

CENTRAL OFFICE

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 MARY K. BAKER, *Member*
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KATIE FRAKER, *Executive Secretary*

STATE OF NEVADA

STEVE SISOLAK
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 ERIC CHRISTIANSEN, *Member*
 DONNA VERCHIO, *Member*
 LAMICIA BAILEY, *Member*

NEVADA BOARD OF PAROLE COMMISSIONERS

February 24, 2022

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice is hereby given the Board of Parole Commissioners (Board) will hold a public hearing at **1:00 PM on Thursday, March 31, 2022** at 1677 Old Hot Springs Road, Suite A, Carson City, NV 89706 that will be video conferenced to 4000 South Eastern Avenue, Suite 130, Las Vegas, NV 89119. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of various regulations that pertain to Chapter 213 of the Nevada Administrative Code contained in the following LCB File Numbers:

LCB FILE NO.	NAC	SUBJECT
R114-21P	213.516	Revises language in the initial assessment table and adds a subsection (2); and providing other matters properly relating thereto.
R115-21P	213.518	Revises language and re-organizes the language of the aggravating and mitigating factors that the Board may consider; and providing other matters properly relating thereto.
R116-21P	213.514	Revises language to how the Board uses the NRS 213.1214 risk assessment for sexual offenders; and providing other matters properly relating thereto.

Persons wishing to comment upon the proposed action of the Board of Parole Commissioners may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to:

Board of Parole Commissioners
 Attention: Kelly Mellinger
 1677 Old Hot Springs Road, Suite A,
 Carson City, Nevada, 89706

or by email to: kmellinger@parole.nv.gov.

Written submissions must be received by the Board of Parole Commissioners on or before March 29, 2022. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Parole Commissioners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted or amended will be on file at the State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Board of Parole Commissioners office located at 1677 Old Hot Springs Road, Suite A, Carson City, Nevada; the Board of Parole Commissioners office located at 4000 S. Eastern Avenue, Suite 130, Las Vegas, Nevada. A copy will also be posted on the internet website of the Nevada Board of Parole Commissioners.

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Distribution and Public Posting

This Notice of has been sent to all persons on the Board's mailing list for administrative regulations and posted at the following locations:

Nevada Board of Parole Commissioners Website
<https://parole.nv.gov/>

State of Nevada Website
<http://notice.nv.gov/>

Nevada State Legislative Counsel Bureau Administrative Regulation Notices Website:
<https://www.leg.state.nv.us/App/Notice/A>

Reasonable Accommodations

The Nevada Board of Parole Commissioners is pleased to make reasonable accommodations for those individuals with disabilities who wish to participate in the meeting. If special arrangements for the meeting are necessary, please notify Kelly Mellinger at (775) 687-6505 or kmellinger@parole.nv.gov no later than five working days before the meeting.

The following information is provided regarding the proposed regulations in R114-21P pursuant to the requirements of NRS 233B.0603:

1. A statement of the need for and purpose of the proposed regulation.

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person's probability of success on parole. (NRS 213.10885)

The existing regulation provides that the Board will establish an initial assessment regarding whether to grant parole to a prisoner by applying the severity level of the crime for which parole is being considered and the risk level assigned to the prisoner concerning his or her risk to reoffend. (NAC 213.516). This amended regulation: (1) makes technical changes to the description of certain possible outcomes of an initial assessment; and (2) provides that after an initial assessment is established, the Board will consider the initial assessment when determining whether to grant parole to a prisoner.

2. If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as the proposed regulation would be a permanent regulation.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to [NRS 233B.063](#).

As the proposed regulation is a permanent regulation, the text of the proposed regulation is attached to this notice. The proposed regulation can also be obtained by visiting the Board's website at www.parole.nv.gov or by contacting the Board office at (775) 687-5049 and requesting a copy to be mailed.

4. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be state separately, and in each case must include:

- a. Both adverse and beneficial effects; and

Adverse effects: There are no known adverse economic effects on businesses or on the public based on the proposed regulation.

