

ASSEMBLY BILL NO. 291—ASSEMBLYMAN OHRENSCHALL

MARCH 14, 2017

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to presentence investigations and reports. (BDR 14-1076)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to criminal procedure; revising provisions relating to presentence investigations and reports; requiring certain information to be included in a presentence report; revising the limitation of time for disclosure of the factual content of reports of presentence investigations by the Division of Parole and Probation of the Department of Public Safety; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Division of Parole and Probation of the Department of
2 Public Safety to make presentence investigations and reports in certain
3 circumstances and to include certain information and recommendations. (NRS
4 176.133-176.159) **Section 1** of this bill requires the Division to also include in the
5 report of any presentence investigation the source of any information as stated in
6 the report, that is related to the defendant’s offense, including information from: (1)
7 a police report; (2) an investigative report filed with law enforcement; or (3) any
8 other source available to the Division. Further, **section 1** removes the requirement
9 that the Division include a recommendation: (1) of certain penalties for the
10 defendant; and (2) if appropriate, that the defendant undergo a program of
11 regimental discipline. Additionally, **sections 1 and 2** of this bill change the term
12 “criminal record” to “criminal convictions.”

13 Existing law requires the Division to disclose the factual content of the report
14 of any presentence investigation and the recommendations of the Division to the
15 prosecuting attorney, the counsel for the defendant, the defendant and the court not
16 later than 14 calendar days before the defendant will be sentenced, unless the
17 defendant waives the minimum period. (NRS 176.153) **Section 3** of this bill
18 increases the time limitation for such disclosure from 14 to 21 calendar days, and
19 removes the requirement to include the recommendations of the Division.



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

- 1 **Section 1.** NRS 176.145 is hereby amended to read as follows:
2 176.145 1. The report of any presentence investigation must
3 contain:
- 4 (a) Any prior criminal ~~record~~ *convictions* of the defendant;
 - 5 (b) Information concerning the characteristics of the defendant,
6 ~~{the defendant's financial condition,}~~ the circumstances affecting the
7 defendant's behavior and the circumstances of the defendant's
8 offense that may be helpful in imposing sentence, in granting
9 probation or in the correctional treatment of the defendant;
 - 10 (c) Information concerning the effect that the offense committed
11 by the defendant has had upon the victim, including, without
12 limitation, any physical or psychological harm or financial loss
13 suffered by the victim, to the extent that such information is
14 available from the victim or other sources, but the provisions of this
15 paragraph do not require any particular examination or testing of the
16 victim, and the extent of any investigation or examination is solely
17 at the discretion of the court or the Division and the extent of the
18 information to be included in the report is solely at the discretion of
19 the Division;
 - 20 (d) Information concerning whether the defendant has an
21 obligation for the support of a child, and if so, whether the
22 defendant is in arrears in payment on that obligation;
 - 23 (e) Data or information concerning reports and investigations
24 thereof made pursuant to chapter 432B of NRS that relate to the
25 defendant and are made available pursuant to NRS 432B.290;
 - 26 (f) The results of the evaluation of the defendant conducted
27 pursuant to NRS 484C.300, if such an evaluation is required
28 pursuant to that section;
 - 29 (g) ~~{A recommendation of a minimum term and a maximum~~
30 ~~term of imprisonment or other term of imprisonment authorized by~~
31 ~~statute, or a fine, or both;~~
 - 32 ~~{h} A recommendation, if the Division deems it appropriate, that~~
33 ~~the defendant undergo a program of regimental discipline pursuant~~
34 ~~to NRS 176A.780;~~
 - 35 ~~{i}~~ If a psychosexual evaluation of the defendant is required
36 pursuant to NRS 176.139, a written report of the results of the
37 psychosexual evaluation of the defendant and all information that is
38 necessary to carry out the provisions of NRS 176A.110; and
 - 39 ~~{j}~~ (h) Such other information as may be required by the
40 court.



