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FIRST REPRINT

A.B. 325

ASSEMBLY BILL NO. 325—ASSEMBLYMEN MARTIN,
HORNE; AND COHEN

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Authorizes a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation. (BDR 14-742)

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

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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 convicted persons; authorizing a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 NRS 176.158, which was repealed by Senate Bill No. 74 of the 1997
2 Legislative Session, authorized a court to commit certain convicted persons to the
3 custody of the Director of the Department of Prisons, which is now the Department
4 of Corrections, for a period of not more than 120 days for a complete evaluation.
5 After the period during which the person was committed, the Department of Prisons
6 was required to provide the court with a report of the results of the evaluation and
7 any recommendations which the Department believed would be helpful to the court
8 in determining the proper sentence for the person. (Chapter 257, Statutes of Nevada
9 1997, pp. 905-07)

10 **Section 1** of this bill reinstates these provisions, but authorizes a court to
11 commit such persons to the custody of the Director of the Department of
12 Corrections for a period of not more than 90 days for a complete evaluation.
13 **Sections 2-4** of this bill restore certain language which was deleted as a result of
14 NRS 176.158 being repealed. **Section 5** of this bill provides a court with the option
15 of committing an eligible person to the custody of the Director of the Department
16 of Corrections for an evaluation pursuant to **section 1** if the person is convicted of a
17 felony for which he or she may be sentenced to imprisonment that is committed on
18 or after October 1, 2013.



* A B 3 2 5 R 1 *

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 a new section to read as follows:

3 1. *If a defendant has:*

4 (a) *Been convicted of a felony for which he or she may be*
5 *sentenced to imprisonment; and*

6 (b) *Never been sentenced to imprisonment as an adult for*
7 *more than 6 months,*

8 ↳ *the court may, before sentencing the defendant, commit the*
9 *defendant to the custody of the Director of the Department of*
10 *Corrections for not more than 90 days. The period of commitment*
11 *may be extended once for another 60 days at the request of the*
12 *Department of Corrections. During the time for which a defendant*
13 *is committed to the custody of the Director, the Director may*
14 *assign the defendant to appropriate programs of rehabilitation to*
15 *facilitate the evaluation of the defendant required pursuant to*
16 *subsection 2.*

17 2. *The Department of Corrections shall conduct a complete*
18 *evaluation of the defendant during the time of commitment*
19 *pursuant to this section and shall inquire into such matters as the*
20 *defendant's previous delinquency or criminal record, social*
21 *background and capabilities, mental, emotional and physical*
22 *health and the resources and programs available to suit his or her*
23 *needs for rehabilitation.*

24 3. *The Department of Corrections shall return the defendant*
25 *to the court not later than the end of the period for which he or*
26 *she was committed pursuant to this section and provide the court*
27 *with a report of the results of its evaluation, including any*
28 *recommendations which it believes will be helpful to the court in*
29 *determining the proper sentence.*

30 4. *Upon receiving the report and recommendations, the court*
31 *shall sentence the defendant to:*

32 (a) *An appropriate term of imprisonment, the duration of*
33 *which must be computed from the date of commitment pursuant to*
34 *subsection 1; or*

35 (b) *Probation, a condition of which must be that the defendant*
36 *serve a number of days in the state prison equal to or greater than*
37 *the number of days spent in confinement pursuant to subsection 1,*
38 *including the day of commitment.*

39 **Sec. 2.** NRS 176.105 is hereby amended to read as follows:

40 176.105 1. If a defendant is found guilty and is ~~sentenced~~ :

41 (a) *To be committed to the custody of the Director of the*
42 *Department of Corrections for an evaluation by the Department,*



1 *the judgment of conviction must set forth the plea, the verdict or*
2 *finding and the adjudication.*

3 *(b) Sentenced* as provided by law, the judgment of conviction
4 must set forth:

5 ~~[(a)]~~ (1) The plea;

6 ~~[(b)]~~ (2) The verdict or finding;

7 ~~[(c)]~~ (3) The adjudication and sentence, including the date of
8 the sentence, any term of imprisonment, the amount and terms of
9 any fine, restitution or administrative assessment, a reference to the
10 statute under which the defendant is sentenced and, if necessary to
11 determine eligibility for parole, the applicable provision of the
12 statute; and

13 ~~[(d)]~~ (4) The exact amount of credit granted for time spent in
14 confinement before conviction, if any.

