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**S.B. 451**

SENATE BILL NO. 451—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION  
ON THE ADMINISTRATION OF JUSTICE)

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to criminal justice.  
(BDR 14-1007)

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 justice; authorizing certain persons to file a postconviction petition to pay the cost of a genetic marker analysis; requiring a court to order a genetic marker analysis upon the filing of such a petition; requiring a petitioner to pay the cost of such a genetic marker analysis before the analysis is performed; creating the Nevada Sentencing Commission; prescribing the membership and duties of the Sentencing Commission; enacting various provisions relating to the Sentencing Commission; authorizing the Sentencing Commission to issue subpoenas; revising certain provisions governing the Advisory Commission on the Administration of Justice; authorizing the Sentencing Commission to request the drafting of not more than 1 legislative measure for each regular session of the Legislature; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law authorizes a person convicted of a felony to file a postconviction
- 2 petition requesting a genetic marker analysis of evidence within the possession or
- 3 custody of the State which may contain genetic marker information relating to the
- 4 investigation or prosecution that resulted in the judgment of conviction. After such
- 5 a petition is filed, the court may schedule a hearing on the petition. (NRS 176.0918)
- 6 Existing law requires the court to order a genetic marker analysis if, after



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7 considering the information contained in the petition and any other evidence, the  
8 court makes certain findings. (NRS 176.09183) Existing law further requires the  
9 petitioner to pay for the cost of the genetic marker analysis unless: (1) the petitioner  
10 is incarcerated at the time he or she files the petition and is found to be indigent;  
11 and (2) the results of the genetic marker analysis are favorable to the petitioner. If  
12 the petitioner is not required to pay the cost of the genetic marker analysis, the  
13 expense is a charge against the Department of Corrections. (NRS 176.09187)

14 **Section 2** of this bill authorizes a person convicted of a felony to file a  
15 postconviction petition requesting to pay the cost of a genetic marker analysis.  
16 **Section 2** provides that such a petition is generally subject to the same requirements  
17 imposed for a postconviction petition for a genetic marker analysis filed pursuant to  
18 existing law, but there is no requirement for a hearing on such a petition. **Section**  
19 **14** of this bill requires a court to order a genetic marker analysis if such a petition  
20 is filed. **Section 15** of this bill provides that a petitioner who files such a petition is  
21 required to pay the cost of the genetic marker analysis before the analysis is  
22 performed and is not eligible for an exemption from payment.

23 Existing law establishes the Advisory Commission on the Administration of  
24 Justice and directs the Advisory Commission, among other duties, to identify and  
25 study the elements of this State's system of criminal justice, including certain issues  
26 relating to the sentencing of persons convicted of felonies and gross misdemeanors.  
27 (NRS 176.0123, 176.0125) **Section 5** of this bill creates the Nevada Sentencing  
28 Commission and provides for the membership of the Sentencing Commission.  
29 **Section 6** of this bill prescribes the duties of the Sentencing Commission, and  
30 includes, among other duties related to the sentencing of offenders convicted of a  
31 crime, a duty to make recommendations concerning the adoption of sentencing  
32 guidelines. **Section 12** of this bill repeals certain duties of the Advisory  
33 Commission on the Administration of Justice under existing law, as those duties are  
34 reenacted and replaced in **section 6**.

35 Existing law prescribes the number of legislative measures which may be  
36 requested by various departments, agencies and other entities of this State for each  
37 regular session of the Legislature. (NRS 218D.100-218D.220) **Section 17** of this  
38 bill authorizes the Nevada Sentencing Commission to request for each regular  
39 session of the Legislature the drafting of not more than 1 legislative measure which  
40 relates to matters within the scope of the Sentencing Commission.

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

1 **Section 1.** Chapter 176 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 11, inclusive, of this  
3 act.