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

4 (a) *A police report;*

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

6 (c) *Any other source available to the Division.*

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

10 **Sec. 2.** NRS 176.151 is hereby amended to read as follows:

11 176.151 1. If a defendant pleads guilty, guilty but mentally ill
12 or nolo contendere to, or is found guilty or guilty but mentally ill of,
13 one or more category E felonies, but no other felonies, the Division
14 shall not make a presentence investigation and report on the
15 defendant pursuant to NRS 176.135, unless the Division has not
16 made a presentence investigation and report on the defendant
17 pursuant to NRS 176.135 within the 5 years immediately preceding
18 the date initially set for sentencing on the category E felony or
19 felonies and:

20 (a) The court requests a presentence investigation and report; or

21 (b) The prosecuting attorney possesses evidence that would
22 support a decision by the court to deny probation to the defendant
23 pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

24 2. If the Division does not make a presentence investigation
25 and report on a defendant pursuant to subsection 1, the Division
26 shall, not later than 45 days after the date on which the defendant is
27 sentenced, make a general investigation and report on the defendant
28 that contains:

29 (a) Any prior criminal ~~record~~ *convictions* of the defendant;

30 (b) Information concerning the characteristics of the defendant,
31 the circumstances affecting the defendant's behavior and the
32 circumstances of the defendant's offense that may be helpful to
33 persons responsible for the supervision or correctional treatment of
34 the defendant;

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



1 (d) Data or information concerning reports and investigations
2 thereof made pursuant to chapter 432B of NRS that relate to the
3 defendant and are made available pursuant to NRS 432B.290; and

4 (e) Any other information that the Division believes may be
5 helpful to persons responsible for the supervision or correctional
6 treatment of the defendant.

7 **Sec. 3.** NRS 176.153 is hereby amended to read as follows:

8 176.153 Except as otherwise provided in this section, the
9 Division shall disclose to the prosecuting attorney, the counsel for
10 the defendant, the defendant and the court, not later than ~~144~~ 21
11 calendar days before the defendant will be sentenced, the factual
12 content of the report of any presentence investigation made pursuant
13 to NRS 176.135 . ~~and the recommendations of the Division.~~ The
14 defendant may waive the minimum period required by this section.

15 **Sec. 4.** NRS 176.156 is hereby amended to read as follows:

16 176.156 1. The Division shall disclose to the prosecuting
17 attorney, the counsel for the defendant and the defendant the factual
18 content of the report of:

19 (a) Any presentence investigation made pursuant to NRS
20 176.135 ~~and the recommendations of the Division.~~ in the period
21 provided in NRS 176.153.

22 (b) Any general investigation made pursuant to NRS 176.151.

23 ➔ The Division shall afford an opportunity to each party to object to
24 factual errors in any such report . ~~and to comment on any~~
25 ~~recommendations.~~

26 2. Unless otherwise ordered by a court, upon request, the
27 Division shall disclose the content of a report of a presentence
28 investigation or general investigation to a law enforcement agency
29 of this State or a political subdivision thereof and to a law
30 enforcement agency of the Federal Government for the limited
31 purpose of performing their duties, including, without limitation,
32 conducting hearings that are public in nature.

33 3. Unless otherwise ordered by a court, upon request, the
34 Division shall disclose the content of a report of a presentence
35 investigation or general investigation to the Division of Public and
36 Behavioral Health of the Department of Health and Human Services
37 for the limited purpose of performing its duties, including, without
38 limitation, evaluating and providing any report or information to the
39 Division concerning the mental health of:

40 (a) A sex offender as defined in NRS 213.107; or

41 (b) An offender who has been determined to be mentally ill.

42 4. Unless otherwise ordered by a court, upon request, the
43 Division shall disclose the content of a report of a presentence
44 investigation or general investigation to the Nevada Gaming Control
45 Board for the limited purpose of performing its duties in the



1 administration of the provisions of chapters 462 to 467, inclusive, of
2 NRS.

3 5. Except for the disclosures required by subsections 1 to 4,
4 inclusive, a report of a presentence investigation or general
5 investigation and the sources of information for such a report are
6 confidential and must not be made a part of any public record.

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