

ASSEMBLY BILL NO. 229—ASSEMBLYWOMAN BILBRAY-AXELROD

MARCH 1, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to sentencing. (BDR 16-461)

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 sentencing; revising provisions relating to the standards adopted by the State Board of Parole Commissioners governing the granting and revocation of parole; establishing a presumption in favor of granting parole under certain circumstances; requiring the Board to provide a written statement of its reasons for denying parole under certain circumstances; revising provisions relating to technical violations of probation and parole; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Parole Commissioners to adopt, by regulation, specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. Such standards must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime. Additionally, existing law provides that in determining whether to grant parole to a convicted person, the Board shall not consider whether the person has appealed the judgment of imprisonment for which the person is being considered for parole. (NRS 213.10885) **Section 1** of this bill establishes a presumption in favor of granting parole if a convicted person has not: (1) committed a major violation of the regulations of the Department of Corrections that is punishable as a felony in the immediately preceding 12 months; (2) been housed in disciplinary segregation for conduct that is punishable as a felony in the immediately preceding 12 months; or (3) been released on parole previously for the current sentence. **Section 1** also: (1) requires the Board not to consider whether a person has pursued any collateral challenges to the conviction for which the person is being considered for parole; and (2) eliminates the requirement that the standards



19 for determining whether to grant parole must provide for greater punishment for
20 certain convicted persons.

21 Existing law provides that upon making a final decision concerning the parole
22 of a prisoner, the Board is required to provide written notice to the prisoner of its
23 decision not later than 10 working days after the meeting and, if parole is denied,
24 specific recommendations of the Board to improve the possibility of granting parole
25 the next time the prisoner is considered for parole. (NRS 213.131) **Section 2** of this
26 bill provides that if the presumption established in **section 1** exists, but the Board
27 denies parole to the prisoner, the Board must include in the written notice of its
28 decision the specific reasons for its denial of parole despite the existence of the
29 presumption.

30 Existing law requires the Division of Parole and Probation of the Department of
31 Public Safety to adopt a written system of graduated sanctions for parole and
32 probation officers to use when responding to a technical violation of the conditions
33 of parole or probation, as applicable. (NRS 176A.510, 213.15101) Existing law
34 also provides that: (1) if the court finds that a probationer has committed one or
35 more technical violations, the court may take certain actions; and (2) if the Board
36 finds that a parolee has committed one or more technical violations of the
37 conditions of parole, the Board may take certain actions. (NRS 176A.510,
38 213.1519) Under existing law a "technical violation" means any alleged violation
39 of the conditions of probation or parole, as applicable, that does not constitute
40 absconding and is not the commission of certain crimes. (NRS 176A.510,
41 213.15101, 213.1519) **Sections 3-6** of this bill revise the term "technical violation"
42 so that a conviction of a crime, not the commission of a crime, is excluded from the
43 definition of the term.

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

1 **Section 1.** NRS 213.10885 is hereby amended to read as
2 follows:

3 213.10885 1. The Board shall adopt by regulation specific
4 standards for each type of convicted person to assist the Board in
5 determining whether to grant or revoke parole. The regulations must
6 include standards for determining whether to grant or revoke the
7 parole of a convicted person:

- 8 (a) Who committed a capital offense.
- 9 (b) Who was sentenced to serve a term of imprisonment for life.
- 10 (c) Who was convicted of a sexual offense involving the use or
11 threat of use of force or violence.
- 12 (d) Who was convicted as a habitual criminal.
- 13 (e) Who is a repeat offender.
- 14 (f) Who was convicted of any other type of offense.

15 ↪ The standards must be based upon objective criteria for
16 determining the person's probability of success on parole.

17 2. In establishing the standards, the Board shall consider the
18 information on decisions regarding parole that is compiled and
19 maintained pursuant to NRS 213.10887 and all other factors which
20 are relevant in determining the probability that a convicted person



1 will live and remain at liberty without violating the law if parole is
2 granted or continued. The other factors the Board considers must
3 include, but are not limited to:

- 4 (a) The severity of the crime committed;
- 5 (b) The criminal history of the person;
- 6 (c) Any disciplinary action taken against the person while
7 incarcerated;
- 8 (d) Any previous parole violations or failures;
- 9 (e) Any potential threat to society or to the convicted person;
- 10 and
- 11 (f) The length of his or her incarceration.

