

ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE
September 12, 2014

**POSSIBLE RECOMMENDATIONS THAT MAY BE PROPOSED
DURING THE WORK SESSION TO BE HELD ON OCTOBER 21, 2014**

Although the Commission does not have the statutory authority to submit bill draft requests, at the final work session the Commission may choose to recommend any of the following actions: 1) to propose and seek a sponsor for draft legislation; 2) to propose and seek a sponsor for a resolution; 3) to draft a letter urging or requesting action; or 4) to include a policy statement of support in the final report.

The following are draft recommendations, identified by staff, that may be proposed and considered during the final work session. This list is not final and exhaustive, rather it is intended to serve as a starting point for discussion by the Commission. Possible recommendations received to date include:

1. Draft a letter to the Interim Finance Committee to highlight the issue of increased funding for additional presentence investigation report writers – Approved by ACAJ on Nov. 6, 2013
2. Draft a letter to PEW Charitable Trusts/Council of State Governments to review criminal justice initiatives and sentencing – Approved by ACAJ on Nov. 6, 2013
3. Draft legislation enabling the Department of Corrections to issue recognizable and useable photo identification for offenders – Justice Hardesty
4. Include a policy statement recognizing and supporting the Nevada State Court Language Access Plan, which seeks to promote access to the courts by persons with limited English proficiency – Justice Douglas
5. Draft legislation to establish a uniform pre-trial risk assessment tool – Commission
6. Draft legislation to establish a Legislative Corrections Ombudsman for offenders similar to the State of Michigan’s process – John Witherow
7. Draft legislation to establish a Naloxone access law, amend the good samaritan law (NRS 41.500) to allow for the assistance to a victim of overdose, amend NRS 453.521 to remove liability for possession of nasal inhaler for certain purposes, amend family law “best interest” of the child standard to include alcohol/substance abuse, amend NRS 484C.400 to remove the provision that failure to complete treatment is another crime, and amend second offense of possession of less than one ounce of marijuana (NRS 453.336) to authorize

program of treatment and rehabilitation instead of requiring an offender to be assigned to such a program – Judge Dorothy Nash Holmes

8. Draft a letter to the Arnold Foundation requesting that they consider establishing a pilot program for pretrial risk assessments in Clark County – Judge Barker
9. Draft legislation to review the risk assessment tool used by the Division of Parole and Probation, and further require the availability of scores – Justice Hardesty
10. Draft legislation/include a policy statement encouraging local governments to adopt policies and include the use eyewitness confidence statements at time of suspect identification –Rebecca Brown
11. Draft legislation to make traffic violations a civil infraction rather than a criminal offense (see BDR 93 (2015) submitted by the Assembly Committee on Judiciary) – Assemblywoman Fiore
12. Draft legislation to consider proper placement of parole and probation functions – Mark Jackson
13. Draft a letter to the Governor/Legislature to support additional funding for the Division of Parole and Probation – Commission
14. Draft a letter to the Governor/Legislature to support additional funding for the Department of Corrections – Commission
15. Draft legislation revising certain category B felonies – Commission
16. Draft legislation similar to the justice reinvestment initiatives enacted in Oregon House Bill No. 3194 (2013) – Justice Hardesty

A. Sentencing Reforms

1. Probation for Marijuana Offenses
2. Probation for Felony Driving with a Suspended License
3. Sentence Reduction for Robbery in the Third and Identity Theft Offenses
4. Revising the crime of misdemeanor harassment to include distributing a visual recording of sexually explicit material of another person when the other person is under 18 years of age.