4 **Sec. 2. 1. A person convicted of a felony may file a**  
5 **postconviction petition requesting to pay the cost of a genetic**  
6 **marker analysis of evidence within the possession or custody of**  
7 **the State which may contain genetic marker information relating**  
8 **to the investigation or prosecution that resulted in the judgment of**  
9 **conviction. If the case involves a sentence of death, the petition**  
10 **must include, without limitation, the date scheduled for the**  
11 **execution, if it has been scheduled.**



1       2. *Such a petition must be filed with the clerk of the district*  
2 *court for the county in which the petitioner was convicted on a*  
3 *form prescribed by the Department of Corrections. A copy of the*  
4 *petition must be served by registered mail upon:*

5       (a) *The Attorney General; and*

6       (b) *The district attorney in the county in which the petitioner*  
7 *was convicted.*

8       3. *A petition filed pursuant to this section must be*  
9 *accompanied by a declaration under penalty of perjury attesting*  
10 *that the information contained in the petition does not contain any*  
11 *material misrepresentation of fact and that the petitioner has a*  
12 *good faith basis relying on particular facts for the request. The*  
13 *petition must include, without limitation:*

14       (a) *Information identifying specific evidence either known or*  
15 *believed to be in the possession or custody of the State that can be*  
16 *subject to genetic marker analysis;*

17       (b) *An identification of the type of genetic marker analysis the*  
18 *petitioner is requesting to be conducted on the evidence identified*  
19 *in paragraph (a); and*

20       (c) *If applicable, the results of all prior genetic marker*  
21 *analysis performed on evidence in the trial which resulted in the*  
22 *petitioner's conviction.*

23       4. *If a petition is filed pursuant to this section, the court shall*  
24 *determine which person or agency has possession or custody of*  
25 *the evidence and shall immediately issue an order requiring each*  
26 *person or agency in possession or custody of the evidence to:*

27       (a) *Preserve all evidence within the possession or custody of*  
28 *the person or agency that may be subjected to genetic marker*  
29 *analysis pursuant to this section;*

30       (b) *Within 90 days, prepare an inventory of all evidence*  
31 *relevant to the claims in the petition within the possession or*  
32 *custody of the person or agency that may be subjected to genetic*  
33 *marker analysis pursuant to this section; and*

34       (c) *Within 90 days, submit a copy of the inventory to the*  
35 *petitioner, the prosecuting attorney and the court.*

36       5. *If a petitioner files a petition pursuant to this section and a*  
37 *victim of the crime for which the petitioner was convicted has*  
38 *requested notice pursuant to NRS 178.5698, the district attorney in*  
39 *the county in which the petitioner was convicted shall provide to*  
40 *the victim notice of the fact that the petitioner filed a petition*  
41 *pursuant to this section.*

42       **Sec. 3.** *The Legislature hereby finds, and declares to be the*  
43 *public policy of this State, that:*

44       1. *Sentencing and corrections policies should embody*  
45 *fairness, consistency, proportionality and opportunity.*



1       2. *The laws of this State should convey a clear and*  
2 *purposeful rationale regarding sentencing and corrections. The*  
3 *statutes governing criminal justice should articulate the purpose*  
4 *of sentencing, and related policies and practices should be logical,*  
5 *understandable and transparent to stakeholders and the public.*

6       3. *A continuum of sentencing and corrections options should*  
7 *be available, with imprisonment reserved for the most serious*  
8 *offenders and adequate community programs for diversion and*  
9 *supervision of other offenders.*

10      4. *Sentencing and corrections policies should be resource*  
11 *sensitive as those policies may impact costs, inmate populations*  
12 *and public safety. Criminal justice agencies should strive to*  
13 *effectively measure costs and benefits.*

14      5. *Criminal justice information should be a foundation for*  
15 *effective data driven sentencing and corrections policies.*

16      6. *Sentencing and corrections policies should reflect current*  
17 *circumstances and needs.*

18      7. *Strategies to reduce crime and victimization should involve*  
19 *prevention, treatment, health and labor and must endeavor to*  
20 *utilize all available federal, academic and private resources and*  
21 *expertise.*

22      **Sec. 4.** *As used in sections 4 to 11, inclusive, of this act,*  
23 *“Sentencing Commission” means the Nevada Sentencing*  
24 *Commission created by section 5 of this act.*

25      **Sec. 5.** *1. The Nevada Sentencing Commission is hereby*  
26 *created. The Sentencing Commission consists of:*

27      (i) *One member appointed by the Governor;*

28      (ii) *One member who is a justice of the Supreme Court of*  
29 *Nevada or a retired justice of the Supreme Court of Nevada,*  
30 *appointed by the Chief Justice of the Supreme Court of Nevada;*

31      (iii) *Two members who are judges appointed by the Chief*  
32 *Justice of the Supreme Court of Nevada;*

33      (iv) *One member who is a representative of the Administrative*  
34 *Office of the Courts appointed by the Chief Justice of the Supreme*  
35 *Court of Nevada;*

