

SENATE BILL NO. 7—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DIVISION OF PAROLE AND PROBATION
OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED OCTOBER 29, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to presentence investigations and reports. (BDR 14-247)

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 criminal procedure; reorganizing certain provisions related to presentence investigations and reports; revising requirements relating to a presentence investigation and report that must include a psychosexual evaluation of the defendant; clarifying certain requirements governing the submission of a presentence investigation and report and the disclosure of the factual contents of any such report; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Division of Parole and Probation of the Department of
2 Public Safety to make a presentence investigation and report to the court on certain
3 defendants. (NRS 176.135) Under existing law, the Chief Parole and Probation
4 Officer must submit any such report to the court not later than 45 days after
5 receiving a request for a presentence investigation from the county clerk. (NRS
6 176A.100) **Sections 1 and 3** of this bill reorganize this requirement.

7 Existing law requires the Division to: (1) include a psychosexual evaluation as
8 part of a presentence investigation and report under certain circumstances; and (2)
9 arrange for a psychosexual evaluation of each defendant to whom this requirement
10 applies. (NRS 176.135, 176.139) Existing law requires a person who conducts a
11 psychosexual evaluation of a defendant to provide a copy of the written report of
12 the results of the evaluation to the Division. (NRS 176.139) If the Division has not
13 received a copy of the written report of the results of the evaluation within 45 days
14 after receiving the request for a presentence investigation from the county clerk,
15 **section 1** provides that the Chief Parole and Probation Officer is not required to



16 submit the presentence investigation and report to the court until 3 days after the
17 date on which the Division receives a copy of the written report.

18 In general, existing law requires the Division to disclose the factual content of
19 the report of any presentence investigation made by the Division to the prosecuting
20 attorney, the counsel for the defendant, the defendant and the court not later than 14
21 calendar days before the defendant who is the subject of the report will be
22 sentenced. (NRS 176.153) **Sections 1 and 2** of this bill clarify that this 14-day
23 period is separate from, independent of and in addition to the 45-day period within
24 which existing law requires the Chief Parole and Probation Officer to submit the
25 report of any presentence investigation made by the Division to the court.

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

1 **Section 1.** NRS 176.135 is hereby amended to read as follows:

2 176.135 1. Except as otherwise provided in this section and
3 NRS 176.151, the Division shall make a presentence investigation
4 and report to the court on each defendant who pleads guilty, guilty
5 but mentally ill or nolo contendere to, or is found guilty or guilty but
6 mentally ill of, a felony.

7 2. If a defendant is convicted of a felony that is a sexual
8 offense, the presentence investigation and report:

9 (a) Must be made before the imposition of sentence or the
10 granting of probation; and

11 (b) If the sexual offense is an offense for which the suspension
12 of sentence or the granting of probation is permitted, must include a
13 psychosexual evaluation of the defendant.

14 3. Except as otherwise provided in subsection 5, if a defendant
15 is convicted of a felony other than a sexual offense, the presentence
16 investigation and report must be made before the imposition of
17 sentence or the granting of probation unless:

18 (a) A sentence is fixed by a jury; or

19 (b) Such an investigation and report on the defendant has been
20 made by the Division within the 5 years immediately preceding the
21 date initially set for sentencing on the most recent offense.

22 4. Upon request of the court, the Division shall make
23 presentence investigations and reports on defendants who plead
24 guilty, guilty but mentally ill or nolo contendere to, or are found
25 guilty or guilty but mentally ill of, gross misdemeanors.

26 5. If a defendant is convicted of a felony other than a sexual
27 offense or of a gross misdemeanor and the conviction is of an
28 offense for which the suspension of sentence or the granting of
29 probation is permitted, the Division shall, before the imposition of
30 sentence or the granting of probation, make a presentence
31 investigation and report to the court that includes a psychosexual
32 evaluation of the defendant if the defendant and the prosecuting



1 attorney submit to the court a joint request for a presentence
2 investigation and report that includes a psychosexual evaluation of
3 the defendant. The provisions of this subsection apply only to a
4 conviction where the original charge in the complaint, information
5 or indictment was for a sexual offense, as defined in NRS 176.133
6 or 179D.097.

