

ASSEMBLY BILL NO. 326—ASSEMBLYMEN
MCCURDY II, YEAGER; AND FUMO

MARCH 20, 2017

JOINT SPONSOR: SENATOR SEGERBLOM

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions relating to reports of presentence investigations and general investigations. (BDR 14-1117)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 criminal procedure; revising provisions relating to certain information included in reports of presentence investigations; authorizing the court to order the Division of Parole and Probation of the Department of Public Safety to correct the contents of a report of any presentence investigation or general investigation in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the Division of Parole and Probation of the Department
2 of Public Safety to include in the report of any presentence investigation any
3 information that it believes may be helpful in imposing a sentence, in granting
4 probation or in correctional treatment. (NRS 176.145) Existing law also generally
5 requires the Division to disclose to the prosecuting attorney, the counsel for the
6 defendant, the defendant and the court the factual content of the report of any
7 presentence investigation and the recommendations of the Division not later than
8 14 calendar days before the defendant will be sentenced. (NRS 176.153)

9 **Section 1** of this bill provides that if the Division includes in the report of any
10 presentence investigation any information relating to the defendant being affiliated
11 with or a member in a criminal gang and the Division reasonably believes such
12 information is disputed by the defendant, the Division is required to provide with
13 the information disclosed, before the defendant will be sentenced, copies of all



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14 documentation relied upon by the Division as a basis for including such
15 information in the report. **Section 1** also provides that if such information is
16 disputed by the defendant, the Division or the prosecuting attorney is required to
17 prove by clear and convincing evidence that the information is accurate.

18 Existing law requires the Division to afford an opportunity to the prosecuting
19 attorney, the counsel for the defendant and the defendant to object to factual errors
20 in a report of any presentence investigation or general investigation. (NRS 176.156)
21 **Section 2** of this bill authorizes the court to order the Division to correct the
22 contents of any such report following sentencing of the defendant if the prosecuting
23 attorney and the defendant stipulate to correcting the contents of any such report
24 within 180 days after the date on which the judgment of conviction was entered.

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

1 **Section 1.** NRS 176.153 is hereby amended to read as follows:

2 176.153 **1.** Except as otherwise provided in ~~{this section,}~~
3 **subsection 3**, the Division shall disclose to the prosecuting attorney,
4 the counsel for the defendant, the defendant and the court, not later
5 than 14 calendar days before the defendant will be sentenced, the
6 factual content of the report of any presentence investigation made
7 pursuant to NRS 176.135 and the recommendations of the Division.

8 **2.** *In addition to the disclosure requirements set forth in*
9 *subsection 1, if the Division includes in the report of any*
10 *presentence investigation made pursuant to NRS 176.135 any*
11 *information relating to the defendant being affiliated with or a*
12 *member in a criminal gang and the Division reasonably believes*
13 *such information is disputed by the defendant, the Division shall*
14 *provide with the information disclosed pursuant to subsection 1*
15 *copies of all documentation relied upon by the Division as a basis*
16 *for including such information in the report, including, without*
17 *limitation, any field interview cards. If such information is*
18 *disputed by the defendant, the Division or the prosecuting attorney*
19 *must prove by clear and convincing evidence that the information*
20 *is accurate.*

21 **3.** The defendant may waive the minimum period required by
22 ~~{this section,}~~ **subsection 1.**

23 **4.** *As used in this section, “criminal gang” has the meaning*
24 *ascribed to it in NRS 193.168.*

25 **Sec. 2.** NRS 176.156 is hereby amended to read as follows:

26 176.156 **1.** The Division shall disclose to the prosecuting
27 attorney, the counsel for the defendant and the defendant the factual
28 content of the report of:

29 (a) Any presentence investigation made pursuant to NRS
30 176.135 and the recommendations of the Division ~~{}~~ **and, if**
31 **applicable, provide the documentation required pursuant to**



1 *subsection 2 of NRS 176.153*, in the period provided in
2 NRS 176.153.

3 (b) Any general investigation made pursuant to NRS 176.151.

4 ➔ The Division shall afford an opportunity to each party to object to
5 factual errors in any such report and to comment on any
6 recommendations. *The court may order the Division to correct the*
7 *contents of any such report following sentencing of the defendant*
8 *if, within 180 days after the date on which the judgment of*
9 *conviction was entered, the prosecuting attorney and the*
10 *defendant stipulate to correcting the contents of any such report.*

11 2. Unless otherwise ordered by a court, upon request, the
12 Division shall disclose the content of a report of a presentence
13 investigation or general investigation to a law enforcement agency
14 of this State or a political subdivision thereof and to a law
15 enforcement agency of the Federal Government for the limited
16 purpose of performing their duties, including, without limitation,
17 conducting hearings that are public in nature.

18 3. Unless otherwise ordered by a court, upon request, the
19 Division shall disclose the content of a report of a presentence
20 investigation or general investigation to the Division of Public and
21 Behavioral Health of the Department of Health and Human Services
22 for the limited purpose of performing its duties, including, without
23 limitation, evaluating and providing any report or information to the
24 Division concerning the mental health of:

25 (a) A sex offender as defined in NRS 213.107; or

26 (b) An offender who has been determined to be mentally ill.

27 4. Unless otherwise ordered by a court, upon request, the
28 Division shall disclose the content of a report of a presentence
29 investigation or general investigation to the Nevada Gaming Control
30 Board for the limited purpose of performing its duties in the
31 administration of the provisions of chapters 462 to 467, inclusive, of
32 NRS.

33 5. Except for the disclosures required by subsections 1 to 4,
34 inclusive, a report of a presentence investigation or general
35 investigation and the sources of information for such a report are
36 confidential and must not be made a part of any public record.

37 **Sec. 3.** The amendatory provisions of this act apply to a report
38 of any presentence investigation or general investigation that is
39 made on or after October 1, 2017.



