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FOURTH 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.

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

AN ACT relating to criminal justice; 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; authorizing the Attorney General to investigate and prosecute any criminal offense committed by a city officer or employee in certain circumstances; 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; making an appropriation; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

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



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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.

Existing law authorizes the Attorney General to investigate and prosecute any criminal offense committed by a county officer or employee in the course of his or her duties or arising out of circumstances related to his or her position in certain circumstances when the district attorney of the county does not act in the matter. (NRS 228.177) **Section 31.5** of this bill authorizes the Attorney General to investigate and prosecute any criminal offense committed by a county officer or employee or a city officer or employee in the course of his or her duties or arising out of circumstances related to his or her position in certain circumstances when the district attorney of the county or the city attorney, as applicable, does not act in the matter.

Section 33 of this bill provides that the amendatory provisions of **sections 19 and 32** 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. **Section 33** also provides that the amendatory provisions of **section 31.5** apply to an offense committed: (1) on or after the effective date of **section 31.5**; and (2) before the effective date of **section 31.5** if the applicable statute of limitations has not expired on the effective date of **section 31.5**.

Section 32.5 of this bill makes an appropriation to the Department of Sentencing Policy for personnel costs related to data management.

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. 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 ~~intensive~~ supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

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

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

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



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

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

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

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

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

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

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

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

7. Identify potential areas of sentencing disparity related to 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



1 the Department to ensure compliance with the duties of the
2 Sentencing Commission.

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

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

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

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

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

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

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

22 (a) ~~{The Sentencing Commission's recommended}~~
23 *Recommended* changes pertaining to sentencing; ~~{and}~~

24 (b) ~~{The Sentencing Commission's findings and any}~~
25 *recommendations} Findings;*

26 (c) *Recommendations* for proposed legislation ~~{}~~ ;

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

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

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

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

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

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



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

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

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

7 176.0134 The Sentencing Commission shall:

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

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

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

26 (a) Offenders must receive sentences that increase in direct
27 proportion to the severity of their crimes and their histories of
28 criminality.

29 (b) Offenders who have extensive histories of criminality or
30 who have exhibited a propensity to commit crimes of a predatory or
31 violent nature must receive sentences which reflect the need to
32 ensure the safety and protection of the public and which allow for
33 the imprisonment for life of such offenders.

34 (c) Offenders who have committed offenses that do not include
35 acts of violence and who have limited histories of criminality must
36 receive sentences which reflect the need to conserve scarce
37 economic resources through the use of various alternatives to
38 traditional forms of incarceration.

39 (d) Offenders with similar histories of criminality who are
40 convicted of similar crimes must receive sentences that are generally
41 similar.

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



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

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

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

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

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

7. Identify potential areas of sentencing disparity related to 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,



1 have completed a treatment program while in prison and are
2 awaiting a treatment program while in prison, by type of treatment
3 program and type of offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (IV) The median number of administrative sanctions
44 issued by the Division to persons on supervision, by type of offense
45 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 **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



1 in the membership of the Council must be filled in the same manner
2 as the original appointment not later than 30 days after the vacancy
3 occurs.

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

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

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

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

16 176.0931 1. If a defendant is convicted of a sexual offense,
17 the court shall include in sentencing, in addition to any other
18 penalties provided by law, a special sentence of lifetime supervision.

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

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

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

29 (b) The person has not been convicted of an offense that poses a
30 threat to the safety or well-being of others for an interval of at least
31 10 consecutive years after the person's last conviction or release
32 from incarceration, whichever occurs later; and

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

38 4. A person who is released from lifetime supervision pursuant
39 to the provisions of subsection 3 remains subject to the provisions
40 for registration as a sex offender and to the provisions for
41 community notification, unless the person is otherwise relieved from
42 the operation of those provisions pursuant to the provisions of NRS
43 179D.010 to 179D.550, inclusive.

44 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:

(a) The supervising officer shall notify the court of the finding; and

(b) The court may modify the terms and conditions of probation 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 habitually fraudulent felon pursuant to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall not suspend the execution of the sentence imposed or grant probation to the person.

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

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

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

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



1 ~~—4.1~~ If the court determines that a person is otherwise eligible
2 for probation but requires more supervision than would normally be
3 provided to a person granted probation, the court may, in lieu of
4 sentencing the person to a term of imprisonment, grant probation
5 pursuant to the Program of ~~Intensive~~ **Enhanced** Supervision
6 established pursuant to NRS 176A.440.