Beneficial effects: There are no known beneficial economic effects on businesses or on the public based on the proposed regulation.

- b. Both Immediate and long-term effects.

Immediate economic effects: There are no known immediate economic effects on businesses or on the public based on the proposed regulation.

Long-term economic effects: There are no known long-term economic effects on businesses or on the public based on the proposed regulation.

- 5 A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of [NRS 233B.0608](#).

The Board used informed, reasonable judgement in determining that there will not be an impact on small businesses due to the nature of the proposed regulation.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The Board estimates that there are no additional enforcement costs as a result of the proposed regulation.

7. A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board is unaware of any other Federal, State or local governmental agency regulations that the proposed regulation may overlap or duplicate.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to Federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulation does not include provisions which are more stringent than a Federal regulation that regulates the same activity.

10. The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned meeting. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE
STATE BOARD OF PAROLE COMMISSIONERS**

LCB File No. R114-21

December 21, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 213.10885.

A REGULATION relating to parole; revising provisions concerning initial assessments regarding whether to grant parole to eligible prisoners; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person’s probability of success on parole. (NRS 213.10885)

Existing regulations provide that the Board will establish an initial assessment regarding whether to grant parole to a prisoner by applying the severity level of the crime for which parole is being considered and the risk level assigned to the prisoner concerning his or her risk to reoffend. (NAC 213.516) This regulation: (1) makes technical changes to the description of certain possible outcomes of an initial assessment; and (2) provides that after an initial assessment is established, the Board will consider the initial assessment when determining whether to grant parole to a prisoner.

Section 1. NAC 213.516 is hereby amended to read as follows:

213.516 ***1.*** In determining whether to grant parole to a prisoner, the Board will apply the severity level of the crime for which parole is being considered as assigned pursuant to NAC 213.512 and the risk level assigned to the prisoner pursuant to NAC 213.514 to establish an initial assessment regarding whether to grant parole. The initial assessment will correspond to the following table:

Severity Level	Risk Level		
	High	Moderate	Low
Highest	Deny parole	Consider factors {set forth in NAC 213.518}	Consider factors {set forth in NAC 213.518}
High	Deny parole	Consider factors {set forth in NAC 213.518}	Grant parole at first or second meeting to consider prisoner for parole
Moderate	Deny parole	Grant parole at first or second meeting to consider prisoner for parole	Grant parole at initial parole eligibility
Low Moderate	Consider factors {set forth in NAC 213.518}	Grant parole at first or second meeting to consider prisoner for parole	Grant parole at initial parole eligibility
Low	Consider factors {set forth in NAC 213.518}	Grant parole at initial parole eligibility	Grant parole at initial parole eligibility

2. After an initial assessment is established pursuant to subsection 1, the Board will consider the initial assessment in accordance with NAC 213.518.

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NEVADA BOARD OF PAROLE COMMISSIONERS

**Small Business Impact Statement pursuant to NRS 233B.0608 for NAC 213.516.
Determination of whether to grant parole: Initial assessment. (NRS 213.10885)**

February 24, 2022

The following statement is made pursuant to the regulatory process outlined in NRS 233B.

Before conducting a workshop on the proposed regulation, the agency must make a concerted effort to determine whether the regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the agency concludes that the proposed regulation is likely to have such an impact, it must; (1) consult with owners and officers of small businesses that are likely to be affected by the proposed regulation; (2) conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses; (3) consider methods to reduce the impact of the proposed regulation on small businesses; and (4) prepare a small business impact statement and make copies of the statement available to the public not less than 15 days before the workshop conducted and the public hearing held pursuant to NRS 233B.061.

Prior to scheduling the public workshop, the Board of Parole Commissioners' (Board) staff made a concerted effort to determine whether the proposed regulation was likely to impose a direct and significant economic burden upon a small business and/or directly restrict the formation, operation, or expansion of a small business.

