

---

---

ASSEMBLY BILL NO. 98—COMMITTEE ON JUDICIARY  
(ON BEHALF OF THE NEVADA SUPREME COURT)

FEBRUARY 13, 2003

Referred to Committee on Judiciary

SUMMARY—Authorizes governing body of city to create department of alternative sentencing. (BDR 16-609)

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

~

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

---

---

AN ACT relating to sentencing; authorizing the governing body of a city to create a department of alternative sentencing; providing the duties of a department of alternative sentencing; providing the duties of the chief and assistants of a department of alternative sentencing; providing that the chief and assistants of a department of alternative sentencing have the powers of a peace officer for certain purposes; authorizing the court to take certain actions if a probationer who is supervised by a department of alternative sentencing created by the governing body of a city violates a condition of a suspended sentence; and providing other matters properly relating thereto.

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

1     **Section 1.** Title 16 of NRS is hereby amended by adding  
2     thereto a new chapter to consist of the provisions set forth as  
3     sections 2 to 17, inclusive, of this act.

4     **Sec. 2.** *As used in this chapter, unless the context otherwise*  
5     *requires, the words and terms defined in sections 3 to 8, inclusive,*  
6     *of this act have the meanings ascribed to them in those sections.*

7     **Sec. 3.** *“Assistant” means an assistant alternative sentencing*  
8     *officer employed pursuant to subsection 1 of section 12 of this act.*



\* A B 9 8 \*

- 1     **Sec. 4.** *“Chief” means the chief of a department of*  
2 *alternative sentencing.*
- 3     **Sec. 5.** *“Court” means a municipal court.*
- 4     **Sec. 6.** *“Department” means a department of alternative*  
5 *sentencing created pursuant to section 9 of this act.*
- 6     **Sec. 7.** *“Governing body” means the governing body of a*  
7 *city.*
- 8     **Sec. 8.** *“Probationer” means a person who has been*  
9 *convicted of a misdemeanor, who:*
- 10     1. *Has had his sentence suspended pursuant to NRS 5.055,*  
11 *and is serving that suspended sentence; or*
- 12     2. *Has been sentenced to a term of residential confinement*  
13 *pursuant to NRS 5.076, and is serving that term of residential*  
14 *confinement.*
- 15     **Sec. 9.** *The governing body may create a department of*  
16 *alternative sentencing to provide a program of supervision for*  
17 *probationers.*
- 18     **Sec. 10.** *The department shall:*
- 19     1. *Supervise a probationer who, as a condition of a suspended*  
20 *sentence or a sentence to residential confinement, is released*  
21 *under the supervision of the department by the court.*
- 22     2. *At the time a probationer is released under the supervision*  
23 *of the department:*
- 24         (a) *Provide the probationer with a written statement describing*  
25 *the terms or conditions of the suspended sentence or residential*  
26 *confinement imposed by the court; and*
- 27         (b) *Explain the terms or conditions to the probationer.*
- 28     3. *Be knowledgeable about the conduct and activities of each*  
29 *probationer under the supervision of the department.*
- 30     4. *Use all reasonable methods to assist a probationer under*  
31 *the supervision of the department to improve his conduct and*  
32 *comply with the terms or conditions of his suspended sentence or*  
33 *residential confinement.*
- 34     5. *Collect and disburse any money in accordance with the*  
35 *orders of the court and make a written record of any money so*  
36 *collected or disbursed.*
- 37     6. *Cooperate with and assist any agency of law enforcement*  
38 *and any agency providing social services as requested by the court,*  
39 *or as necessary to fulfill the duties of the department.*
- 40     **Sec. 11.** *The chief:*
- 41     1. *Must be appointed by the action of a majority of the*  
42 *governing body.*
- 43     2. *Must have at least 5 years of experience, with an*  
44 *increasing level of responsibility, in the field of law enforcement,*  
45 *corrections or supervision of persons on probation or parole.*