7 ~~15.1~~ 4. Except as otherwise provided in this subsection, if a
8 person is convicted of a felony and the Division is required to make
9 a presentence investigation and report to the court pursuant to NRS
10 176.135, the court shall not grant probation to the person until the
11 court receives the report of the presentence investigation from the
12 Chief Parole and Probation Officer. The Chief Parole and Probation
13 Officer shall submit the report of the presentence investigation to
14 the court not later than 45 days after receiving a request for a
15 presentence investigation from the county clerk. If the report of the
16 presentence investigation is not submitted by the Chief Parole and
17 Probation Officer within 45 days, the court may grant probation
18 without the report.

19 ~~16.1~~ 5. If the court determines that a person is otherwise
20 eligible for probation, the court shall, when determining the
21 conditions of that probation, consider the imposition of such
22 conditions as would facilitate timely payments by the person of an
23 obligation, if any, for the support of a child and the payment of any
24 such obligation which is in arrears.

25 **Sec. 10.** NRS 176A.310 is hereby amended to read as follows:

26 176A.310 1. The court shall set the conditions of a program
27 of probation secured by a surety bond. The conditions must be
28 appended to and made part of the bond. The conditions may include,
29 but are not limited to, any one or more of the following:

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

32 (b) Participation in a program for the treatment of the use of a
33 controlled substance or alcohol or a program for the treatment of
34 any other impairment.

35 (c) Participation in a program of professional counseling,
36 including, but not limited to, counseling for the family of the
37 probationer.

38 (d) Restrictions or a prohibition on contact or communication
39 with witnesses or victims of the crime committed by the
40 probationer.

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

42 (f) Submission to a Program of ~~Intensive~~ **Enhanced**
43 Supervision.

44 (g) Restrictions on travel by the probationer outside the
45 jurisdiction of the court.



- (h) Payment of restitution.
- (i) Payment of fines and court costs.
- (j) Supervised community service.
- (k) Participation in educational courses.

2. A surety shall:

(a) Provide the facilities or equipment necessary to:

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

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

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

(b) Notify the court within 24 hours after the surety has knowledge of a violation of or a failure to fulfill a condition of the 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



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1 responding to a technical violation of the conditions of probation .

2 ~~for parole.~~ The system must:

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

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

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

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

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

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

28 ~~for parole.~~

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

38 7. As used in this section:

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

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

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



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(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



1 the probationer's location, including, but not limited to, the
2 transmission of still visual images which do not concern the
3 probationer's activities, and producing, upon request, reports or
4 records of the probationer's presence near or within a crime scene or
5 prohibited area or his or her departure from a specified geographic
6 location. A device which is capable of recording or transmitting:

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

8 (b) Information concerning the probationer's activities,

9 ➔ must not be used.

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

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

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

16 176A.560 1. The Chief Parole and Probation Officer may
17 terminate the residential confinement of a probationer and order the
18 detention of the probationer in a county jail pending ~~{an inquiry or}~~
19 **a** court hearing if:

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

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

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

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

29 176A.630 1. If the probationer is arrested, by or without
30 warrant, in another judicial district of this state, the court which
31 granted the probation may assign the case to the district court of that
32 district, with the consent of that court. The court retaining or thus
33 acquiring jurisdiction shall cause the defendant to be brought before
34 it ~~{ }~~ **and** consider the ~~{standards adopted pursuant to NRS~~
35 ~~213.10988 and}~~ system of graduated sanctions adopted pursuant to
36 NRS 176A.510, ~~{as}~~ **if** applicable . ~~{, and the recommendation, if~~
37 ~~any, of the Chief Parole and Probation Officer.}~~ Upon determining
38 that the probationer has violated a condition of probation, the court
39 shall, if practicable, order the probationer to make restitution for any
40 necessary expenses incurred by a governmental entity in returning
41 the probationer to the court for violation of the probation. If the
42 court finds that the probationer committed a violation of a condition
43 of probation by committing a new felony or gross misdemeanor,
44 battery which constitutes domestic violence pursuant to NRS
45 200.485, violation of NRS 484C.110 or 484C.120, crime of violence