The proposed regulations codify administrative functions related to (1) initial assessment. (NRS 213.10885)

Board staff considered whether any part of the proposed regulations would impact a small business, and also considered whether the regulations imposed a fee on a small business; whether a small business would be required in any way to participate in the early discharge process; or whether a small business would be impacted in any way by the changes to NAC 213.516.

The Board staff has determined that the proposed regulations would not impact small businesses as small businesses do not currently perform a function within the parole process, and therefore would not directly or indirectly experience a negative outcome if the regulations are adopted.

I hereby certify that to the best of my knowledge or belief that a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement is prepared properly and accurate.



Christopher P. DeRicco, Chairman
Board of Parole Commissioners
775-687-5049

The following information is provided regarding the proposed regulations in R115-21P pursuant to the requirements of NRS 233B.0603:

1. A statement of the need for and purpose of the proposed regulation.

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person's probability of success on parole. (NRS 213.10885) The existing regulation sets forth certain aggravating and mitigating factors that the Board is authorized to consider when determining whether to grant parole to a prisoner. (NAC 213.518) This amended regulation revises such aggravating and mitigating factors and also provides that the Board will consider certain other factors set forth in existing law when determining whether to grant parole to a prisoner.

2. If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as the proposed regulation would be a permanent regulation.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to [NRS 233B.063](#).

As the proposed regulation is a permanent regulation, the text of the proposed regulation is attached to this notice. The proposed regulation can also be obtained by visiting the Board's website at www.parole.nv.gov or by contacting the Board office at (775) 687-5049 and requesting a copy to be mailed.

4. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be state separately, and in each case must include:

- a. Both adverse and beneficial effects; and

Adverse effects: There are no known adverse economic effects on the business which it is to regulate or on the public of the proposed regulation.

Beneficial effects: There are no known beneficial economic effects on the business which it is to regulate or on the public of the proposed regulation.

- b. Both Immediate and long-term effects.

Immediate economic effects: There are no known immediate economic effects of the regulation on the business which it is to regulate or on the public.

Long-term economic effects: There are no known long-term economic effects of the

regulation on the business which it is to regulate or on the public.

5. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of [NRS 233B.0608](#).

Board staff mailed out questionnaires throughout the state to determine whether a small business would be impacted in any way regarding this change. No responses were received, the Board used informed, reasonable judgement in determining that there will not be an impact on small businesses due to the nature of the proposed regulation.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The Board estimates that there are no additional enforcement costs as a result of the proposed regulation.

7. A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board is unaware of any other Federal, State or local governmental agency regulations that the proposed regulation may overlap or duplicate.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to Federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulation does not include provisions which are more stringent than a Federal regulation that regulates the same activity.

10. The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned meeting. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

**REVISED PROPOSED REGULATION OF THE
STATE BOARD OF PAROLE COMMISSIONERS**

LCB File No. R115-21

February 1, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 213.10885.

A REGULATION relating to parole; revising certain factors that the State Board of Parole Commissioners may consider when determining whether to grant parole to a prisoner; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person’s probability of success on parole. (NRS 213.10885)

Existing regulations set forth certain aggravating and mitigating factors that the Board is authorized to consider when determining whether to grant parole to a prisoner. (NAC 213.518) This regulation revises such aggravating and mitigating factors and also provides that the Board will consider certain other factors set forth in existing law when determining whether to grant parole to a prisoner.

Section 1. NAC 213.518 is hereby amended to read as follows:

213.518 1. After establishing an initial assessment regarding whether to grant parole pursuant to NAC 213.516, the Board ~~[may]~~ :

(a) Will consider the initial assessment and the factors set forth in NRS 213.10885 and 213.1099; and

(b) May consider ~~[additional]~~ the relevant aggravating and mitigating factors *set forth in subsections 2 and 3, respectively,* to determine whether to grant parole to a prisoner.