36      (v) *The Director of the Department of Corrections;*

37      (vi) *The Attorney General;*

38      (vii) *One member who is a representative of the Office of the*  
39 *Attorney General, appointed by the Attorney General;*

40      (viii) *One member who is a district attorney, appointed by the*  
41 *governing body of the Nevada District Attorneys Association;*

42      (ix) *One member who is a representative of an office of public*  
43 *defender, appointed by the governing body of the State Bar of*  
44 *Nevada;*



1 (j) One member who is an attorney in private practice,  
2 experienced in defending criminal actions, appointed by the  
3 governing body of the State Bar of Nevada;

4 (k) One member who has been a victim of a crime or is a  
5 representative of an organization supporting the rights of victims  
6 of crime, appointed by the Governor;

7 (l) One member who is a member of the State Board of Parole  
8 Commissioners, appointed by the State Board of Parole  
9 Commissioners;

10 (m) One member who is a representative of the Division of  
11 Parole and Probation of the Department of Public Safety,  
12 appointed by the Governor;

13 (n) One member who is a representative of the Nevada  
14 Sheriffs' and Chiefs' Association, appointed by the Nevada  
15 Sheriffs' and Chiefs' Association;

16 (o) One member who is a representative of the Division of  
17 Public and Behavioral Health of the Department of Health and  
18 Human Services;

19 (p) Two members who are Senators, one of whom is appointed  
20 by the Majority Leader of the Senate and one of whom is  
21 appointed by the Minority Leader of the Senate; and

22 (q) Two members who are members of the Assembly, one of  
23 whom is appointed by the Speaker of the Assembly and one of  
24 whom is appointed by the Minority Leader of the Assembly.

25 2. If any organization listed in subsection 1 ceases to exist,  
26 the appointment required pursuant to that subsection must be  
27 made by the association's successor in interest, or, if there is no  
28 successor in interest, by the Governor.

29 3. Each appointed member serves a term of 2 years. Members  
30 may be reappointed for additional terms of 2 years in the same  
31 manner as the original appointments. Any vacancy occurring in  
32 the membership of the Sentencing Commission must be filled in  
33 the same manner as the original appointment not later than 30  
34 days after the vacancy occurs.

35 4. The Legislators who are members of the Sentencing  
36 Commission are entitled to receive the salary provided for a  
37 majority of the members of the Legislature during the first 60 days  
38 of the preceding session for each day's attendance at a meeting of  
39 the Sentencing Commission.

40 5. At the first regular meeting of each odd-numbered year,  
41 the members of the Sentencing Commission shall elect a Chair by  
42 majority vote who shall serve until the next Chair is elected.

43 6. The Sentencing Commission shall meet at least once every  
44 3 months and may meet at such further times as deemed necessary  
45 by the Chair.



1       7. *A majority of the members of the Sentencing Commission*  
2 *constitutes a quorum for the transaction of business, and a*  
3 *majority of those members present at any meeting is sufficient for*  
4 *any official action taken by the Sentencing Commission.*

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

10       9. *To the extent of legislative appropriation, the Director of*  
11 *the Legislative Counsel Bureau shall provide the Sentencing*  
12 *Commission with such staff as is necessary to carry out the duties*  
13 *of the Sentencing Commission.*

14       **Sec. 6. The Sentencing Commission shall:**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

36 10. For each regular session of the Legislature, prepare a  
37 comprehensive report including:

38 (a) The Sentencing Commission's recommended changes  
39 pertaining to sentencing;

40 (b) The Sentencing Commission's findings and any  
41 recommendations for proposed legislation; and

42 (c) A reference to any legislative measure requested pursuant  
43 to section 17 of this act.



1   ↪ *The report must be submitted to the Director of the Legislative*  
2 *Counsel Bureau for distribution to the Legislature not later than*  
3 *January 1 of each odd-numbered year.*

4   **Sec. 7.** 1. *The Chair of the Sentencing Commission may*  
5 *apply for and accept any available grants and may accept any*  
6 *bequests, devises, donations or gifts from any public or private*  
7 *source to carry out the provisions of sections 4 to 11, inclusive, of*  
8 *this act.*