1 as defined in NRS 200.408 that is punishable as a misdemeanor,
2 harassment pursuant to NRS 200.571, stalking or aggravated
3 stalking pursuant to NRS 200.575, violation of a stay away order
4 involving a natural person who is the victim of the crime for which
5 the probationer is being supervised, violation of a temporary or
6 extended order for protection against domestic violence issued
7 pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or
8 injunction that is in the nature of a temporary or extended order for
9 protection against domestic violence issued in an action or
10 proceeding brought pursuant to title 11 of NRS, a temporary or
11 extended order for protection against stalking, aggravated stalking
12 or harassment issued pursuant to NRS 200.591 or a temporary or
13 extended order for protection against sexual assault pursuant to NRS
14 200.378 or by absconding, the court may:

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

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

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

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

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

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



1 (a) Continue the probation or suspension of sentence;
2 (b) Order the probationer to a term of residential confinement
3 pursuant to NRS 176A.660;

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

6 (1) Thirty days for the first temporary revocation;

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

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

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

13 3. Notwithstanding any other provision of law, a probationer
14 who is arrested and detained for committing a technical violation of
15 the conditions of probation must be brought before the court not
16 later than 15 calendar days after the date of arrest and detention. If
17 the person is not brought before the court within 15 calendar days,
18 the probationer must be released from detention and returned to
19 probation status. Following a probationer's release from detention,
20 the court may subsequently hold a hearing to determine if a
21 technical violation has occurred. If the court finds that such a
22 technical violation occurred, the court may:

23 (a) Continue probation and modify the terms and conditions of
24 probation; or

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

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

30 (a) Consuming any alcoholic beverage.

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

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

34 (d) Failing to seek and maintain employment.

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

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

37 5. As used in this section:

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

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

44 (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 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. ~~HH~~ **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



1 exceed 6 months. The Department may select the facility or
2 institution in which to place the person.

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

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

15 (b) Information concerning the person's activities,

16 ➔ must not be used.

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

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

21 6. As used in this section:

22 (a) "Facility" has the meaning ascribed to it in NRS 209.065.

23 (b) "Institution" has the meaning ascribed to it in NRS 209.071.

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

25 4.3762 1. Except as otherwise provided in subsection 7, in
26 lieu of imposing any punishment other than a minimum sentence
27 required by statute, a justice of the peace may sentence a person
28 convicted of a misdemeanor to a term of residential confinement. In
29 making this determination, the justice of the peace 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 justice of the peace 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 justice of the peace; 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 to determine whether the
42 convicted person is complying with the terms of his or her sentence.

43 3. In sentencing a convicted person to a term of residential
44 confinement, the justice of the peace may, when the circumstances
45 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 justice of the peace 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 justice of the peace makes a finding that the person is not likely to pose a threat to the victim of the battery.

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

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

5.076 1. Except as otherwise provided in subsection 7, in lieu of imposing any punishment other than a minimum sentence required by statute, a municipal judge may sentence a person convicted of a misdemeanor to a term of residential confinement. In making this determination, the municipal judge shall consider the



1 criminal record of the convicted person and the seriousness of the
2 crime committed.

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

5 (a) Require the convicted person to be confined to his or her
6 residence during the time the convicted person is away from his or
7 her employment, public service or other activity authorized by the
8 municipal judge; and

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

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

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

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

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

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

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

37 ➤ must not be used.

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

43 6. A term of residential confinement, together with the term of
44 any minimum sentence required by statute, may not exceed the



1 maximum sentence which otherwise could have been imposed for
2 the offense.

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

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

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

12 205.312 1. Whenever any person who has leased or rented a
13 vehicle willfully and intentionally fails to return the vehicle to its
14 owner within 72 hours after the lease or rental agreement has
15 expired, that person may reasonably be inferred to have embezzled
16 the vehicle.

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

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

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

23 209.432 As used in NRS 209.432 to 209.453, inclusive, unless
24 the context otherwise requires:

25 1. "Offender" includes:

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

29 (b) A person who is convicted of a felony under the laws of this
30 State and assigned to the custody of the Division of Parole and
31 Probation of the Department of Public Safety pursuant to NRS
32 209.4886 or 209.4888.