7 6. Each court in which a report of a presentence investigation
8 can be made must ensure that each judge of the court receives
9 training concerning the manner in which to use the information
10 included in a report of a presentence investigation for the purpose of
11 imposing a sentence. Such training must include, without limitation,
12 education concerning behavioral health needs and intellectual or
13 developmental disabilities.

14 *7. Except as otherwise provided in this subsection, the Chief*
15 *Parole and Probation Officer shall submit a presentence*
16 *investigation and report required pursuant to this section to the*
17 *court not later than 45 days after receiving the request for a*
18 *presentence investigation from the county clerk. If the Division*
19 *has not received a copy of the written report of the results of a*
20 *psychosexual evaluation required by NRS 176.139 within the 45-*
21 *day period, the Chief Parole and Probation Officer is not required*
22 *to submit the presentence investigation and report until 3 days*
23 *after the date on which the Division receives a copy of the written*
24 *report.*

25 *8. The period specified in subsection 7 is separate from,*
26 *independent of and in addition to the minimum period specified in*
27 *NRS 176.153.*

28 **Sec. 2.** NRS 176.153 is hereby amended to read as follows:

29 176.153 1. Except as otherwise provided in subsection 3, the
30 Division shall disclose to the prosecuting attorney, the counsel for
31 the defendant, the defendant and the court, not later than 14 calendar
32 days before the defendant will be sentenced, the factual content of
33 the report of any presentence investigation made pursuant to
34 NRS 176.135.

35 2. In addition to the disclosure requirements set forth in
36 subsection 1, if the Division includes in the report of any
37 presentence investigation made pursuant to NRS 176.135 any
38 information relating to the defendant being affiliated with or a
39 member of a criminal gang and the Division reasonably believes
40 such information is disputed by the defendant, the Division shall
41 provide with the information disclosed pursuant to subsection 1
42 copies of all documentation relied upon by the Division as a basis
43 for including such information in the report, including, without
44 limitation, any field interview cards.



1 3. The defendant may waive the minimum period required by
2 subsection 1.

3 4. *The minimum period required by subsection 1 is separate*
4 *from, independent of and in addition to the period specified in*
5 *subsection 7 of NRS 176.135.*

6 5. As used in this section, "criminal gang" has the meaning
7 ascribed to it in NRS 193.168.

8 **Sec. 3.** NRS 176A.100 is hereby amended to read as follows:

9 176A.100 1. Except as otherwise provided in this section and
10 NRS 176A.110 and 176A.120, if a person is found guilty in a
11 district court upon verdict or plea of:

12 (a) Murder of the first or second degree, kidnapping in the first
13 degree, sexual assault, attempted sexual assault of a child who is
14 less than 16 years of age, lewdness with a child pursuant to NRS
15 201.230, an offense for which the suspension of sentence or the
16 granting of probation is expressly forbidden, or if the person is
17 found to be a habitual criminal pursuant to NRS 207.010, a
18 habitually fraudulent felon pursuant to NRS 207.014 or a habitual
19 felon pursuant to NRS 207.012, the court shall not suspend the
20 execution of the sentence imposed or grant probation to the person.

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

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

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

43 3. If the court determines that a person is otherwise eligible for
44 probation but requires more supervision than would normally be
45 provided to a person granted probation, the court may, in lieu of



1 sentencing the person to a term of imprisonment, grant probation
2 pursuant to the Program of Enhanced Supervision established
3 pursuant to NRS 176A.440.

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

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

23 **Sec. 4.** The amendatory provisions of this act apply to any
24 request for a presentence investigation received by the Division of
25 Parole and Probation of the Department of Public Safety from a
26 county clerk in this State on or after July 1, 2025.

27 **Sec. 5.** This act becomes effective on July 1, 2025.



