

# Proposed Recommendations for NSC/NDSP Policy BDR

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# AB 236

# Recommendations

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REVISE CERTAIN TEMPORARY REVOCATIONS, REVISE DEFINITION OF TECHNICAL VIOLATIONS, REVISE DEFINITION OF ABSCONDING, AND CLEAN-UP

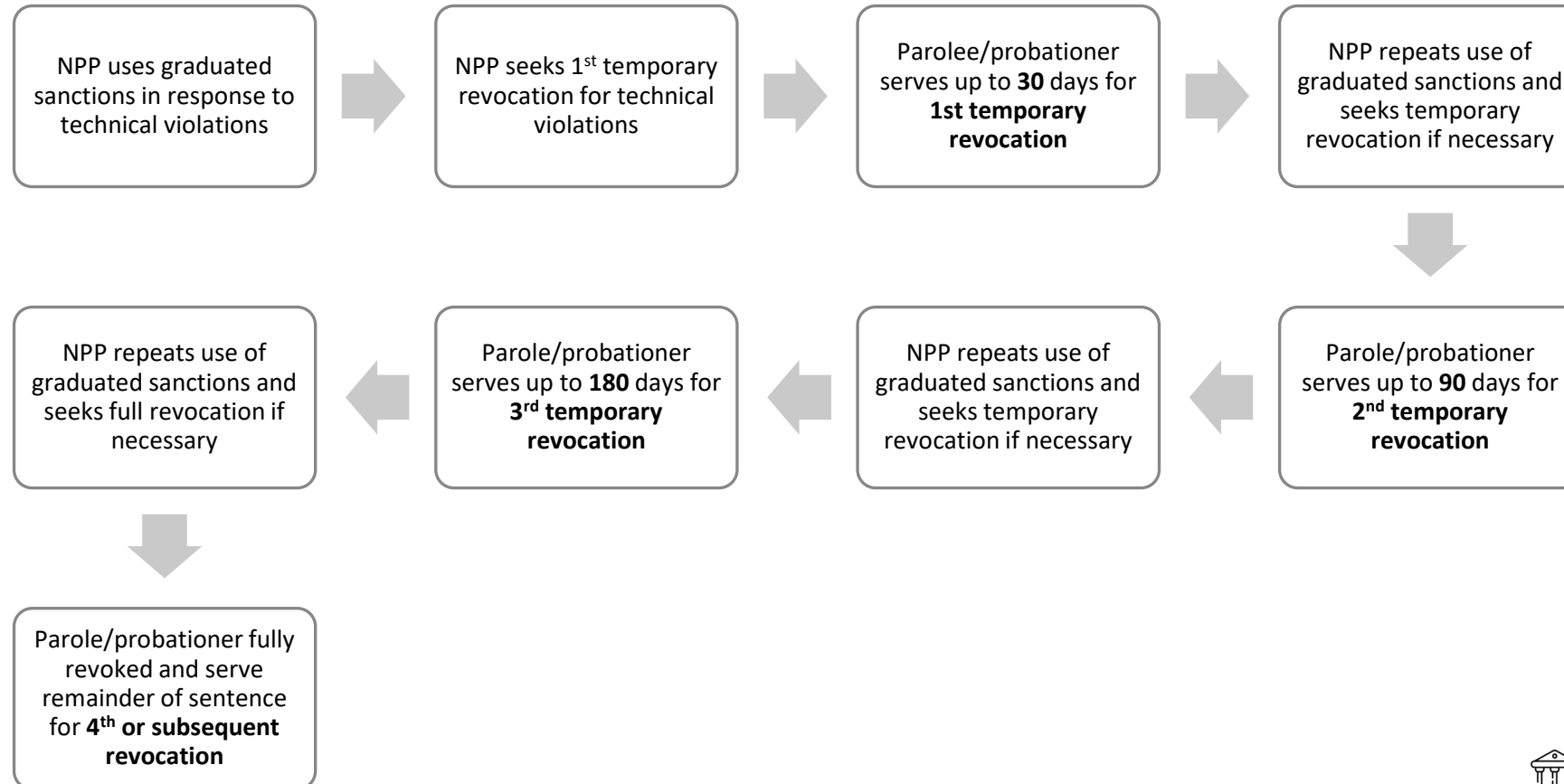
# #1 Temporary Revocations

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AB 236 RECOMMENDATION

# NPP uses a system of graduated sanctions to respond to technical violations of probationers and parolees

(NRS 176A.510, 176A.630, 213.1519, sec. 21 of AB 393)