2. The aggravating factors which the Board may consider in determining whether to grant parole to a prisoner include, without limitation:

(a) Whether ~~[the nature of the crime committed]~~ *a prior prison term served* by the prisoner ~~[was severe, extreme or abnormal;]~~ *did not deter subsequent criminal activity;*

(b) Whether the prisoner has previously been convicted of ~~[a crime;]~~ *or adjudicated delinquent for a sexual offense;*

(c) ~~[The number of occasions on which]~~ *Whether* the prisoner has ~~[been incarcerated;]~~ *previously been convicted of or adjudicated delinquent for a violent offense;*

(d) Whether the prisoner has ~~[failed to complete probation or parole on three or more occasions;]~~ *engaged in repetitive similar criminal conduct;*

(e) Whether the prisoner has ~~[committed a crime while incarcerated, during any period of release from confinement on bail, during any period of escape from an institution or facility or while on probation or parole;]~~ *a significant prior criminal history;*

(f) ~~[The extent to which]~~ *Whether* the prisoner ~~[attempted to elude capture during or following the commission of a crime;]~~ *has engaged in disruptive institutional behavior;*

(g) ~~[The extent of the injury or loss suffered by the victim of the crime for which parole is being considered;]~~ *Whether the results of any assessment of the prisoner conducted pursuant to NRS 213.1214 indicate a high risk that the prisoner will reoffend in a sexual manner;*

(h) Whether the prisoner has ~~[engaged in repetitive criminal conduct;]~~ *multiple prior probation or parole revocations;*

(i) Whether the *nature of the criminal record of the* prisoner ~~[has engaged in disruptive behavior while incarcerated;]~~ *is increasingly more serious;*

(j) Whether ~~[the Department of Corrections has ever ordered]~~, *in committing the crime for which parole is being considered*, the prisoner ~~[to be confined in disciplinary segregation;]~~ *targeted a child under the age of 18 years or a person who is vulnerable because of his or her age or disability;*

(k) ~~[Whether]~~ *The impact on the community and each victim of the crime for which parole is being considered if* the prisoner ~~[has committed increasingly serious crimes;]~~ *is released on parole;*

(l) ~~[Whether the prisoner has a history of failing to comply with the orders of a mental health professional for the treatment of a mental illness, including, without limitation, failing to comply with prescriptions for medication to treat a mental illness;]~~ *The extreme or abnormal aspects of the crime for which parole is being considered;*

(m) Whether the prisoner ~~[demonstrates that he or she does not understand the nature of any diagnosed mental illness and whether that lack of understanding may contribute to future criminal behavior;]~~ *refused to participate in or was terminated for cause from any treatment;*

(n) Whether ~~[, in committing the crime for which parole is being considered,]~~ the prisoner ~~[targeted a child under the age of 18 years or a person who is vulnerable because of his or her age or disability;]~~ *has been removed from a correctional program for reentry or a program of work release during the period of his or her current incarceration;*

(o) Whether the prisoner has ~~[a history of possessing or using a weapon during the commission of]~~ *committed* a crime ~~[; and]~~ *while incarcerated, during any period of release from confinement on bail, during any period of escape from an institution or facility, while eluding capture or while on probation or parole;*

(p) *Whether the prisoner has been confined in disciplinary segregation at any time during the 24 months immediately preceding the month in which the parole hearing takes place; and*

(q) Any other factor which indicates an increased risk that the release of the prisoner on parole would be dangerous to society or the prisoner.

3. The mitigating factors which the Board may consider to determine whether to grant parole to a prisoner include, without limitation:

(a) ~~Whether the prisoner has participated in programs which address the behaviors of the prisoner that led to the commission of the crime for which parole is being considered;~~

~~—(b)~~ Whether the prisoner has no prior history, or a minimal history, of criminal convictions ~~;~~ *or delinquency adjudications;*

~~(e)~~ (b) Whether the prisoner has not had any infractions of the rules of the institution or facility in which he or she has been incarcerated ~~[during the most recent 2 years if the lack of infractions is not a result of the confinement of the prisoner]~~ *and has not been confined* in disciplinary segregation ~~;~~ *at any time during the 24 months immediately preceding the month in which the parole hearing takes place;*

