NAC 213.518 DRAFT REGULATION OF THE BOARD OF PAROLE COMMISSIONERS

LCB File No. _____

EXPLANATION – Matter in ***italics*** is new.

AUTHORITY: NRS 213.10885 and NRS 213.1099

A REGULATION relating to the determination of whether to grant parole: Consideration of additional aggravating and mitigating factors; and providing other matters properly relating thereto.

DETERMINATION OF WHETHER TO GRANT PAROLE: CONSIDERATION OF ADDITIONAL AGGRAVATING AND MITIGATING FACTORS

Section 1: Chapter 213 of NAC is hereby amended by adding thereto additional language to read as follows:

NAC 213.518 Determination of whether to grant parole: Consideration of additional aggravating and mitigating factors. (NRS 213.10885, 213.110, 213.140)

1. After establishing an initial assessment regarding whether to grant parole pursuant to NAC 213.516, the Board *will consider the factors contained in NRS 213.10885 and NRS 213.1099 and* may consider ~~additional~~ *relevant* aggravating and mitigating factors 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 by the prisoner was severe, extreme or abnormal;~~

~~(b) Whether the prisoner has previously been convicted of a crime;~~

~~(c) The number of occasions on which the prisoner has been incarcerated;~~

~~(d) Whether the prisoner has failed to complete probation or parole on three or more occasions;~~

~~(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;~~

~~(f) The extent to which the prisoner attempted to elude capture during or following the commission of a crime;~~

~~(g) The extent of the injury or loss suffered by the victim of the crime for which parole is being considered;~~

~~(h) Whether the prisoner has engaged in repetitive criminal conduct;~~

~~(i) Whether the prisoner has engaged in disruptive behavior while incarcerated;~~

~~(j) Whether the Department of Corrections has ever ordered the prisoner to be confined in disciplinary segregation;~~

~~(k) Whether the prisoner has committed increasingly serious crimes;~~

~~(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;~~

~~(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;~~

~~(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;~~

~~(o) Whether the prisoner has a history of possessing or using a weapon during the commission of a crime; and~~

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

(a) Whether a prior prison term did not deter future criminal activity;

(b) Whether the prisoner has a prior conviction or delinquency adjudication for a sex offense;

(c) Whether the prisoner has a prior conviction or delinquency adjudication for a violent offense;

(d) Whether the prisoner has engaged in repetitive similar criminal conduct;

(e) Whether the prisoner has a significant prior criminal history;

(f) Whether the prisoner has engaged in disruptive institutional behavior;

(g) Whether the prisoner's NRS 213.1214 assessment results in an above-average risk to reoffend sexually;

(h) Whether the prisoner has multiple prior parole or probation revocations;

(i) Whether the nature of the prisoner's criminal record is increasingly more serious;

(j) Whether the crime was targeted against a child, or person of greater vulnerability, because of age or disability;

(k) The impact on victims or the community;

(l) The extreme or abnormal aspects of the crime;

(m) Whether the prisoner refused to participate in or was terminated for cause from treatment;

(n) Whether the prisoner has been removed from a correctional program for reentry or program of work release on current period of incarceration;

(o) Whether the prisoner has committed a crime while incarcerated, on bail, eluding, on escape status, or while under probation or parole supervision;

(p) Whether the prisoner has been housed in disciplinary segregation within 24 months of the parole hearing;

(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 an inmate 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;~~

~~(c) 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 in disciplinary segregation;~~

~~(d) Whether the prisoner has adjusted positively to a 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;~~

~~(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 successfully, other than probation imposed and supervised by a court;~~

~~(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) Whether the presentence investigation indicates that the crime for which parole is being considered was situational and that the prisoner did not intend 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) 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.~~

(a) Whether the prisoner has no prior or minimal history of criminal convictions or delinquency adjudications;

(b) Whether the prisoner has been infraction free, and not in disciplinary segregation, for two years or more prior to the hearing month;

(c) Whether the prisoner has participated in programs specific to addressing behavior that led to their incarceration;

(d) Whether the prisoner has had a positive adjustment to a correctional program for reentry or program of work release on current period of incarceration;

(e) Whether the prisoner previously successfully completed parole or probation supervision, other than summary or court-based supervision;

(f) Whether the prisoner has stable release plans;

(g) Whether a detainer is lodged by another jurisdiction;

(h) Whether the prisoner is pending a consecutive sentence;

(i) Whether the prisoner has community or family support;

(j) Whether the instant offense involved lesser involvement than co-offenders;

(k) Whether the prisoner's NRS 213.1214 assessment results in a low risk or below-average risk to reoffend sexually;

(l) Whether the prisoner has been consistent in managing their mental illness as recommended by professionals, if the mental illness may be a contributing factor to criminal behavior;

(m) Whether the prisoner's case history demonstrates remorse;

(n) Whether the prisoner's crime was situational and without evidence of intent to harm according to the presentence investigation report;

(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.

(Added to NAC by Bd. of Parole Comm'rs by R018-08, eff. 4-17-2008)