# Temporary Revocations for Probation and Parole

(NRS 176A.630, 213.1519)

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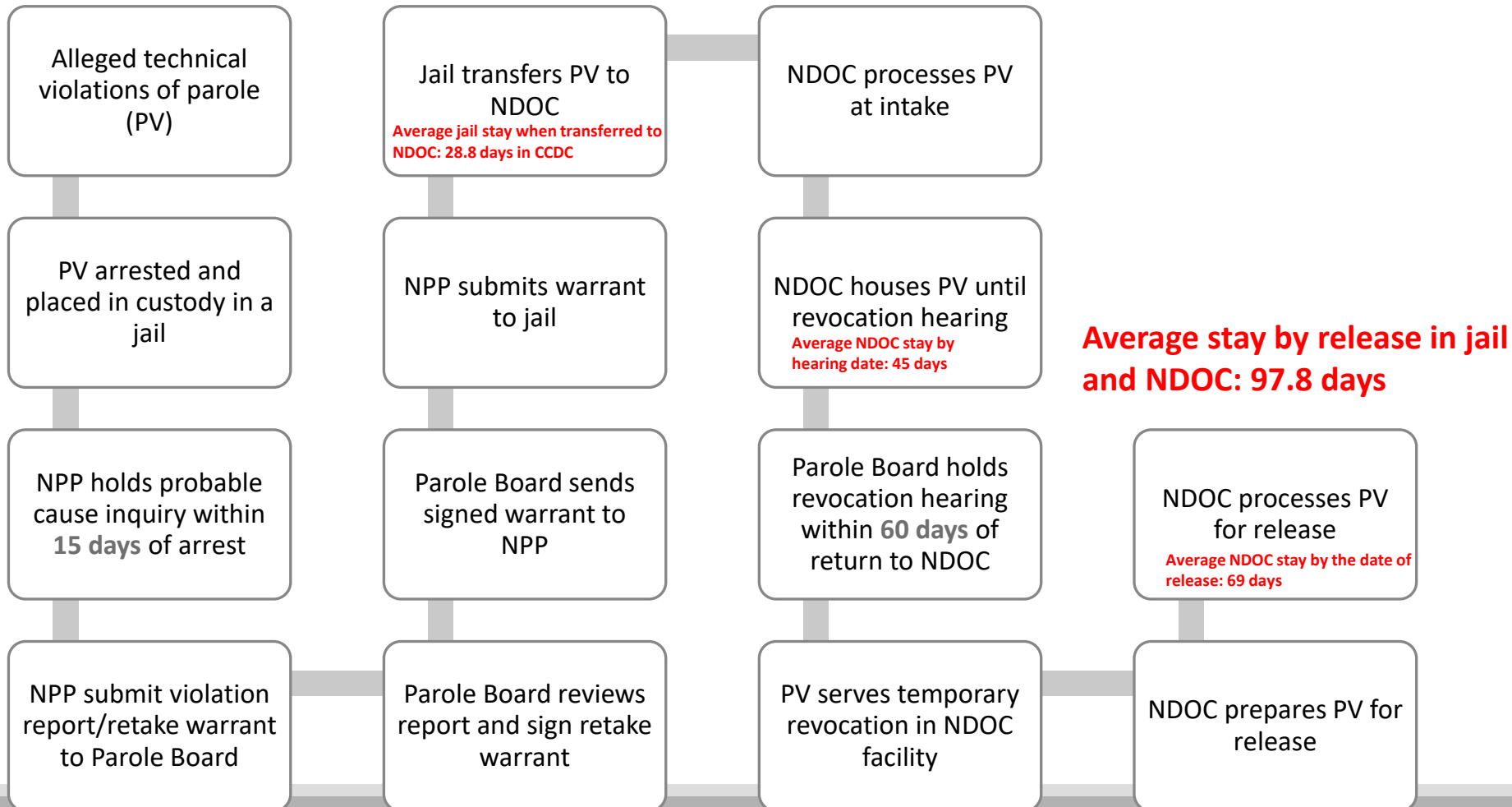
If a probationer or parolee has been found to commit one or more technical violations the court or Parole Board, as applicable, may:

- Continue probation or parole
- Temporarily revoke probation or parole and impose a term of imprisonment of *not more than*:

1 <sup>st</sup> temporary revocation	30 days
2 <sup>nd</sup> temporary revocation	90 days
3 <sup>rd</sup> temporary revocation	180 days
4 <sup>th</sup> or subsequent revocation	Fully revoke and impose the remainder of the sentence

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# Parole Temporary Revocation Process for Parolees\*



\*Probationers do not go through the same process. Probationer must be brought before the court not later than 15 days after arrest.