12 3. *In determining whether to grant parole to a convicted*
13 *person, there exists a presumption in favor of granting parole if*
14 *the convicted person has not:*

15 (a) *Within the immediately preceding 12 months:*

16 (1) *Committed a major violation of the regulations of the*
17 *Department of Corrections that is punishable as a felony; and*

18 (2) *Been housed in disciplinary segregation for conduct*
19 *that is punishable as a felony; and*

20 (b) *Been released on parole previously for the current*
21 *sentence.*

22 4. In determining whether to grant parole to a convicted
23 person, the Board shall not consider whether the person has
24 appealed the judgment of imprisonment *or has pursued any*
25 *collateral challenges to the conviction* for which the person is being
26 considered for parole.

27 ~~[4. The standards adopted by the Board must provide for a~~
28 ~~greater punishment for a convicted person who has a history of~~
29 ~~repetitive criminal conduct or who commits a serious crime, with a~~
30 ~~violent crime considered the most serious, than for a convicted~~
31 ~~person who does not have a history of repetitive crimes and did not~~
32 ~~commit a serious crime.]~~

33 5. The Board shall make available to the public a sample of the
34 form the Board uses in determining the probability that a convicted
35 person will live and remain at liberty without violating the law if
36 parole is granted or continued.

37 6. At least once every 5 years, the Board shall review
38 comprehensively the standards adopted by the Board. The review
39 must include a determination of whether the standards are effective
40 in predicting the probability that a convicted person will live and
41 remain at liberty without violating the law if parole is granted or
42 continued. If a standard is found to be ineffective, the Board shall
43 not use that standard in its decisions regarding parole and shall
44 adopt revised standards as soon as practicable after the review.



1 7. The Board shall report to each regular session of the
2 Legislature:

3 (a) The number and percentage of the Board's decisions that
4 conflicted with the standards;

5 (b) The results and conclusions from the Board's review
6 pursuant to subsection 6; and

7 (c) Any changes in the Board's standards, policies, procedures,
8 programs or forms that have been or will be made as a result of the
9 review.

10 **Sec. 2.** NRS 213.131 is hereby amended to read as follows:

11 213.131 1. The Department of Corrections shall:

12 (a) Determine when a prisoner sentenced to imprisonment in the
13 state prison is eligible to be considered for parole;

14 (b) Notify the Board of the eligibility of the prisoner to be
15 considered for parole; and

16 (c) Before a meeting to consider the prisoner for parole, compile
17 and provide to the Board data that will assist the Board in
18 determining whether parole should be granted.

19 2. If a prisoner is being considered for parole from a sentence
20 imposed for conviction of a crime which involved the use of force
21 or violence against a victim and which resulted in bodily harm to a
22 victim and if original or duplicate photographs that depict the
23 injuries of the victim or the scene of the crime were admitted at the
24 trial of the prisoner or were part of the report of the presentence
25 investigation and are reasonably available, a representative sample
26 of such photographs must be included with the information
27 submitted to the Board at the meeting. A prisoner may not bring a
28 cause of action against the State of Nevada, its political
29 subdivisions, agencies, boards, commissions, departments, officers
30 or employees for any action that is taken pursuant to this subsection
31 or for failing to take any action pursuant to this subsection,
32 including, without limitation, failing to include photographs or
33 including only certain photographs. As used in this subsection,
34 "photograph" includes any video, digital or other photographic
35 image.

36 3. Meetings to consider prisoners for parole may be held
37 semiannually or more often, on such dates as may be fixed by the
38 Board. All meetings are quasi-judicial and must be open to the
39 public. No rights other than those conferred pursuant to this section
40 or pursuant to specific statute concerning meetings to consider
41 prisoners for parole are available to any person with respect to such
42 meetings.

43 4. Except as otherwise provided in NRS 213.10915, not later
44 than 5 days after the date on which the Board fixes the date of the
45 meeting to consider a prisoner for parole, the Board shall notify the



1 victim of the prisoner who is being considered for parole of the date
2 of the meeting and of the victim's rights pursuant to this subsection,
3 if the victim has requested notification in writing and has provided
4 his or her current address or if the victim's current address is
5 otherwise known by the Board. The victim of a prisoner being
6 considered for parole may submit documents to the Board and may
7 testify at the meeting held to consider the prisoner for parole. A
8 prisoner must not be considered for parole until the Board has
9 notified any victim of his or her rights pursuant to this subsection
10 and the victim is given the opportunity to exercise those rights. If a
11 current address is not provided to or otherwise known by the Board,
12 the Board must not be held responsible if such notification is not
13 received by the victim.