B. Transitional Leave, Earned Discharge and Downward Disposition

1. Transitional Leave
2. Earned Discharge
3. Downward Disposition for Drug Delivery/Manufacturing Sentences

- C. Probation Reforms
 - D. Establishing the Task Force on Public Safety
 - E. Measuring Outcomes
 - F. Establishing the Center for Policing Excellence
 - G. Establishing the Justice Reinvestment Grant Program and Reentry Courts
 - 1. Justice Reinvestment Grant Program
 - 2. Reentry Courts
 - H. Making Various Reinvestment Appropriations (including Specialty Courts, Community Corrections and Victims Services)
17. Recommendations from the Subcommittee on the Medical Use of Marijuana:
- A. Draft legislation to authorize the sale and transportation of medical marijuana across county lines.
 - B. Draft legislation to amend NRS 453A.200 to further extend the sunset limitation (currently expiring by limitation on March 31, 2016), during which persons who are authorized to engage in the medical use of marijuana and who were cultivating, growing or producing marijuana on or before July 1, 2013, are “grandfathered” to continue such activity. This recommendation would extend the sunset limitation for an additional two years, through March 31, 2018.
 - C. Draft legislation to authorize the Division of Public and Behavioral Health to adopt regulations requiring background checks and state licensure of third party vendors and ancillary businesses associated with the medical marijuana industry (such as harvesting, trimming, infusion, insurance, cash management, massage therapists, etc.).
 - D. Draft legislation to amend Nevada’s criminal laws to provide that weights for purposes of prosecution of certain marijuana offenses (such as possession and trafficking) must only include the usable active amount of THC or marijuana and not the total weight of an edible or infused product.
 - E. Draft legislation to provide exceptions for medical marijuana registry identification cardholders for considerations in drug court, child custody, child abuse and neglect proceedings, foster care, and offender program eligibility.
 - F. Draft legislation to require the University system to allow medical marijuana registry cardholders to possess and use medical marijuana on campus. Further,

amend NRS 453A.600 to remove the provisions requiring approval of the Federal Government before the University of Nevada School of Medicine establishes a program for the evaluation and research of the medical use of marijuana.

G. Draft legislation to eliminate the “per se” nanogram amounts for driving under the influence of marijuana or marijuana metabolite. (NRS 484C.110, 484C.120, 488.410) Also, draft legislation to remove any prohibitions in employment contexts for employees who lawfully use medical marijuana. Finally, draft legislation to require the Board of Pharmacy to reschedule marijuana from a Schedule I to a Schedule II controlled substance.

H. Draft legislation to authorize a cooperative (co-op) form of ownership for medical marijuana establishments.

I. Draft legislation to amend state law regarding the allocation of dispensaries by county, to allow the largest local government jurisdictions (by census population) in each county to have the largest number of allocated dispensaries. (NRS 453A.324) Also, draft legislation to repeal the confidentiality provisions of applications, records or other written documentation for LLC’s or any business entity that applies for a medical marijuana license through the Division. (NRS 453A.700)

J. Draft legislation to allow for the transfer of marijuana establishment licenses, and model the approach after the “transfer of interests” process used for gaming licenses. Also, draft legislation to establish a regulatory structure, similar to the Nevada Gaming Control Board, to oversee and regulate the medical marijuana program.

18. Recommendations from the Subcommittee to Review Arrestee DNA:

A. Draft a letter to the State DNA Database (Forensic Science Division of the Washoe County Sheriff’s Office) and the Central Repository of Nevada Records of Criminal History, encouraging the entities to research and review the seven states that currently have automatic expungement for arrestee DNA records and to further develop best practices for Nevada should Nevada choose to proceed with automatic expungement in the future. Additionally, the entities are urged to identify the necessary fiscal resources to develop a working statewide computer information sharing system for tracking and identifying criminal adjudications that, among many other uses, might facilitate tracking and expunging DNA records.

B. Draft a letter to the Governor and the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance, urging the Governor and the Legislature to consider budgetary funding for a statewide computer database to track criminal records and adjudications that, among many other uses, could assist in identifying and expunging DNA records. This letter will also include a

carbon copy of the letter the Subcommittee directs to the State DNA Database and the Central Repository, and will reference the fact that entities are working together to derive actual implementation costs for a computer network information sharing system. The Subcommittee will forward the fiscal findings as soon as they become available.

C. Include a policy statement in the final report of the 2013-14 Advisory Commission on the Administration of Justice, encouraging all interested criminal justice stakeholders (district attorneys, criminal defense attorneys, judges, court clerks, crime laboratories, law enforcement and the Central Repository) to work together to develop a statewide criminal justice information sharing database. In an ideal world, the computer database should include the following information related to DNA and criminal records: criminal charges and records, race/nationality statistics, demographic crime statistics, percentage of felony arrests resulting in conviction (further broken down by type of resulting conviction), any known actual immigration consequences of conviction, data on voluntary versus forced collection of DNA (including whether the DNA is appropriately categorized as arrestee or convicted person DNA), date related to expungement efforts, any exonerations resulting from arrestee DNA, and any other data deemed appropriate or desirable by the interested criminal justice stakeholders.