15 2. If the defendant is found not guilty, or for any other reason
16 is entitled to be discharged, judgment must be entered accordingly.

17 3. The judgment must be signed by the judge and entered by
18 the clerk.

19 **Sec. 3.** NRS 209.341 is hereby amended to read as follows:

20 209.341 The Director shall:

21 1. Establish, with the approval of the Board, a system of initial
22 classification and evaluation for offenders who are *committed to the*
23 *Director for evaluation by the Department or* sentenced to
24 imprisonment in the state prison; and

25 2. Assign every person *who is committed to the Director for*
26 *evaluation by the Department or* who is sentenced to imprisonment
27 in the state prison to an appropriate institution or facility of the
28 Department. The assignment must be based on an evaluation of the
29 offender's records, particular needs and requirements for custody.

30 **Sec. 4.** NRS 209.385 is hereby amended to read as follows:

31 209.385 1. Each offender committed to the custody of the
32 Department for *evaluation or* imprisonment shall submit to such
33 initial tests as the Director determines appropriate to detect exposure
34 to the human immunodeficiency virus. Each such test must be
35 approved by regulation of the State Board of Health. At the time the
36 offender is committed to custody and after an incident involving the
37 offender:

38 (a) The appropriate approved tests must be administered; and

39 (b) The offender must receive counseling regarding the virus.

40 2. If the results of an initial test are positive, the offender shall
41 submit to such supplemental tests as the Director determines
42 appropriate. Each such test must be approved for the purpose by
43 regulation of the State Board of Health.

44 3. If the results of a supplemental test are positive, the name of
45 the offender must be disclosed to:



- 1 (a) The Director;
- 2 (b) The administrative officers of the Department who are
- 3 responsible for the classification and medical treatment of offenders;
- 4 (c) The manager or warden of the facility or institution at which
- 5 the offender is confined; and
- 6 (d) Each other employee of the Department whose normal duties
- 7 involve the employee with the offender or require the employee to
- 8 come into contact with the blood or bodily fluids of the offender.
- 9 4. The offender must be segregated from every other offender
- 10 whose test results are negative if:
- 11 (a) The results of a supplemental test are positive; and
- 12 (b) The offender engages in behavior that increases the risk of
- 13 transmitting the virus, such as battery, ~~{the infamous crime against~~
- 14 ~~nature,}~~ sexual ~~{intercourse in its ordinary meaning}~~ *activity* or
- 15 illegal intravenous injection of a controlled substance or a dangerous
- 16 drug as defined in chapter 454 of NRS.
- 17 5. The Director, with the approval of the Board:
- 18 (a) Shall establish for inmates and employees of the Department
- 19 an educational program regarding the virus whose curriculum is
- 20 provided by the Health Division of the Department of Health and
- 21 Human Services. A person who provides instruction for this
- 22 program must be certified to do so by the Health Division.
- 23 (b) May adopt such regulations as are necessary to carry out the
- 24 provisions of this section.
- 25 6. As used in this section ~~†~~:
- 26 ~~—(a) “Incident” , “incident”~~ means an occurrence, of a kind
- 27 specified by regulation of the State Board of Health, that entails a
- 28 significant risk of exposure to the human immunodeficiency virus.
- 29 ~~{(b) “Infamous crime against nature” means anal intercourse,~~
- 30 ~~cunnilingus or fellatio between natural persons of the same sex.}~~
- 31 **Sec. 5.** The amendatory provisions of this act apply to offenses
- 32 that are committed on or after October 1, 2013.

