

ASSEMBLY BILL NO. 499—ASSEMBLYMAN BROWER

MARCH 12, 1999

Referred to Committee on Judiciary

SUMMARY—Prohibits assignment of certain prisoners to custody of division of parole and probation of department of motor vehicles and public safety to serve term of residential confinement. (BDR 16-1282)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 prisons; prohibiting the assignment of certain prisoners who were convicted of driving under the influence of intoxicating liquor or a controlled substance to the custody of the division of parole and probation of the department of motor vehicles and public safety to serve a term of residential confinement; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 209.429 is hereby amended to read as follows:
2 209.429 1. Except as otherwise provided in subsection 6, the director
3 shall assign an offender to the custody of the division of parole and
4 probation of the department of motor vehicles and public safety to serve a
5 term of residential confinement, pursuant to NRS 213.380, for not longer
6 than the remainder of the maximum term of his sentence if:
7 (a) The offender has:
8 (1) Established a position of employment in the community;
9 (2) Enrolled in a program for education or rehabilitation; or
10 (3) Demonstrated an ability to pay for all or part of the costs of his
11 confinement and to meet any existing obligation for restitution to any
12 victim of his crime . ~~§~~
13 (b) The offender has successfully completed the initial period of
14 treatment required under the program of treatment established pursuant to
15 NRS 209.425 . ~~§; and~~

(c) The director believes that the offender will be able to:

(1) Comply with the terms and conditions required under residential confinement; and

(2) Complete successfully the remainder of the program of treatment while under residential confinement.

If an offender assigned to the program of treatment pursuant to NRS 209.427, completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the director. The director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender, and may restore credits forfeited for such reasons as he considers proper. The decision of the director regarding such a forfeiture is final.

(d) The offender:

(1) Has not previously been assigned to the custody of the division of parole and probation to serve a term of residential confinement pursuant to this section or NRS 209.392; and

(2) Is not ineligible for assignment to the custody of the division of parole and probation to serve a term of residential confinement pursuant to the standards adopted by the director pursuant to subsection 3 of NRS 209.392.

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the division of parole and probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this state, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the division of parole and probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The division of parole and probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the department of prisons.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the director. The director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender, and may restore credits forfeited for such reasons as he considers proper. The decision of the director regarding forfeiture of credits is final.

1 4. The assignment of an offender to the custody of the division of
2 parole and probation pursuant to this section shall be deemed:

3 (a) A continuation of his imprisonment and not a release on parole; and

4 (b) For the purposes of NRS 209.341, an assignment to a facility of the
5 department of prisons,

6 except that the offender is not entitled to obtain any benefits or to
7 participate in any programs provided to offenders in the custody of the
8 department of prisons.

9 5. A person does not have a right to be assigned to the custody of the
10 division of parole and probation pursuant to this section, or to remain in
11 that custody after such an assignment, and it is not intended that the
12 provisions of this section or of NRS 213.371 to 213.410, inclusive, create
13 any right or interest in liberty or property or establish a basis for any cause
14 of action against the state, its political subdivisions, agencies, boards,
15 commissions, departments, officers or employees.

16 6. The director shall not assign an offender ~~{who is}~~ *to the custody of*
17 *the division of parole and probation to serve a term of residential*
18 *confinement if the offender:*

19 (a) *Is* serving a sentence for committing a battery which constitutes
20 domestic violence pursuant to NRS 33.018 ~~{to the custody of the division~~
21 ~~of parole and probation to serve a term of residential confinement unless~~
22 ~~the director makes a finding that the offender is not likely to pose a threat~~
23 ~~to the victim of the battery.}~~ ; or

24 (b) *Is serving a sentence for driving under the influence of*
25 *intoxicating liquor or a controlled substance pursuant to NRS 484.3795*
26 *and has not served the minimum sentence imposed by the court for the*
27 *offense.*

28 **Sec. 2.** The amendatory provisions of this act do not apply to offenses
29 that were committed before October 1, 1999.