- 1       **Sec. 12. The chief shall:**  
2       1. *Hire assistant alternative sentencing officers and other*  
3 *employees as necessary to carry out the responsibilities of the*  
4 *department within the limitations of appropriations to the*  
5 *department by the governing body.*  
6       2. *Direct the work of all assistants and employees.*  
7       3. *Be responsible for the fiscal affairs of the department.*  
8       4. *Be responsible for the completion of any report regarding*  
9 *an investigation or the supervision of a probationer and any report*  
10 *requested by the court or the governing body.*  
11       5. *After reviewing and considering recognized correctional*  
12 *programs and courses for training correctional staff, develop and*  
13 *provide to assistants and other employees training in methods and*  
14 *policies regarding the investigation and supervision of*  
15 *probationers, the recordkeeping of the department and the*  
16 *reporting on matters relating to probationers.*  
17       6. *Submit a written report, on or before January 31 of each*  
18 *year, to the governing body and to the court, setting forth in detail*  
19 *the activities of the department during the previous calendar year.*  
20 *The report must include statistical data concerning the*  
21 *department's activities and operations and the probationers who*  
22 *were under the supervision of the department during that period.*  
23       7. *Advise the court of any probationer who has violated the*  
24 *terms or conditions of his suspended sentence or residential*  
25 *confinement.*  
26       **Sec. 13. An assistant shall:**  
27       1. *Maintain detailed written records of his daily work;*  
28       2. *Make any report as required by the court or the chief; and*  
29       3. *Carry out any duty of the department as assigned by the*  
30 *chief.*  
31       **Sec. 14. 1. The chief or an assistant may arrest a**  
32 *probationer without a warrant if there is probable cause to believe*  
33 *that the probationer has committed an act that constitutes a*  
34 *violation of a condition of his suspended sentence or residential*  
35 *confinement.*  
36       2. *Any other peace officer may arrest a probationer upon*  
37 *receipt of a written order by a chief or an assistant stating that*  
38 *there is probable cause to believe that a probationer has committed*  
39 *an act that constitutes a violation of a condition of his suspended*  
40 *sentence or residential confinement.*  
41       3. *After making an arrest, the chief, assistant or other peace*  
42 *officer shall immediately notify the sentencing court of the arrest*  
43 *of the probationer and shall submit a written report setting forth*  
44 *the act that constituted a violation of a condition of the suspended*  
45 *sentence or residential confinement of the probationer.*



1       4. *The chief, assistant or other peace officer may immediately*  
2 *release from custody without any further proceedings any*  
3 *probationer arrested without a warrant pursuant to this section if*  
4 *he determines that there is not probable cause to believe that the*  
5 *person violated the condition of his suspended sentence or*  
6 *residential confinement.*

7       **Sec. 15.** *1. If a probationer has violated a condition of his*  
8 *suspended sentence, the court may, upon its own motion or upon*  
9 *the report and recommendation of the chief or an assistant, do any*  
10 *or all of the following:*

11       (a) *Modify the conditions of the suspension of the sentence.*

12       (b) *Modify and extend the suspension of the sentence, in whole*  
13 *or in part, for a period of not more than 1 year after the date on*  
14 *which the court finds that the probationer has committed the*  
15 *violation, unless a longer period is authorized by specific statute.*

16       (c) *Revoke the suspension of the sentence, in whole or in part,*  
17 *and cause all or part of the sentence to be executed.*

18       2. *Before taking any action described in subsection 1, the*  
19 *court shall provide the probationer with notice of the proposed*  
20 *action and an opportunity to be heard.*

21       **Sec. 16.** *1. The governing body shall adopt a schedule of*  
22 *fees to be imposed on probationers to defray the cost of the*  
23 *supervision of a probationer. The schedule adopted must provide*  
24 *for a monthly fee of not less than \$20 for the supervision of a*  
25 *probationer.*

26       2. *Except as otherwise provided in subsection 3:*

27       (a) *The department shall charge each probationer the fee set*  
28 *forth in the schedule adopted pursuant to subsection 1.*

29       (b) *Payment of the required fee by the probationer is a*  
30 *condition of his suspended sentence or residential confinement.*

31       3. *If the chief determines that payment of the fee would result*  
32 *in economic hardship to a probationer, the chief may waive the*  
33 *imposition of, or reduce the amount of, the fee. If the chief waives*  
34 *the imposition of the fee, payment of the fee by the probationer*  
35 *does not constitute a condition of his suspended sentence or*  
36 *residential confinement.*

37       **Sec. 17.** *1. Any information regarding a probationer*  
38 *obtained by the chief, an assistant or other employee of the*  
39 *department in the discharge of his duties shall be deemed*  
40 *confidential. Except as otherwise provided in subsection 2, the*  
41 *chief, assistant or other employee of the department shall not*  
42 *disclose such information.*

43       2. *The chief, assistant or other employee of the department*  
44 *shall disclose information obtained in the discharge of his duties*



1 *to the court or the city attorney upon request, or to any other*  
2 *person as ordered by the court or as provided by law.*

3 **Sec. 18.** NRS 211A.050 is hereby amended to read as follows:  
4 211A.050 "Court" means a *justice's* court. ~~[having jurisdiction~~  
5 ~~over a person who is charged with a misdemeanor.]~~

6 **Sec. 19.** NRS 211A.070 is hereby amended to read as follows:  
7 211A.070 "Probationer" means a person who has been  
8 convicted of a misdemeanor, who:

9 1. Has had his sentence suspended pursuant to NRS 4.373, ~~[or~~  
10 ~~5.055.]~~ and is serving that suspended sentence; or

11 2. Has been sentenced to a term of residential confinement  
12 pursuant to NRS 4.3762, ~~[or 5.076.]~~ and is serving that term of  
13 residential confinement.