9   2. *Any money received pursuant to this section must be*  
10 *deposited in the Special Account for the Support of the Nevada*  
11 *Sentencing Commission, which is hereby created in the State*  
12 *General Fund. Interest and income earned on money in the*  
13 *Account must be credited to the Account. Money in the Account*  
14 *may only be used for the support of the Sentencing Commission*  
15 *and its activities pursuant to sections 4 to 11, inclusive, of this act.*

16   **Sec. 8.** 1. *To carry out its powers and duties pursuant to*  
17 *sections 4 to 11, inclusive, of this act, the Sentencing Commission,*  
18 *or any member thereof acting on behalf of the Sentencing*  
19 *Commission with a concurrence of a majority of the members of*  
20 *the Sentencing Commission, may issue subpoenas to compel the*  
21 *attendance of witnesses and the production of books, records,*  
22 *documents or other papers and testimony.*

23   2. *If any person fails to comply with a subpoena issued by the*  
24 *Sentencing Commission or any member thereof pursuant to this*  
25 *section within 20 days after the date of service of the subpoena,*  
26 *the Sentencing Commission may petition the district court for an*  
27 *order of the court compelling compliance with the subpoena.*

28   3. *Upon such a petition, the court shall enter an order*  
29 *directing the person subpoenaed to appear before the court at a*  
30 *time and place to be fixed by the court in its order, the time to be*  
31 *not more than 20 days after the date of service of the order, and*  
32 *show cause why the person has not complied with the subpoena. A*  
33 *certified copy of the order must be served upon the person*  
34 *subpoenaed.*

35   4. *If it appears to the court that the subpoena was regularly*  
36 *issued by the Sentencing Commission or a member thereof*  
37 *pursuant to this section, the court shall enter an order compelling*  
38 *compliance with the subpoena, and upon failure to obey the order*  
39 *the person shall be dealt with as for contempt of court.*

40   **Sec. 9.** 1. *The Department of Corrections shall:*

41   (a) *Provide the Sentencing Commission with any available*  
42 *statistical information or research requested by the Sentencing*  
43 *Commission and assist the Sentencing Commission in the*  
44 *compilation and development of information requested by the*  
45 *Sentencing Commission, including, but not limited to, information*





1 *or research concerning the facilities and institutions of the*  
2 *Department of Corrections, the offenders who are or were within*  
3 *those facilities or institutions, rates of recidivism, the effectiveness*  
4 *of educational and vocational programs and the sentences which*  
5 *are being served or were served by those offenders;*

6 *(b) If requested by the Sentencing Commission, make*  
7 *available to the Sentencing Commission the use of the computers*  
8 *and programs which are owned by the Department of Corrections;*  
9 *and*

10 *(c) Provide the independent contractor retained by the*  
11 *Department of Administration pursuant to NRS 176.0129 with any*  
12 *available statistical information requested by the independent*  
13 *contractor for the purpose of performing the projections required*  
14 *by NRS 176.0129.*

15 **2. The Division shall:**

16 *(a) Provide the Sentencing Commission with any available*  
17 *statistical information or research requested by the Sentencing*  
18 *Commission and assist the Sentencing Commission in the*  
19 *compilation and development of information concerning*  
20 *sentencing, probation, parole and any offenders who are or were*  
21 *subject to supervision by the Division;*

22 *(b) If requested by the Sentencing Commission, make*  
23 *available to the Sentencing Commission the use of the computers*  
24 *and programs which are owned by the Division; and*

25 *(c) Provide the independent contractor retained by the*  
26 *Department of Administration pursuant to NRS 176.0129 with any*  
27 *available statistical information requested by the independent*  
28 *contractor for the purpose of performing the projections required*  
29 *by NRS 176.0129.*

30 **Sec. 10.** *The Central Repository for Nevada Records of*  
31 *Criminal History shall provide the Sentencing Commission with*  
32 *any statistical data and information required to be collected*  
33 *pursuant to NRS 176.0128, as requested by the Sentencing*  
34 *Commission.*

35 **Sec. 11.** *The Department of Administration shall provide the*  
36 *Sentencing Commission with any projections on persons*  
37 *imprisoned, on probation, on parole and serving a term of*  
38 *residential confinement required pursuant to NRS 176.0129, as*  
39 *requested by the Sentencing Commission.*

40 **Sec. 12.** NRS 176.0125 is hereby amended to read as follows:

41 176.0125 The Commission shall:

42 1. ~~Identify~~ *Except as otherwise provided pursuant to section*  
43 *6 of this act, evaluate* and study the elements of this State's system  
44 of criminal justice. ~~which affect the sentences imposed for felonies~~  
45 ~~and gross misdemeanors.~~