# Recommendation to Revise Temporary Revocations for Parolees

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- Eliminate the 1<sup>st</sup> temporary revocation of 30 days
- Authorize NPP to impose confinement in jail or electronic monitoring as part of graduated sanctions
- Impacts of recommendation
  - Improve the efficiency and effectiveness of community supervision
  - Authorize NPP with more options for implementing swift, certain, and proportional sanctions
  - Reduce returns to prison for technical violations
  - Focus prison resources on serious and violent offenders
  - May reduce average stay in jail for those on supervision (will not increase)
  - Reduce admissions and stays in NDOC facilities for those returning from supervision

# Proposed Language to Revise Temporary Revocations for Parolees (NRS 213.1519)

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

(a) Continue parole supervision;

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

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

~~(2)]~~ Ninety days for the ~~[second]~~ *first* temporary parole revocation; or

~~[(3)]~~ (2) One hundred and eighty days for the ~~[third]~~ *second* temporary parole revocation; or

(c) Fully revoke parole supervision and impose the remainder of the sentence for a ~~[fourth]~~ *third* or subsequent revocation.



# Proposed Revision to Temporary Revocations for Probationers (NRS 176A.630)

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

(a) Continue the probation or suspension of sentence;

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

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

(1) ~~[Thirty days for the first temporary revocation;~~

~~(2)]~~ Ninety days for the ~~[second]~~ *first* temporary revocation; or

~~(3)]~~ (2) One hundred and eighty days for the ~~[third]~~ *second* temporary revocation; or

(d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a ~~[fourth]~~ *third* or subsequent revocation.

NOTE: Recommendation includes revising the 1<sup>st</sup> temporary revocation in probation section for consistency in how graduated sanctions are imposed.

# Proposed Language to Revise Graduated Sanctions

(sub. 1 and of NRS 176A.510 and sub. 1 of sec. 21 of AB 393)

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

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

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

*(c) Include guidance on the use of confinement in jail pursuant to subsection 3 of this section.*

*(d) Include guidance on the use of residential confinement pursuant to NRS 176A.540 and 213.15193.*

# Proposed Language to Revise Graduated Sanctions

(new sub. 3 of NRS 176A.510 and new sub 3 of sec. 21 of AB 393)

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2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.
3. *In response to a technical violation of parole or probation, the Division may impose confinement in a jail or detention facility of no more than 10 days. Days imposed pursuant to this subsection must not in the aggregate exceed 30 days.*
4. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

# Recommendation to Revise sub 1 and sub 2 of NRS 213.15193 to Authorize NPP to Use Residential Confinement as a Graduated Sanction for a Technical Violation

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1. Except as otherwise provided in subsection 6, the Chief may order the residential confinement of a parolee ~~[if]~~:

*(a) If* the Chief believes that the parolee does not pose a danger to the community and will appear at a scheduled inquiry or hearing ~~[.]~~; *or*

*(b) In response to a technical violation pursuant to the graduated sanctions adopted in sec. 21 of AB 393.*

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5. Any residential confinement must not extend beyond ~~[the]~~ :

*(a) The* unexpired maximum term of the original sentence of the parolee ~~[.]~~; *or*

*(b) Sixty days in response to a technical violation.*

NOTE: Recommendation includes revising NRS 176A.540 in probation section for consistency in how graduated sanctions are imposed.