14 **Sec. 20.** NRS 5.052 is hereby amended to read as follows:

15 5.052 If the ~~[county]~~ *city* in which a municipal court is situated  
16 does not have a department of alternative sentencing, the municipal  
17 court may contract with a qualified person, *including, without*  
18 *limitation, the chief of a department of alternative sentencing*  
19 *established pursuant to NRS 211A.080*, to administer a program of  
20 supervision for persons whose sentences have been suspended  
21 pursuant to NRS 5.055 or who are sentenced to a term of residential  
22 confinement pursuant to NRS 5.076. ~~[If the county in which the~~  
23 ~~municipal court is situated has a department of alternative~~  
24 ~~sentencing, the chief of that department shall administer the~~  
25 ~~program of supervision.]~~

26 **Sec. 21.** NRS 5.055 is hereby amended to read as follows:

27 5.055 1. Except as otherwise provided in subsection 2, ~~[NRS~~  
28 ~~211A.127]~~ *section 15 of this act* or another specific statute, or  
29 unless the suspension of a sentence is expressly forbidden, a  
30 municipal judge may suspend, for not more than 1 year, the sentence  
31 of a person convicted of a misdemeanor. If the circumstances  
32 warrant, the municipal judge may order as a condition of suspension  
33 that the offender:

34 (a) Make restitution to the owner of any property that is lost,  
35 damaged or destroyed as a result of the commission of the offense;

36 (b) Engage in a program of community service, for not more  
37 than 200 hours;

38 (c) Actively participate in a program of professional counseling  
39 at the expense of the offender;

40 (d) Abstain from the use of alcohol and controlled substances;

41 (e) Refrain from engaging in any criminal activity;

42 (f) Engage or refrain from engaging in any other conduct  
43 deemed appropriate by the municipal judge;

44 (g) Submit to a search and seizure by the chief of a department  
45 of alternative sentencing, an assistant alternative sentencing officer



1 or any other law enforcement officer at any time of the day or night  
2 without a search warrant; and

3 (h) Submit to periodic tests to determine whether the offender is  
4 using any controlled substance or alcohol.

5 2. If a person is convicted of a misdemeanor that constitutes  
6 domestic violence pursuant to NRS 33.018, the municipal judge  
7 may, after the person has served any mandatory minimum period of  
8 confinement, suspend the remainder of the sentence of the person  
9 for not more than 3 years upon the condition that the person actively  
10 participate in:

11 (a) A program of treatment for the abuse of alcohol or drugs  
12 which is certified by the Health Division of the Department of  
13 Human Resources;

14 (b) A program for the treatment of persons who commit  
15 domestic violence that has been certified pursuant to NRS 228.470;  
16 or

17 (c) The programs set forth in paragraphs (a) and (b),  
18 and that he comply with any other condition of suspension ordered  
19 by the municipal judge.

20 3. The municipal judge may order reports from a person whose  
21 sentence is suspended at such times as he deems appropriate  
22 concerning the compliance of the offender with the conditions of  
23 suspension. If the offender complies with the conditions of  
24 suspension to the satisfaction of the municipal judge, the sentence  
25 may be reduced to not less than the minimum period of confinement  
26 established for the offense.

27 4. The municipal judge may issue a warrant for the arrest of an  
28 offender who violates or fails to fulfill a condition of suspension.

29 **Sec. 22.** NRS 289.180 is hereby amended to read as follows:

30 289.180 1. The following persons have the powers of a peace  
31 officer:

32 (a) The Chief Parole and Probation Officer appointed pursuant  
33 to NRS 213.1092;

34 (b) Assistant parole and probation officers appointed pursuant to  
35 NRS 213.1095;

36 (c) The chief of a department of alternative sentencing  
37 established pursuant to NRS 211A.080 ~~§~~ *or section 9 of this act;*  
38 and

39 (d) Assistant alternative sentencing officers of a department of  
40 alternative sentencing ~~§~~ *employed pursuant to NRS 211A.110 or*  
41 *section 12 of this act.*

42 2. A juvenile probation officer or assistant juvenile probation  
43 officer whose official duties require him to enforce court orders on  
44 juvenile offenders and make arrests has the same powers as a peace  
45 officer when performing duties pursuant to NRS 213.220 to



1 213.290, inclusive, or chapter 62 or 432B of NRS, including the  
2 power to arrest an adult criminal offender encountered while in the  
3 performance of those duties.