1 ~~—2. Evaluate the effectiveness and fiscal impact of various~~  
2 ~~policies and practices regarding sentencing which are employed in~~  
3 ~~this State and other states, including, but not limited to, the use of~~  
4 ~~plea bargaining, probation, programs of intensive supervision,~~  
5 ~~programs of regimental discipline, imprisonment, sentencing~~  
6 ~~recommendations, mandatory and minimum sentencing, mandatory~~  
7 ~~sentencing for crimes involving the possession, manufacture and~~  
8 ~~distribution of controlled substances, structured or tiered sentencing,~~  
9 ~~enhanced penalties for habitual criminals, parole, credits against~~  
10 ~~sentences, residential confinement and alternatives to incarceration.~~

11 ~~—3. Recommend changes in the structure of sentencing in this~~  
12 ~~State which, to the extent practicable and with consideration for~~  
13 ~~their fiscal impact, incorporate general objectives and goals for~~  
14 ~~sentencing, including, but not limited to, the following:~~

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

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

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

28 ~~—(d) Offenders with similar histories of criminality who are~~  
29 ~~convicted of similar crimes must receive sentences that are generally~~  
30 ~~similar.~~

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

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

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

43 ~~—4.} 2. Evaluate the effectiveness and efficiency of the~~  
44 ~~Department of Corrections and the State Board of Parole~~  
45 ~~Commissioners with consideration as to whether it is feasible and~~



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1 advisable to establish an oversight or advisory board to perform  
2 various functions and make recommendations concerning:

- 3 (a) Policies relating to parole;
- 4 (b) Regulatory procedures and policies of the State Board of  
5 Parole Commissioners;
- 6 (c) Policies for the operation of the Department of Corrections;
- 7 (d) Budgetary issues; and
- 8 (e) Other related matters.

9 ~~15.1~~ 3. Evaluate the effectiveness of specialty court programs  
10 in this State with consideration as to whether such programs have  
11 the effect of limiting or precluding reentry of offenders and parolees  
12 into the community.

13 ~~16.1~~ 4. Evaluate the policies and practices concerning  
14 presentence investigations and reports made by the Division of  
15 Parole and Probation of the Department of Public Safety, including,  
16 without limitation, the resources relied on in preparing such  
17 investigations and reports and the extent to which judges in this  
18 State rely on and follow the recommendations contained in such  
19 presentence investigations and reports.

20 ~~17.1~~ 5. Evaluate, review and comment upon issues relating to  
21 juvenile justice in this State, including, but not limited to:

22 (a) The need for the establishment and implementation of  
23 evidence-based programs and a continuum of sanctions for children  
24 who are subject to the jurisdiction of the juvenile court; and

25 (b) The impact on the criminal justice system of the policies and  
26 programs of the juvenile justice system.

27 ~~18. Compile and develop statistical information concerning  
28 sentencing in this State.~~

29 ~~9.1~~ 6. Identify and study issues relating to the application of  
30 chapter 241 of NRS to meetings held by the:

31 (a) State Board of Pardons Commissioners to consider an  
32 application for clemency; and

33 (b) State Board of Parole Commissioners to consider an  
34 offender for parole.

35 ~~10.1~~ 7. Identify and study issues relating to the operation of  
36 the Department of Corrections, including, without limitation, the  
37 system for allowing credits against the sentences of offenders, the  
38 accounting of such credits and any other policies and procedures of  
39 the Department which pertain to the operation of the Department.

40 ~~11.1~~ 8. Evaluate the policies and practices relating to the  
41 involuntary civil commitment of sexually dangerous persons.

42 ~~12.1~~ 9. Identify and study the impacts and effects of collateral  
43 consequences of convictions in this State. Such identification and  
44 study:



1 (a) Must cause to be identified any provision in the Nevada  
2 Constitution, the Nevada Revised Statutes and the Nevada  
3 Administrative Code which imposes a collateral sanction or  
4 authorizes the imposition of a disqualification, and any provision of  
5 law that may afford relief from a collateral consequence;

6 (b) May rely on the study of this State's collateral sanctions,  
7 disqualifications and relief provisions prepared by the National  
8 Institute of Justice described in section 510 of the Court Security  
9 Improvement Act of 2007, Public Law 110-177; and

10 (c) Must include the posting of a hyperlink on the Commission's  
11 website to any study of this State's collateral sanctions,  
12 disqualifications and relief provisions prepared by the National  
13 Institute of Justice described in section 510 of the Court Security  
14 Improvement Act of 2007, Public Law 110-177.