# #2 Technical Violations

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AB 236 RECOMMENDATION

# Technical Violation (NRS 176A.510, 213.1519)

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- Not absconding
- Not termination from specialty court program
- Not the commission of:
  - New felony or gross misdemeanor
  - Battery which constitutes domestic violence
  - Certain DUI offenses
  - Administration of a controlled substance to aid commission of crime of violence that is punishable as a misdemeanor
  - Harassment, stalking, or aggravated stalking
  - Violation of certain protection orders
  - Violation of a stay away order

# Recommendation to Revise Technical Violation Definition

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## Add to exemptions from definition

- Statutorily required conditions for sex offenders
- Offenders ordered to participate in a treatment program


## Impacts

- Will not frustrate the statutory scheme that governs sex offenders
- Ensure those who leave treatment receive a swift, certain, and proportional sanction

# Proposed Language to Revise the Definition of “Technical Violation” (NRS 176A.510, 213.1519)

“Technical violation” means any alleged violation of the conditions of probation or parole that does not constitute absconding and is not the commission of a:

- (1) New felony or gross misdemeanor;
- (2) Battery which constitutes domestic violence pursuant to NRS 200.485;
- (3) Violation of NRS 484C.110 or 484C.120;
- (4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;
- (5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;
- (6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; ~~or~~
- (7) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised~~ed~~;
- (8) *Violation of a condition required pursuant to NRS 176A.410, 176A.413, 213.1245, 213.1255, or 213.1258;*
- (9) *Termination from a program which provides residential treatment, as ordered by the court or the Board as a condition of supervision; or*
- (10) *Termination from a program indicated in a parole release plan, as approved by the Division.*

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

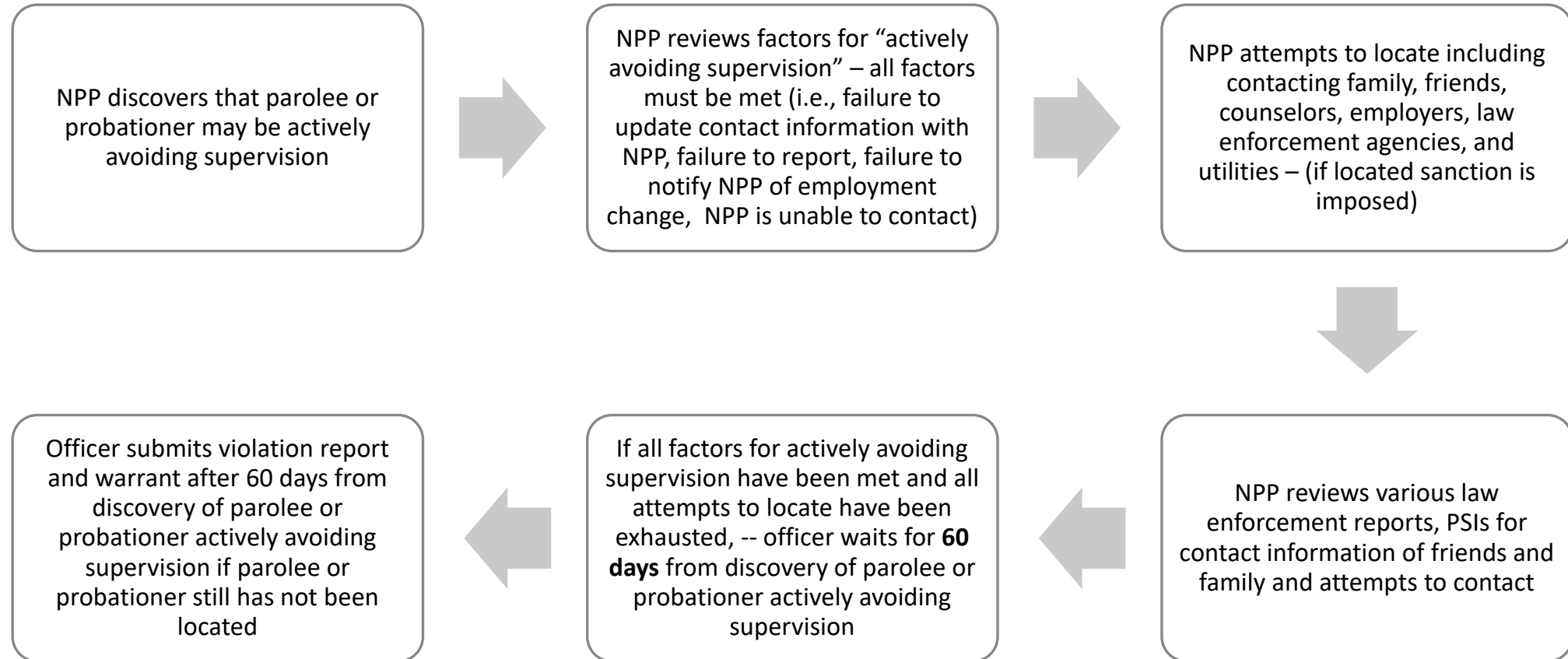


# #3 Absconding

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AB 236 RECOMMENDATION

# Absconding Process



# Recommendation to Revise the Definition for “Absconding”

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Create a path to absconding rather than a set number of days