4 3. A director of juvenile services has the powers of a peace  
5 officer in his judicial district when performing duties pursuant to  
6 NRS 213.220 to 213.290, inclusive, or chapter 62 or 432B of NRS,  
7 including the power to arrest an adult criminal offender encountered  
8 while in the performance of those duties.

9 4. The Chief of the Youth Parole Bureau of the Division of  
10 Child and Family Services in the Department of Human Resources  
11 and the parole officers of the Bureau have the powers of a peace  
12 officer in carrying out the functions of the Bureau.

13 5. A director of a department of family, youth and juvenile  
14 services established pursuant to NRS 62.1264 has the powers of a  
15 peace officer in the county when carrying out duties pursuant to  
16 chapter 62 of NRS, NRS 213.220 to 213.290, inclusive, or chapter  
17 432B of NRS, including the power to arrest an adult criminal  
18 offender encountered while carrying out those duties.

19 **Sec. 23.** NRS 289.470 is hereby amended to read as follows:

20 289.470 "Category II peace officer" means:

- 21 1. The bailiff of the Supreme Court;
- 22 2. The bailiffs of the district courts, justices' courts and  
23 municipal courts whose duties require them to carry weapons and  
24 make arrests;
- 25 3. Constables and their deputies whose official duties require  
26 them to carry weapons and make arrests;
- 27 4. Inspectors employed by the Transportation Services  
28 Authority who exercise those powers of enforcement conferred by  
29 chapters 706 and 712 of NRS;
- 30 5. Parole and probation officers;
- 31 6. Special investigators who are employed full time by the  
32 office of any district attorney or the Attorney General;
- 33 7. Investigators of arson for fire departments who are specially  
34 designated by the appointing authority;
- 35 8. The assistant and deputies of the State Fire Marshal;
- 36 9. The brand inspectors of the State Department of Agriculture  
37 who exercise the powers of enforcement conferred by chapter 565  
38 of NRS;
- 39 10. The field agents and inspectors of the State Department of  
40 Agriculture who exercise the powers of enforcement conferred by  
41 NRS 561.225;
- 42 11. Investigators for the State Forester Firewarden who are  
43 specially designated by him and whose primary duties are related to  
44 the investigation of arson;



- 1 12. School police officers employed by the board of trustees of  
2 any county school district;
- 3 13. Agents of the State Gaming Control Board who exercise  
4 the powers of enforcement specified in NRS 289.360, 463.140 or  
5 463.1405, except those agents whose duties relate primarily to  
6 auditing, accounting, the collection of taxes or license fees, or the  
7 investigation of applicants for licenses;
- 8 14. Investigators and administrators of the Division of  
9 Compliance Enforcement of the Department of Motor Vehicles who  
10 perform the duties specified in subsection 2 of NRS 481.048;
- 11 15. Officers and investigators of the Section for the Control of  
12 Emissions from Vehicles of the Department of Motor Vehicles who  
13 perform the duties specified in subsection 3 of NRS 481.0481;
- 14 16. Legislative police officers of the State of Nevada;
- 15 17. The personnel of the Capitol Police Division of the  
16 Department of Public Safety appointed pursuant to subsection 2 of  
17 NRS 331.140;
- 18 18. Parole counselors of the Division of Child and Family  
19 Services of the Department of Human Resources;
- 20 19. Juvenile probation officers and deputy juvenile probation  
21 officers employed by the various judicial districts in the State of  
22 Nevada or by a department of family, youth and juvenile services  
23 established pursuant to NRS 62.1264 whose official duties require  
24 them to enforce court orders on juvenile offenders and make arrests;
- 25 20. Field investigators of the Taxicab Authority;
- 26 21. Security officers employed full time by a city or county  
27 whose official duties require them to carry weapons and make  
28 arrests;
- 29 22. The chief of a department of alternative sentencing created  
30 pursuant to NRS 211A.080 *or section 9 of this act* and the assistant  
31 alternative sentencing officers employed by that department; and
- 32 23. Criminal investigators who are employed by the Secretary  
33 of State.