14 5. The Board may deliberate in private after a public meeting
15 held to consider a prisoner for parole.

16 6. The Board of State Prison Commissioners shall provide
17 suitable and convenient rooms or space for use of the State Board of
18 Parole Commissioners.

19 7. Except as otherwise provided in NRS 213.10915, if a victim
20 is notified of a meeting to consider a prisoner for parole pursuant to
21 subsection 4, the Board shall, upon making a final decision
22 concerning the parole of the prisoner, notify the victim of its final
23 decision.

24 8. All personal information, including, but not limited to, a
25 current or former address, which pertains to a victim and which is
26 received by the Board pursuant to this section is confidential.

27 9. The Board may grant parole without a meeting, pursuant to
28 NRS 213.1215 or 213.133, but the Board must not deny parole to a
29 prisoner unless the prisoner has been given reasonable notice of the
30 meeting and the opportunity to be present at the meeting. If the
31 Board fails to provide notice of the meeting to the prisoner or to
32 provide the prisoner with an opportunity to be present and
33 determines that it may deny parole, the Board may reschedule the
34 meeting.

35 10. During a meeting to consider a prisoner for parole, the
36 Board shall allow the prisoner:

37 (a) At his or her own expense, to have a representative present
38 with whom the prisoner may confer; and

39 (b) To speak on his or her own behalf or to have his or her
40 representative speak on his or her behalf.

41 11. Upon making a final decision concerning the parole of the
42 prisoner, the Board shall provide written notice to the prisoner of its
43 decision not later than 10 working days after the meeting . ~~[and, if]~~
44 ~~If~~ parole is denied, ~~[specific recommendations of]~~ the Board *shall*
45 *include in the written notice:*



1 **(a) Specific recommendations** to improve the possibility of
2 granting parole the next time the prisoner is considered for parole, if
3 any **H**; and

4 **(b) If the presumption established in subsection 3 of NRS**
5 **213.10885 exists, the specific reasons for denying parole despite**
6 **the existence of the presumption.**

7 12. For the purposes of this section, “victim” has the meaning
8 ascribed to it in NRS 213.005.

9 **Sec. 3.** NRS 213.15101 is hereby amended to read as follows:

10 213.15101 1. The Division shall adopt a written system of
11 graduated sanctions for parole and probation officers to use when
12 responding to a technical violation of the conditions of parole. The
13 system must:

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

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

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

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

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

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

39 6. The Division may not seek revocation of parole for a
40 technical violation of the conditions of parole until all graduated
41 sanctions have been exhausted. If the Division determines that all
42 graduated sanctions have been exhausted, the Division shall submit
43 a report to the Board outlining the reasons for the recommendation
44 of revocation and the steps taken by the Division to change the
45 supervised person’s behavior while in the community, including,



1 without limitation, any graduated sanctions imposed before
2 recommending revocation.

3 7. As used in this section:

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

6 (b) "Technical violation" means any alleged violation of the
7 conditions of parole that does not constitute absconding and is not
8 ~~the commission~~ *a conviction* of a:

9 (1) New felony or gross misdemeanor;

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

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

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

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

17 (6) Violation of a temporary or extended order for protection
18 against domestic violence issued pursuant to NRS 33.017 to 33.100,
19 inclusive, a restraining order or injunction that is in the nature of a
20 temporary or extended order for protection against domestic
21 violence issued in an action or proceeding brought pursuant to title
22 11 of NRS, a temporary or extended order for protection against
23 stalking, aggravated stalking or harassment issued pursuant to NRS
24 200.591 or a temporary or extended order for protection against
25 sexual assault pursuant to NRS 200.378; or

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

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

31 **Sec. 4.** NRS 213.1519 is hereby amended to read as follows:

32 213.1519 1. Except as otherwise provided in subsections 2
33 and 3, a parolee whose parole is revoked by decision of the Board
34 for ~~the commission~~ *a conviction* of a new felony or gross
35 misdemeanor, battery which constitutes domestic violence pursuant
36 to NRS 200.485, violation of NRS 484C.110 or 484C.120, crime of
37 violence as defined in NRS 200.408 that is punishable as a
38 misdemeanor, harassment pursuant to NRS 200.571, stalking or
39 aggravated stalking pursuant to NRS 200.575, violation of a stay
40 away order involving a natural person who is the victim of the crime
41 for which the parolee is being supervised, violation of a temporary
42 or extended order for protection against domestic violence issued
43 pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or
44 injunction that is in the nature of a temporary or extended order for
45 protection against domestic violence issued in an action or



1 proceeding brought pursuant to title 11 of NRS, a temporary or
2 extended order for protection against stalking, aggravated stalking
3 or harassment issued pursuant to NRS 200.591 or a temporary or
4 extended order for protection against sexual assault pursuant to NRS
5 200.378 or for absconding:

6 (a) Forfeits all credits for good behavior previously earned to
7 reduce his or her sentence pursuant to chapter 209 of NRS; and

8 (b) Must serve such part of the unexpired maximum term or the
9 maximum aggregate term, as applicable, of his or her original
10 sentence as may be determined by the Board with rehearing dates
11 scheduled pursuant to NRS 213.142.

12 ↪ The Board may restore any credits forfeited under this
13 subsection.

14 2. A parolee released on parole pursuant to subsection 1 of
15 NRS 213.1215 whose parole is revoked for having been convicted
16 of a new felony:

17 (a) Forfeits all credits for good behavior previously earned to
18 reduce his or her sentence pursuant to chapter 209 of NRS;

19 (b) Must serve the entire unexpired maximum term or the
20 maximum aggregate term, as applicable, of his or her original
21 sentence; and

22 (c) May not again be released on parole during his or her term of
23 imprisonment.

24 3. A parolee released on parole pursuant to subsection 2 of
25 NRS 213.1215 whose parole is revoked by decision of the Board for
26 a violation of any rule or regulation governing his or her conduct:

27 (a) Forfeits all credits for good behavior previously earned to
28 reduce his or her sentence pursuant to chapter 209 of NRS;

29 (b) Must serve such part of the unexpired maximum term or
30 maximum aggregate term, as applicable, of his or her original
31 sentence as may be determined by the Board; and

32 (c) Must not be considered again for release on parole pursuant
33 to subsection 2 of NRS 213.1215 but may be considered for release
34 on parole pursuant to NRS 213.1099, with rehearing dates scheduled
35 pursuant to NRS 213.142.

36 ↪ The Board may restore any credits forfeited under this
37 subsection.

38 4. If the Board finds that the parolee committed one or more
39 technical violations of the conditions of parole, the Board may:

40 (a) Continue parole supervision;

41 (b) Temporarily revoke parole supervision and impose a term of
42 imprisonment of not more than:

43 (1) Thirty days for the first temporary parole revocation;

44 (2) Ninety days for the second temporary parole revocation;

45 or



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

3 (c) Fully revoke parole supervision and impose the remainder of
4 the sentence for a fourth or subsequent revocation.

5 5. As used in this section:

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

8 (b) "Technical violation" means any alleged violation of the
9 conditions of parole that does not constitute absconding and is not
10 ~~[the commission]~~ **a conviction** of a:

11 (1) New felony or gross misdemeanor;

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

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

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

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

19 (6) Violation of a temporary or extended order for protection
20 against domestic violence issued pursuant to NRS 33.017 to 33.100,
21 inclusive, a restraining order or injunction that is in the nature of a
22 temporary or extended order for protection against domestic
23 violence issued in an action or proceeding brought pursuant to title
24 11 of NRS, a temporary or extended order for protection against
25 stalking, aggravated stalking or harassment issued pursuant to NRS
26 200.591 or a temporary or extended order for protection against
27 sexual assault pursuant to NRS 200.378; or

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

31 ↪ The term does not include termination from a specialty court
32 program.

33 **Sec. 5.** NRS 176A.510 is hereby amended to read as follows:

34 176A.510 1. The Division shall adopt a written system of
35 graduated sanctions for parole and probation officers to use when
36 responding to a technical violation of the conditions of probation.
37 The system must:

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

44 (b) Take into account factors such as responsivity factors
45 impacting a person's ability to successfully complete any conditions



1 of supervision, the severity of the current violation, the person's
2 previous criminal record, the number and severity of any previous
3 violations and the extent to which graduated sanctions were imposed
4 for previous violations.

