. 30. NRS 213.1528 is hereby amended to read as follows:

213.1528 The Board shall establish procedures to administer a program of **enhanced** supervision for parolees who are ordered to a term of residential confinement pursuant to NRS 213.152.

Sec. 31. NRS 213.380 is hereby amended to read as follows:

213.380 1. The Division shall establish procedures for the residential confinement of offenders.

2. The Division may establish, and at any time modify, the terms and conditions of the residential confinement, except that the Division shall:

(a) Require the offender to participate in regular sessions of education, counseling and any other necessary or desirable treatment in the community, unless the offender is assigned to the custody of the Division pursuant to NRS 209.3923 or 209.3925;

(b) Require the offender to be confined to his or her residence during the time the offender is not:

(1) Engaged in employment or an activity listed in paragraph (a) that is authorized by the Division;

(2) Receiving medical treatment that is authorized by the Division; or

(3) Engaged in any other activity that is authorized by the Division; and

(c) Require ~~intensive~~ **enhanced** supervision of the offender, including unannounced visits to his or her residence or other locations where the offender is expected to be in order to determine whether the offender is complying with the terms and conditions of his or her confinement.

3. An electronic device approved by the Division may be used to supervise an offender. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the offender’s location, including, but not limited to, the transmission of still visual images which do not concern the



offender's activities, and producing, upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

- (a) Oral or wire communications or any auditory sound; or
- (b) Information concerning the offender's activities,

↪ must not be used.

Sec. 32. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection ~~5~~ 6, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3, ~~and~~ 4 and 5 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385 or 453.339, a person who violates this section:

(a) For a first or second offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, is guilty of possession of a controlled substance and shall be punished for a category E felony as provided in NRS 193.130. In accordance with NRS 176.211, the court shall defer judgment upon the consent of the person.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, is guilty of possession of a controlled substance and shall be punished for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) If the controlled substance is listed in schedule I or II and the quantity possessed is 14 grams or more, but less than 28 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 28 grams or more, but less than 200 grams, is guilty of low-level possession of a controlled substance and shall be punished for a category C felony as provided in NRS 193.130.



(d) If the controlled substance is listed in schedule I or II and the quantity possessed is 28 grams or more, but less than 42 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 200 grams or more, is guilty of mid-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and by a fine of not more than \$50,000.

(e) If the controlled substance is listed in schedule I or II and the quantity possessed is 42 grams or more, but less than 100 grams, is guilty of high-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not more than \$50,000.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. *Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of more than 1 ounce, but less than 50 pounds, of marijuana or more than one-eighth of an ounce, but less than one pound, of concentrated cannabis is guilty of a category E felony and shall be punished as provided in NRS 193.130.*



6. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

~~16.1~~ 7. The court may grant probation to or suspend the sentence of a person convicted of violating this section.

~~17.1~~ 8. As used in this section:

(a) “Controlled substance” includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) “Marijuana” does not include concentrated cannabis.

(c) “Sterile hypodermic device program” has the meaning ascribed to it in NRS 439.986.

Sec. 33. The amendatory provisions of sections 19 and 32 of this act apply to an offense committed:

1. On or after July 1, 2021; and

2. Before July 1, 2021, if the person is sentenced on or after July 1, 2021.

Sec. 34. 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. 35. NRS 176A.530, 176A.580, 176A.590, 176A.600, 176A.610 and 213.10988 are hereby repealed.

Sec. 36. 1. This section and sections 1, 2, 4 to 6.5, inclusive, 33 and 34 of this act become effective upon passage and approval.

2. Sections 3, 7 to 32, inclusive, and 35 of this act become effective on July 1, 2021.

LEADLINES OF REPEALED SECTIONS

176A.530 Authority of Chief Parole and Probation Officer to order.

176A.580 Inquiry required before alleged violation considered by court; qualifications of inquiring officer; time and place of inquiry; exceptions; subpoenas.

176A.590 Enforcement of subpoena issued by inquiring officer; contempt.

176A.600 Notice to probationer; rights of probationer at inquiry.

176A.610 Duties of inquiring officer; determination; detention or residential confinement of probationer upon finding probable cause.



213.10988 Chief to adopt standards for recommendations regarding parole or probation.

③⑩



* A B 3 9 3 R 1 *