15 ~~§ 13.1~~ **10.** For each regular session of the Legislature, prepare a  
16 comprehensive report including the Commission's recommended  
17 changes pertaining to the administration of justice in this State, the  
18 Commission's findings and any recommendations of the  
19 Commission for proposed legislation. The report must be submitted  
20 to the Director of the Legislative Counsel Bureau for distribution to  
21 the Legislature not later than September 1 of each even-numbered  
22 year.

23 **Sec. 13.** NRS 176.0911 is hereby amended to read as follows:

24 176.0911 As used in NRS 176.0911 to 176.0919, inclusive,  
25 *and section 2 of this act*, unless the context otherwise requires, the  
26 words and terms defined in NRS 176.09111 to 176.09119, inclusive,  
27 have the meanings ascribed to them in those sections.

28 **Sec. 14.** NRS 176.09183 is hereby amended to read as  
29 follows:

30 176.09183 1. The court shall order a genetic marker analysis

31 ~~§~~ *if:*

32 *(a) The petition for the analysis was filed pursuant to NRS*  
33 *176.0918 and*, after considering the information contained in the  
34 petition ~~[pursuant to subsection 3 of NRS 176.0918]~~ and any other  
35 evidence, ~~§~~ the court finds that:

36 ~~§(a)~~ *(1)* A reasonable possibility exists that the petitioner would  
37 not have been prosecuted or convicted if exculpatory results had  
38 been obtained through a genetic marker analysis of the evidence  
39 identified in the petition;

40 ~~§(b)~~ *(2)* The evidence to be analyzed exists; and

41 ~~§(c)~~ *(3)* Except as otherwise provided in subsection 2, the  
42 evidence was not previously subjected to a genetic marker analysis

43 ~~§~~; *or*

44 *(b) The petition for the analysis was filed pursuant to section 2*  
45 *of this act.*



1 2. If the evidence was previously subjected to a genetic marker  
2 analysis, the court shall order a genetic marker analysis pursuant to  
3 *paragraph (a) of subsection 1* if the court finds that:

4 (a) The result of the previous analysis was inconclusive;

5 (b) The evidence was not subjected to the type of analysis that is  
6 now requested and the requested analysis may resolve an issue not  
7 resolved by the previous analysis; or

8 (c) The requested analysis would provide results that are  
9 significantly more accurate and probative of the identity of the  
10 perpetrator than the previous analysis.

11 3. If the court orders a genetic marker analysis pursuant to  
12 subsection 1 or 2, the court shall:

13 (a) ~~Order~~ *Subject to the provisions of subsection 4, order* the  
14 analysis to be conducted promptly under reasonable conditions  
15 designed to protect the interest of the State and the petitioner in the  
16 integrity of the evidence and the analysis process.

17 (b) Select a forensic laboratory to conduct or oversee the  
18 analysis. The forensic laboratory selected by the court must:

19 (1) Be operated by this state or one of its political  
20 subdivisions, when possible; and

21 (2) Satisfy the standards for quality assurance that are  
22 established for forensic laboratories by the Federal Bureau of  
23 Investigation.

24 (c) Order the forensic laboratory selected pursuant to paragraph  
25 (b) to perform a genetic marker analysis of evidence. The analysis to  
26 be performed and evidence to be analyzed must:

27 (1) Be specified in the order; and

28 (2) Include such analysis, testing and comparison of genetic  
29 marker information contained in the evidence and the genetic  
30 marker information of the petitioner as the court determines  
31 appropriate under the circumstances.

32 (d) Order the production of any reports that are prepared by a  
33 forensic laboratory in connection with the analysis and any data and  
34 notes upon which the report is based.

35 (e) Order the preservation of evidence used in ~~the~~ *the* genetic  
36 marker analysis ~~performed pursuant to this section and NRS~~  
37 ~~176.0918 and 176.09187~~ for purposes of a subsequent proceeding  
38 or analysis, if any.

39 (f) Order the results of the genetic marker analysis ~~performed~~  
40 ~~pursuant to this section and NRS 176.0918 and 176.09187~~ to be  
41 sent to the State Board of Parole Commissioners if the results of the  
42 genetic marker analysis are not favorable to the petitioner.