33 2. "Residential confinement" means the confinement of a
34 person convicted of a felony to his or her place of residence under
35 the terms and conditions established pursuant to specific statute. The
36 term does not include any confinement ordered pursuant to NRS
37 ~~176A.530~~ 176A.540 to 176A.560, inclusive, 176A.660 to
38 176A.690, inclusive, 213.15105, 213.15193 or 213.152 to 213.1528,
39 inclusive.

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

42 1. *The Division shall adopt a written system of graduated*
43 *sanctions for parole and probation officers to use when*
44 *responding to a technical violation of the conditions of parole. The*
45 *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.]~~ 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.]~~ 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.

~~[9.]~~ 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



1 or her subsequent term of imprisonment or must, if the prisoner does
2 not still have a consecutive sentence to be served, be released on
3 parole, if:

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

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

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

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

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

15 (2) Been housed in disciplinary segregation.

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

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

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

27 6. If a prisoner meets the criteria set forth in subsection 1 and
28 there are no current requests for notification of hearings made in
29 accordance with subsection 4 of NRS 213.131 or, if the Board is not
30 required to provide notification of hearings pursuant to NRS
31 213.10915, the Board has not been notified by the automated victim
32 notification system that a victim of the prisoner has registered with
33 the system to receive notification of hearings, the Board may grant
34 parole to the prisoner without a meeting. If the Board finds that
35 there is a reasonable probability that a prisoner considered for
36 release on parole pursuant to subsection 1 will be a danger to public
37 safety while on parole, the Board may require the prisoner to serve
38 the balance of his or her sentence and not grant the parole. If,
39 pursuant to this subsection, the Board does not grant the parole
40 provided for in subsection 1, the Board shall provide to the prisoner
41 a written statement of its reasons for denying parole.

42 7. If the Board finds that there is a reasonable probability that a
43 prisoner considered for release on parole pursuant to subsection 2
44 will be a danger to public safety while on parole, the Board is not
45 required to grant the parole and shall schedule a rehearing pursuant



1 to NRS 213.142. Except as otherwise provided in subsection 3 of
2 NRS 213.1519, if a prisoner is not granted parole pursuant to this
3 subsection, the criteria set forth in subsection 2 must be applied at
4 each subsequent hearing until the prisoner is granted parole or
5 expires his or her sentence. If, pursuant to this subsection, the Board
6 does not grant the parole provided for in subsection 2, the Board
7 shall provide to the prisoner a written statement of its reasons for
8 denying parole, along with specific recommendations of the Board,
9 if any, to improve the possibility of granting parole the next time the
10 prisoner may be considered for parole.

11 8. If the prisoner is the subject of a lawful request from another
12 law enforcement agency that the prisoner be held or detained for
13 release to that agency, the prisoner must not be released on parole,
14 but released to that agency.

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

19 10. For the purposes of this section, the determination of the
20 12-month period before the end of a prisoner's term must be
21 calculated without consideration of any credits the prisoner may
22 have earned to reduce his or her sentence had the prisoner not been
23 paroled.

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

25 213.122 The Chief shall develop a statewide plan for the
26 ~~strict~~ **enhanced** supervision of parolees released pursuant to NRS
27 213.1215. In addition to such other provisions as the Chief deems
28 appropriate, the plan must provide for the supervision of such
29 parolees by assistant parole and probation officers whose caseload
30 allows for enhanced supervision of the parolees under their charge
31 unless, because of the remoteness of the community to which the
32 parolee is released, enhanced supervision is impractical.

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

34 213.124 1. Upon the granting of parole to a prisoner, the
35 Board may require the parolee to submit to a program of ~~intensive~~
36 **enhanced** supervision as a condition of his or her parole.

37 2. The Chief shall develop a program for the ~~intensive~~
38 **enhanced** supervision of parolees required to submit to such a
39 program pursuant to subsection 1. The program must include an
40 initial period of electronic supervision of the parolee with an
41 electronic device approved by the Division. The device may be
42 capable of using the Global Positioning System, but must be
43 minimally intrusive and limited in capability to recording or
44 transmitting information concerning the parolee's location,
45 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 ~~§~~, 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



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

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

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

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

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

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

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

19 8. As used in this section:

20 (a) "Facility" has the meaning ascribed to it in NRS 209.065.

21 (b) "Institution" has the meaning ascribed to it in NRS 209.071.