## Impacts

- Effective sanctions for changing behavior
- Ultimate finding of absconding still left to the court or the Parole Board
- Improves public safety as NPP does not have to wait 60 days if a person may pose a danger to self or others

# Proposed Language to Revise the Definition of Absconding (NRS 176A.630)

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“Absconding” means ~~[that]~~ :

*(1) That* a person is actively avoiding supervision by making his or her whereabouts unknown to the Division ~~[for a continuous period of 60 days or more.]~~; *and*

*(2) The Division has exhausted all attempts to locate such a person, based on factors developed by the Division.*

# #4 Clean-up

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AB 236 RECOMMENDATION

# Make Conforming Changes from AB 393 (2021) (sub. 5 of sec. 8)

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5. Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.450 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2:

(a) The supervising officer shall notify the court of the finding; and

(b) The court may modify the terms and conditions of probation pursuant to subsection 1 of NRS 176A.450.

# Recommendation to Revise NRS sub. 8 of NRS 213.1078 (applies to parole) to conform with changes in AB 393

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8. Upon a finding that a condition of parole or the level of parole supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 4 ~~[, the]~~ :

*(a) The* supervising officer shall ~~[submit a request to]~~ *notify* the Board ~~[to]~~ *of the finding; and*

*(b) The Board may* modify the condition or level of supervision set by the Board.

↪ The Division shall provide written notification to the parolee of any modification.

# Revise NSC and NDSP Statutes

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ENHANCE THE COLLECTION AND AGGREGATION OF CRIMINAL  
JUSTICE DATA



# #5 Qualifications of Director

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REVISE NSC AND NDSP STATUTES

# Revise Qualifications of the Executive Director

(NRS 176.01323)

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## Purpose

- Ensure sustainability of agency
- Expand duties to promote administration of agency that collects and analyzes criminal justice data

## Proposed change

- Remove requirement that the executive director be a licensed attorney

# Proposed Language to Revise Qualifications of the Executive Director (NRS 176.01323)

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1. The Department of Sentencing Policy is hereby created.
  
2. The Executive Director of the Department must be appointed by the Governor from a list of three *qualified* persons recommended by the Sentencing Commission.
  
3. The Executive Director:
  - (a) Is in the unclassified service of this State;
  - (b) Serves at the pleasure of the Sentencing Commission, except that the Executive Director may only be removed upon a finding by the Sentencing Commission that his or her performance is unsatisfactory; *and*
  - (c) ~~[Must be an attorney licensed to practice law in this State; and~~
  - ~~(d)]~~ Shall devote his or her entire time and attention to the duties of his or her office and shall not engage in any other gainful employment or occupation.
  
4. The Executive Director may, within the limits of money available for this purpose, employ or enter into a contract for the services of such employees or consultants as is necessary to carry out the provisions of NRS 176.0131 to 176.014, inclusive.

**NOTE:** This recommendation was previously approved by the NSC at the February 24, 2022, meeting.

# #6 NSC Membership

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REVISE NSC AND NDSP STATUTES

# Revise Membership of NSC

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## Proposed changes

- Add representative from the Central Repository to provide criminal justice data expertise on the Commission
- Require the Chief of Parole and Probation be a member of the Commission consistent with the Director of NDOC and Chairman of the Parole Board
- Require a representative of the DETR to ensure the appropriate expertise related to reentry on the Commission

# Proposed Language to Revise NSC Membership

(NRS 176.0133)

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(m) ~~[One member who is a representative]~~ *The Chief* of the Division of Parole and Probation of the Department of Public Safety ~~[, appointed by the Governor;]~~;

(t) ~~[The Director]~~ *One member who is a representative* of the Department of Employment, Training and Rehabilitation; ~~[and]~~

(u) *One member who is a representative of the Central Repository for Nevada Records of Criminal History, appointed by the Director of the Department of Public Safety; and*

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# Summary of Recommendations

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1. Technical Revocations
2. Technical Violations
3. Absconding
4. Clean-up
5. Qualifications of Director
6. NSC Membership