43 4. *Notwithstanding the provisions of paragraph (a) of*  
44 *subsection 3, if the petition for a genetic marker analysis was filed*  
45 *pursuant to section 2 of this act, the forensic laboratory ordered to*



1 *perform the analysis pursuant to paragraph (c) of subsection 3*  
2 *shall not perform the analysis until the petitioner pays the cost of*  
3 *the analysis, as required by subsection 3 of NRS 176.09187.*

4 5. If the court orders a genetic marker analysis pursuant to  
5 subsection 1 or 2, the State may appeal to the appellate court of  
6 competent jurisdiction pursuant to the rules fixed by the Supreme  
7 Court pursuant to Section 4 of Article 6 of the Nevada Constitution  
8 within 30 days after the notice of the entry of the order by filing a  
9 notice of appeal with the clerk of the district court.

10 ~~5.1~~ 6. The court shall enter an order dismissing a petition filed  
11 pursuant to NRS 176.0918 *or section 2 of this act* if:

12 (a) The requirements for ordering a genetic marker analysis  
13 pursuant to this section and NRS 176.0918 and 176.09187 are not  
14 satisfied; or

15 (b) The results of a genetic marker analysis performed ~~pursuant~~  
16 ~~to this section and NRS 176.0918 and 176.09187~~ *as the result of*  
17 *the petition* are not favorable to the petitioner.

18 ~~6.1~~ 7. If the court enters an order dismissing a petition filed  
19 pursuant to NRS 176.0918 ~~1~~ *or section 2 of this act*, the person  
20 aggrieved by the order may appeal to the appellate court of  
21 competent jurisdiction pursuant to the rules fixed by the Supreme  
22 Court pursuant to Section 4 of Article 6 of the Nevada Constitution  
23 within 30 days after the notice of the entry of the order by filing a  
24 notice of appeal with the clerk of the district court.

25 **Sec. 15.** NRS 176.09187 is hereby amended to read as  
26 follows:

27 176.09187 1. If the results of a genetic marker analysis  
28 performed *as the result of a petition filed* pursuant to ~~this section~~  
29 ~~and~~ NRS 176.0918 ~~and 176.09183~~ *or section 2 of this act* are  
30 favorable to the petitioner:

31 (a) The petitioner may bring a motion for a new trial based on  
32 the ground of newly discovered evidence pursuant to NRS 176.515;  
33 and

34 (b) The restriction on the time for filing the motion set forth in  
35 subsection 3 of NRS 176.515 is not applicable.

36 2. For the purposes of a genetic marker analysis, ~~pursuant to~~  
37 ~~this section and NRS 176.0918 and 176.09183,~~ a person who files a  
38 petition pursuant to NRS 176.0918 *or section 2 of this act* shall be  
39 deemed to consent to the:

40 (a) Submission of a biological specimen by the petitioner to  
41 determine genetic marker information; and

42 (b) Release and use of genetic marker information concerning  
43 the petitioner.

44 3. ~~The~~ *Except as otherwise provided in subsection 4, the*  
45 petitioner shall pay the cost of a genetic marker analysis performed



1 *as the result of a petition filed* pursuant to ~~{this section and}~~ NRS  
2 176.0918 ~~{and 176.09183, unless}~~ *or section 2 of this act. If the*  
3 *petition was filed pursuant to section 2 of this act, the petitioner*  
4 *must pay the cost of the analysis before the analysis is performed.*

5 4. *The petitioner is not responsible for paying the cost of a*  
6 *genetic marker analysis performed as the result of a petition filed*  
7 *pursuant to NRS 176.0918 if* the petitioner is incarcerated at the  
8 time the petitioner files the petition, *is* found to be indigent pursuant  
9 to NRS 171.188 and the results of the genetic marker analysis are  
10 favorable to the petitioner.

11 5. If the petitioner is not required to pay the cost of the analysis  
12 pursuant to ~~{this}~~ subsection ~~{}~~ 4, the expense of an analysis  
13 ~~{ordered}~~ *performed as the result of a petition filed* pursuant to  
14 ~~{this section and}~~ NRS 176.0918 ~~{and 176.09183}~~ is a charge  
15 against the Department of Corrections and must be paid upon  
16 approval by the Board of State Prison Commissioners as other  
17 claims against the State are paid.