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

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

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

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

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

27 7. As used in this section:

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

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

32 (c) "Technical violation" means any alleged violation of the
33 conditions of probation that does not constitute absconding and is
34 not ~~[the commission]~~ **a conviction** of a:

35 (1) New felony or gross misdemeanor;

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

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

39 (4) Crime of violence that is punishable as a misdemeanor;

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

42 (6) Violation of a temporary or extended order for protection
43 against domestic violence issued pursuant to NRS 33.017 to 33.100,
44 inclusive, a restraining order or injunction that is in the nature of a
45 temporary or extended order for protection against domestic



1 violence issued in an action or proceeding brought pursuant to title
2 11 of NRS, a temporary or extended order for protection against
3 stalking, aggravated stalking or harassment issued pursuant to NRS
4 200.591 or a temporary or extended order for protection against
5 sexual assault pursuant to NRS 200.378; or

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

9 ➔ The term does not include termination from a specialty court
10 program.

11 **Sec. 6.** NRS 176A.630 is hereby amended to read as follows:

12 176A.630 1. If the probationer is arrested, by or without
13 warrant, in another judicial district of this state, the court which
14 granted the probation may assign the case to the district court of that
15 district, with the consent of that court. The court retaining or thus
16 acquiring jurisdiction shall cause the defendant to be brought before
17 it and consider the system of graduated sanctions adopted pursuant
18 to NRS 176A.510, if applicable. Upon determining that the
19 probationer has violated a condition of probation, the court shall, if
20 practicable, order the probationer to make restitution for any
21 necessary expenses incurred by a governmental entity in returning
22 the probationer to the court for violation of the probation. If the
23 court finds that the probationer committed a violation of a condition
24 of probation by committing a new felony or gross misdemeanor,
25 battery which constitutes domestic violence pursuant to NRS
26 200.485, violation of NRS 484C.110 or 484C.120, crime of violence
27 that is punishable as a misdemeanor, harassment pursuant to NRS
28 200.571, stalking or aggravated stalking pursuant to NRS 200.575,
29 violation of a stay away order involving a natural person who is the
30 victim of the crime for which the probationer is being supervised,
31 violation of a temporary or extended order for protection against
32 domestic violence issued pursuant to NRS 33.017 to 33.100,
33 inclusive, a restraining order or injunction that is in the nature of a
34 temporary or extended order for protection against domestic
35 violence issued in an action or proceeding brought pursuant to title
36 11 of NRS, a temporary or extended order for protection against
37 stalking, aggravated stalking or harassment issued pursuant to NRS
38 200.591 or a temporary or extended order for protection against
39 sexual assault pursuant to NRS 200.378 or by absconding, the court
40 may:

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

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

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



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

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

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

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

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

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

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

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

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

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

39 3. Notwithstanding any other provision of law, a probationer
40 who is arrested and detained for committing a technical violation of
41 the conditions of probation must be brought before the court not
42 later than 15 calendar days after the date of arrest and detention. If
43 the person is not brought before the court within 15 calendar days,
44 the probationer must be released from detention and returned to
45 probation status. Following a probationer's release from detention,



1 the court may subsequently hold a hearing to determine if a
2 technical violation has occurred. If the court finds that such a
3 technical violation occurred, the court may:

4 (a) Continue probation and modify the terms and conditions of
5 probation; or

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

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

11 (a) Consuming any alcoholic beverage.

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

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

15 (d) Failing to seek and maintain employment.

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

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

18 5. As used in this section:

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

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

25 (1) New felony or gross misdemeanor;

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

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

29 (4) Crime of violence that is punishable as a misdemeanor;

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

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

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

44 ↪ The term does not include termination from a specialty court
45 program.



1 **Sec. 7.** 1. This section becomes effective upon passage and
2 approval.

3 2. Section 1 of this act becomes effective:

4 (a) Upon passage and approval for the purpose of adopting any
5 regulations and performing any other preparatory administrative
6 tasks that are necessary to carry out the provisions of this act; and

7 (b) On October 1, 2023, for all other purposes.

8 3. Sections 2 to 6, inclusive, of this act become effective on
9 October 1, 2023.

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