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

23 213.1528 The Board shall establish procedures to administer a
24 program of **enhanced** supervision for parolees who are ordered to a
25 term of residential confinement pursuant to NRS 213.152.

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

27 213.380 1. The Division shall establish procedures for the
28 residential confinement of offenders.

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

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

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

38 (1) Engaged in employment or an activity listed in paragraph

39 (a) that is authorized by the Division;

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

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

44 (c) Require ~~intensive~~ **enhanced** supervision of the offender,
45 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. 31.5. NRS 228.177 is hereby amended to read as follows:
228.177 1. As used in this section ~~“county”~~:

(a) *“City officer or employee” means an elected officer of a city or any city officer or employee who is compensated from a city treasury.*

(b) *“County officer or employee” means an elected officer of a county or any county officer or employee who is compensated from a county treasury.*

2. The Attorney General may investigate and prosecute any criminal offense committed by a county officer or employee *or a city officer or employee* in the course of his or her duties or arising out of circumstances related to his or her position, if:

(a) The district attorney of the county *or the city attorney, as applicable*, has stated in writing to the Attorney General that he or she does not intend to act in the matter; or

(b) The Attorney General has inquired in writing of the district attorney *or the city attorney, as applicable*, whether he or she intends to act in the matter and:

(1) The Attorney General has not received a written response within 30 days after the district attorney *or the city attorney, as applicable*, received the inquiry; or

(2) The district attorney *or the city attorney, as applicable*, responds in writing that he or she intends to act in the matter, but an ~~information or~~ indictment *is not found or an information or complaint* is not filed, *as applicable*, within 90 days after the response.

3. When he or she is acting pursuant to this section, the Attorney General may commence his or her investigation and file a



1 criminal action with leave of court, and the Attorney General has
2 exclusive charge of the conduct of the prosecution.

3 4. An ~~information or~~ indictment, *information or complaint*
4 may not be dismissed on the ground that the district attorney *or the*
5 *city attorney, as applicable*, or *the* Attorney General has not
6 complied with this section.

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

8 453.336 1. Except as otherwise provided in subsection ~~5,~~ 6,
9 a person shall not knowingly or intentionally possess a controlled
10 substance, unless the substance was obtained directly from, or
11 pursuant to, a prescription or order of a physician, physician
12 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
13 podiatric physician, optometrist, advanced practice registered nurse
14 or veterinarian while acting in the course of his or her professional
15 practice, or except as otherwise authorized by the provisions of NRS
16 453.005 to 453.552, inclusive.

17 2. Except as otherwise provided in subsections 3, ~~and~~ 4 and
18 5 and in NRS 453.3363, and unless a greater penalty is provided in
19 NRS 212.160, 453.3385 or 453.339, a person who violates this
20 section:

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

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

39 (c) If the controlled substance is listed in schedule I or II and the
40 quantity possessed is 14 grams or more, but less than 28 grams, or if
41 the controlled substance is listed in schedule III, IV or V and the
42 quantity possessed is 28 grams or more, but less than 200 grams, is
43 guilty of low-level possession of a controlled substance and shall be
44 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. 32.5. 1. There is hereby appropriated from the State General Fund to the Department of Sentencing Policy for personnel costs related to data management the following sums:

For the Fiscal Year 2021-2022 \$75,345

For the Fiscal Year 2022-2023 \$96,987

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

Sec. 33. The amendatory provisions of:

1. Sections 19 and 32 of this act apply to an offense committed:

(a) On or after July 1, 2021; and

(b) Before July 1, 2021, if the person is sentenced on or after July 1, 2021.

2. Section 31.5 of this act apply to an offense committed:

(a) On or after the effective date of section 31.5 of this act; and

(b) Before the effective date of section 31.5 of this act if the applicable statute of limitations has commenced but has not yet expired on the effective date of section 31.5 of this act.

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.



1 **Sec. 35.** NRS 176A.530, 176A.580, 176A.590, 176A.600,
2 176A.610 and 213.10988 are hereby repealed.

3 **Sec. 36.** 1. This section and sections 1, 2, 4 to 6.5, inclusive,
4 31.5, 33 and 34 of this act become effective upon passage and
5 approval.

6 2. Sections 3, 7 to 31, inclusive, 32, 32.5 and 35 of this act
7 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.