18 ~~{}~~ 6. The remedy provided by this section and NRS 176.0918  
19 and 176.09183 *and section 2 of this act* is in addition to, is not a  
20 substitute for and is not exclusive of any other remedy, right of  
21 action or proceeding available to a person convicted of a crime.

22 **Sec. 16.** NRS 176.0919 is hereby amended to read as follows:

23 176.0919 1. After a judge grants a petition requesting a  
24 genetic marker analysis pursuant to NRS 176.0918 ~~{, 176.09183 and~~  
25 ~~176.09187,}~~ *or section 2 of this act*, if the case involves a sentence  
26 of death and a judge determines that the genetic marker analysis  
27 cannot be completed before the date of the execution of the  
28 petitioner, the judge shall stay the execution of the judgment of  
29 death pending the results of the analysis.

30 2. If the case involves a sentence of death and the results of an  
31 analysis ordered and conducted *as the result of a petition filed*  
32 pursuant to NRS 176.0918 ~~{, 176.09183 and 176.09187}~~ *or section*  
33 *2 of this act* are not favorable to the petitioner:

34 (a) Except as otherwise provided in paragraph (b), the Director  
35 of the Department of Corrections shall, in due course, execute the  
36 judgment of death.

37 (b) If the judgment of death has been stayed pursuant to  
38 subsection 1, the judge shall cause a certified copy of the order  
39 staying the execution of the judgment and a certified copy of the  
40 report of genetic marker analysis that indicates results which are not  
41 favorable to the petitioner to be immediately forwarded by the clerk  
42 of the court to the district attorney. Upon receipt, the district  
43 attorney shall pursue the issuance of a new warrant of execution of  
44 the judgment of death in the manner provided in NRS 176.495.



1       **Sec. 17.** Chapter 218D of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       **1. For a regular session, the Nevada Sentencing Commission**  
4 **created by section 5 of this act may request the drafting of not**  
5 **more than 1 legislative measure which relates to matters within**  
6 **the scope of the Commission. The request must be submitted to the**  
7 **Legislative Counsel on or before September 1 preceding the**  
8 **regular session.**

9       **2. A request made pursuant to this section must be on a form**  
10 **prescribed by the Legislative Counsel. A legislative measure**  
11 **requested pursuant to this section must be prefiled on or before**  
12 **the third Wednesday in November preceding the regular session. A**  
13 **legislative measure that is not prefiled on or before that day shall**  
14 **be deemed withdrawn.**

15       **3. The Legislative Counsel shall not assign a number to a**  
16 **request for the drafting of a legislative measure submitted**  
17 **pursuant to this section to establish the priority of the request until**  
18 **sufficient detail has been received to allow complete drafting of**  
19 **the legislative measure.**

20       **Sec. 18.** NRS 218D.100 is hereby amended to read as follows:

21       218D.100 1. The provisions of NRS 218D.100 to 218D.220,  
22 inclusive, **and section 17 of this act** apply to requests for the  
23 drafting of legislative measures for a regular session.

24       2. Except as otherwise provided by a specific statute, joint rule  
25 or concurrent resolution, the Legislative Counsel shall not honor a  
26 request for the drafting of a legislative measure if the request:

27       (a) Exceeds the number of requests authorized by NRS  
28 218D.100 to 218D.220, inclusive, **and section 17 of this act** for the  
29 requester; or

30       (b) Is submitted by an authorized nonlegislative requester  
31 pursuant to NRS 218D.175 to 218D.220, inclusive, **and section 17**  
32 **of this act** but is not in a subject related to the function of the  
33 requester.

34       3. The Legislative Counsel shall not:

35       (a) Assign a number to a request for the drafting of a legislative  
36 measure to establish the priority of the request until sufficient detail  
37 has been received to allow complete drafting of the legislative  
38 measure.

39       (b) Honor a request to change the subject matter of a request for  
40 the drafting of a legislative measure after it has been submitted for  
41 drafting.

42       (c) Honor a request for the drafting of a legislative measure  
43 which has been combined in violation of Section 17 of Article 4 of  
44 the Nevada Constitution.





- 1     **Sec. 19.** The provisions of subsection 1 of NRS 218D.380 do
- 2 not apply to any provision of this act which adds or revises a
- 3 requirement to submit a report to the Legislature.
- 4     **Sec. 20.** This act becomes effective on July 1, 2017.