(c) *Whether the prisoner has participated in programs specific to addressing the behaviors of the prisoner that led to his or her incarceration;*

(d) Whether the prisoner has adjusted positively to a *correctional* program for reentry ~~of offenders and parolees into the community established by the Director of the Department of Corrections pursuant to NRS 209.4887]~~ or a program of work release ~~[established by the Department of Corrections pursuant to NRS 213.300;]~~ *during the period of his or her current incarceration;*

- (e) ~~[Whether the prisoner had less involvement in the commission of the crime for which parole is being considered than other persons who participated in the commission of the crime;~~
~~—(f)]~~ Whether the prisoner previously completed probation or parole *supervision* successfully, other than ~~[probation imposed and supervised by a court;]~~ *summary or court-based supervision;*
- (f) Whether a stable release plan exists for the prisoner;*
- (g) Whether ~~[the prisoner has support available to him or her in the community or from his or her family;~~
- ~~—(h) Whether a stable release plan exists for the prisoner;~~
- ~~—(i) Whether the release of the prisoner is not a significant risk to society because the prisoner will be paroled to]~~ another jurisdiction ~~[for prosecution or deportation;~~
- ~~—(j)]~~ *has lodged a detainer against the prisoner;*
- (h) Whether a consecutive sentence is pending against the prisoner;*
- (i) Whether the prisoner has support available to him or her in the community or from his or her family;*
- (j) Whether the prisoner had less involvement in the commission of the crime for which parole is being considered than other persons who participated in the commission of the crime;*
- (k) Whether the results of any assessment of the prisoner conducted pursuant to NRS 213.1214 indicate a low risk that the prisoner will reoffend in a sexual manner;*
- (l) If the prisoner has a mental illness that may be a contributing factor to criminal behavior, whether the prisoner has consistently managed the mental illness in the manner recommended by mental health professionals;*
- (m) Whether the case history of the prisoner demonstrates remorse by the prisoner;*

(n) Whether the presentence investigation *report* indicates that the crime for which parole is being considered was situational and *there is no evidence* that the prisoner ~~[did not intend]~~ *intended* to cause harm; ~~[~~

~~—(k) Whether the presentence investigation indicates that, prior to his or her arrest for the crime for which parole is being considered, the prisoner demonstrated immediate remorse for committing the crime by immediately and voluntarily turning himself or herself in to the proper authority, immediately and voluntarily seeking treatment to address the criminal behavior, immediately and voluntarily making restitution to the victims of the crime or taking any other voluntary action which demonstrates remorse;~~

~~—(l) Whether the prisoner has consistently managed a mental illness which may contribute to criminal behavior in the manner recommended by mental health professionals;]~~ and

~~[(m)]~~ (o) Any other factor which indicates that the release of the prisoner on parole would benefit, or would not be dangerous to, society or the prisoner.

4. *As used in this section, “sexual offense” has the meaning ascribed to it in NRS 213.1214.*

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NEVADA BOARD OF PAROLE COMMISSIONERS

Small Business Impact Statement pursuant to NRS 233B.0608 for NAC 213.518. Determination of whether to grant parole: Consideration of additional aggravating and mitigating factors. (NRS 213.10885)

February 24, 2022

The following statement is made pursuant to the regulatory process outlined in NRS 233B.

Before conducting a workshop on the proposed regulation, the agency must make a concerted effort to determine whether the regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the agency concludes that the proposed regulation is likely to have such an impact, it must; (1) consult with owners and officers of small businesses that are likely to be affected by the proposed regulation; (2) conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses; (3) consider methods to reduce the impact of the proposed regulation on small businesses; and (4) prepare a small business impact statement and make copies of the statement available to the public not less than 15 days before the workshop conducted and the public hearing held pursuant to NRS 233B.061.

Prior to scheduling the public workshop, the Board of Parole Commissioners' (Board) staff made a concerted effort to determine whether the proposed regulation was likely to impose a direct and significant economic burden upon a small business and/or directly restrict the formation, operation, or expansion of a small business.

The proposed regulation codifies administrative functions related to (1) the determination of whether to grant parole; (2) consideration of additional aggravating and mitigating factors. (NRS 213.10885)

Prior to scheduling the public workshop and based on responses from questionnaires mailed to small businesses throughout the state regarding NAC 213.518 (1), the Board staff made a concerted effort to determine whether the proposed regulation was likely to impose a direct and significant economic burden upon a small business and/or directly restrict the formation, operation, or expansion of a small business.

Board staff considered whether any part of the proposed regulations would impact a small business and considered whether the regulations imposed a fee on a small business; whether a small

business would be required in any way to participate in the determination to grant parole or the consideration of additional aggravating or mitigating factors; or whether a small business would be impacted in any way by the changes to NAC 213.518 (2), (3).

The Board staff has determined that the proposed regulations would not impact small businesses as small businesses do not currently perform a function within the parole process, and therefore would not directly or indirectly experience a negative outcome if the regulations are adopted.

I hereby certify that to the best of my knowledge or belief that a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement is prepared properly and accurate.



Christopher P. DeRicco, Chairman
Board of Parole Commissioners
775-687-5049

The following information is provided regarding the proposed regulations in R116-21P pursuant to the requirements of NRS 233B.0603:

1. A statement of the need for and purpose of the proposed regulation.

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person's probability of success on parole. (NRS 213.10885) Existing law requires the Department of Corrections to conduct, before a scheduled parole hearing of a prisoner who has been convicted of a sexual offense, an assessment of the prisoner to determine his or her risk to reoffend in a sexual manner using a currently accepted standard of assessment. (NRS 213.1214) The existing regulation provides that the Board will assign a certain risk level to each prisoner being considered for parole according to the level of risk that he or she will commit a felony if released on parole. The existing regulation provides that if the prisoner has been convicted of a sexual offense and has been evaluated using a currently accepted standard of assessment to determine his or her risk to reoffend in a sexual manner, the Board will assign a risk level which is the higher of the risk level initially assigned by the Board and the risk level determined by such an evaluation. (NAC 213.514) This amendment to the regulation instead provides that the Board will consider both risk assessments when determining whether to grant parole.

2. If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as the proposed regulation would be a permanent regulation.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to [NRS 233B.063](#).

As the proposed regulation is a permanent regulation, the text of the proposed regulation is attached to this notice. The proposed regulation can also be obtained by visiting the Board's website at www.parole.nv.gov or by contacting the Board office at (775) 687-5049 and requesting a copy to be mailed.

4. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be state separately, and in each case must include:

- a. Both adverse and beneficial effects; and

Adverse effects: There are no known adverse economic effects on businesses or on the public based on the proposed regulation.

Beneficial effects: There are no known beneficial economic effects on businesses or on the public based on the proposed regulation.

- b. Both Immediate and long-term effects.

Immediate economic effects: There are no known immediate economic effects on businesses or on the public based on the proposed regulation.

Long-term economic effects: There are no known long-term economic effects on businesses or on the public based on the proposed regulation.

- 5 A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of [NRS 233B.0608](#).

The Board used informed, reasonable judgement in determining that there will not be an impact on small businesses due to the nature of the proposed regulation.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The Board estimates that there are no additional enforcement costs as a result of the proposed regulation.

7. A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board is unaware of any other Federal, state or local governmental agency regulations that the proposed regulation may overlap or duplicate.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to Federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulation does not include provisions which are more stringent than a Federal regulation that regulates the same activity.

10. The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned meeting. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE
STATE BOARD OF PAROLE COMMISSIONERS**

LCB File No. R116-21

December 21, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 213.10885.

A REGULATION relating to parole; revising provisions relating to risk levels assigned to convicted persons being considered for parole; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person’s probability of success on parole. (NRS 213.10885)

Existing law requires the Department of Corrections to conduct, before a scheduled parole hearing of a prisoner who has been convicted of a sexual offense, an assessment of the prisoner to determine his or her risk to reoffend in a sexual manner using a currently accepted standard of assessment. (NRS 213.1214) Existing regulations provide that the Board will assign a certain risk level to each prisoner being considered for parole according to the level of risk that he or she will commit a felony if released on parole. If the prisoner has been convicted of a sexual offense and has been evaluated using a currently accepted standard of assessment to determine his or her risk to reoffend in a sexual manner, the Board will assign a risk level which is the higher of the risk level initially assigned by the Board and the risk level determined by such an evaluation. (NAC 213.514) This regulation instead provides that the Board will consider the risk assessment conducted by the Department when determining whether to grant parole.

Section 1. NAC 213.514 is hereby amended to read as follows:

213.514 1. The Board will assign to each prisoner who is being considered for parole a risk level of “high,” “moderate” or “low” according to the level of risk that the prisoner will commit a felony if released on parole.

2. To establish the risk level, the Board will conduct an objective risk assessment using a combination of risk factors that predict recidivism.

3. *The Board will apply the risk level assigned to a prisoner who is being considered for parole to establish an initial assessment regarding whether to grant parole in the manner set forth in NAC 213.516.*

4. If a prisoner has ever been convicted of a sexual offense and has been evaluated using a currently accepted standard of assessment to determine the risk that the prisoner will commit another sexual offense if released on parole ~~[]~~ *in accordance with NRS 213.1214*, the Board will ~~[assign a]~~ *consider the* risk ~~[level to the prisoner which is the higher of the risk level assigned]~~ *assessment conducted by the Department of Corrections* pursuant to ~~[this section and the risk level determined by such an evaluation.]~~

~~—4.—~~ ~~The Board will apply the risk level assigned to a prisoner who is being considered for parole to establish an initial assessment regarding]~~ *NRS 213.1214 when determining* whether to grant parole . ~~[in the manner set forth in NAC 213.516.]~~

~~—5.]~~ As used in this ~~[section,]~~ *subsection*, “sexual offense” has the meaning ascribed to it in NRS 213.1214.

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NEVADA BOARD OF PAROLE COMMISSIONERS

**Small Business Impact Statement pursuant to NRS 233B.0608 for NAC 213.514.
Determination of whether to grant parole: Assignment of risk level to prisoner. (NRS
213.10885)**

February 24, 2022

The following statement is made pursuant to the regulatory process outlined in NRS 233B.

Before conducting a workshop on the proposed regulation, the agency must make a concerted effort to determine whether the regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the agency concludes that the proposed regulation is likely to have such an impact, it must; (1) consult with owners and officers of small businesses that are likely to be affected by the proposed regulation; (2) conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses; (3) consider methods to reduce the impact of the proposed regulation on small businesses; and (4) prepare a small business impact statement and make copies of the statement available to the public not less than 15 days before the workshop conducted and the public hearing held pursuant to NRS 233B.061.

Prior to scheduling the public workshop, the Board of Parole Commissioners' (Board) staff made a concerted effort to determine whether the proposed regulation was likely to impose a direct and significant economic burden upon a small business and/or directly restrict the formation, operation, or expansion of a small business.

The proposed regulations codify administrative functions related to (1) assignment of risk level to prisoner. (NRS 213.10885)

Board staff considered whether any part of the proposed regulations would impact a small business, and also considered whether the regulations imposed a fee on a small business; whether a small business would be required in any way to participate in the early discharge process; or whether a small business would be impacted in any way by the changes to NAC 213.514.

The Board staff has determined that the proposed regulations would not impact small businesses as small businesses do not currently perform a function within the parole process, and therefore would not directly or indirectly experience a negative outcome if the regulations are adopted.

I hereby certify that to the best of my knowledge or belief that a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement is prepared properly and accurate.



Christopher P. DeRicco, Chairman
Board of Parole Commissioners
775-687-5049