

## SENATE BILL NO. 395—SENATOR WASHINGTON

MARCH 12, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding parole hearings for certain prisoners. (BDR 16-513)

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 parole; requiring under certain circumstances that photographs from crime scenes be included in the files pertaining to certain prisoners when those prisoners are considered for parole; 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 213.130 is hereby amended to read as follows:  
2     213.130 1. A prisoner sentenced to imprisonment in the state prison  
3     may apply to the board for parole. The application must be made on a form  
4     prescribed by the board and must contain:  
5     (a) The county in which the prisoner will reside, if the prisoner will be  
6     paroled in Nevada; and  
7     (b) Other data that will assist the board in determining whether parole  
8     should be granted.  
9     The secretary of the board shall furnish any prisoner an application form  
10    upon request.  
11    2. *Except as otherwise provided in subsection 3, if:*  
12    *(a) A prisoner is applying for parole from a sentence imposed for*  
13    *conviction of a crime that constitutes a category A felony or, if the crime*  
14    *was committed before July 1, 1995, a crime that would constitute a*  
15    *category A felony if committed on or after July 1, 1995; and*  
16    *(b) Original or duplicate photographs of the scene of the crime*  
17    *committed by the prisoner are in existence at the time of the meeting to*  
18    *consider the application of the prisoner for parole,*

1 *a representative set of original or duplicate photographs must be*  
2 *included with the information submitted to the board at the meeting.*

3 *3. If a victim of the prisoner whose application is being considered*  
4 *for parole:*

5 *(a) Is notified of the meeting pursuant to subsection 5; and*

6 *(b) Within 10 days after receiving notice of the meeting, informs the*  
7 *board in writing that the victim objects to the inclusion of photographs of*  
8 *the scene of the crime in the information submitted to the board,*  
9 *the photographs must not be submitted to the board.*

10 **4.** Meetings for the purpose of considering applications for parole may  
11 be held semiannually or more often, on such dates as may be fixed by the  
12 board. All meetings must be open to the public.

13 ~~13.1~~ **5.** Not later than 5 days after the date on which the board fixes the  
14 date of the meeting to consider the application of a prisoner for parole, the  
15 board shall notify the victim of the prisoner whose application is being  
16 considered of the date of the meeting and of his rights pursuant to this  
17 subsection, if the victim has requested notification in writing and has  
18 provided his current address or if the victim's current address is otherwise  
19 known by the board. The victim of any person applying for parole may  
20 submit documents to the board and may testify at the meeting held to  
21 consider the application. An application for parole must not be considered  
22 until the board has notified any victim of his rights pursuant to this  
23 subsection and he is given the opportunity to exercise those rights. If a  
24 current address is not provided to or otherwise known by the board, the  
25 board must not be held responsible if such notification is not received by  
26 the victim.

27 ~~14.1~~ **6.** The board may deliberate in private after a public meeting held  
28 to consider an application for parole.

29 ~~15.1~~ **7.** The board of state prison commissioners shall provide suitable  
30 and convenient rooms or space for use of the board.

31 ~~16.1~~ **8.** If a victim is notified of a meeting to consider an application for  
32 parole pursuant to subsection ~~13.1~~ **5**, the board shall, upon making a final  
33 decision concerning the application, notify the victim of its final decision.

34 ~~17.1~~ **9.** All personal information, including, but not limited to, a current  
35 or former address, which pertains to a victim and which is received by the  
36 board pursuant to this section is confidential.

37 ~~18.1~~ **10.** For the purposes of this section, "victim" has the meaning  
38 ascribed to it in NRS 213.005.

39 **Sec. 2.** NRS 209.392 is hereby amended to read as follows:

40 209.392 1. Except as otherwise provided in NRS 209.3925 and  
41 209.429, the director may, at the request of an offender who is eligible for  
42 residential confinement pursuant to the standards adopted by the director  
43 pursuant to subsection 3 and who has:

1 (a) Established a position of employment in the community;  
2 (b) Enrolled in a program for education or rehabilitation; or  
3 (c) Demonstrated an ability to pay for all or part of the costs of his  
4 confinement and to meet any existing obligation for restitution to any  
5 victim of his crime,  
6 assign the offender to the custody of the division of parole and probation of  
7 the department of motor vehicles and public safety to serve a term of  
8 residential confinement, pursuant to NRS 213.380, for not longer than the  
9 remainder of his sentence.

10 2. Upon receiving a request to serve a term of residential confinement  
11 from an eligible offender, the director shall notify the division of parole and  
12 probation. If any victim of a crime committed by the offender has, pursuant  
13 to subsection ~~3~~ 5 of NRS 213.130, requested to be notified of an  
14 application for parole and has provided a current address, the division of  
15 parole and probation shall notify the victim of the offender's request and  
16 advise the victim that he may submit documents regarding the request to  
17 the division of parole and probation. If a current address has not been  
18 provided as required by subsection ~~3~~ 5 of NRS 213.130, the division of  
19 parole and probation must not be held responsible if such notification is not  
20 received by the victim. All personal information, including, but not limited  
21 to, a current or former address, which pertains to a victim and which is  
22 received by the division of parole and probation pursuant to this subsection  
23 is confidential.

24 3. The director, after consulting with the division of parole and  
25 probation, shall adopt, by regulation, standards providing which offenders  
26 are eligible for residential confinement. The standards adopted by the  
27 director must provide that an offender who:

28 (a) Is not eligible for parole or release from prison within a reasonable  
29 period;

30 (b) Has recently committed a serious infraction of the rules of an  
31 institution or facility of the department;

32 (c) Has not performed the duties assigned to him in a faithful and  
33 orderly manner;

34 (d) Has ever been convicted of:

35 (1) Any crime involving the use or threatened use of force or violence  
36 against the victim; or

37 (2) A sexual offense;

38 (e) Has more than one prior conviction for any felony in this state or any  
39 offense in another state that would be a felony if committed in this state, not  
40 including a violation of NRS 484.3792 or 484.3795;

41 (f) Has escaped or attempted to escape from any jail or correctional  
42 institution for adults;

or

1 (g) Has not made an effort in good faith to participate in or to complete  
2 any educational or vocational program or any program of treatment, as  
3 ordered by the director,  
4 is not eligible for assignment to the custody of the division of parole and  
5 probation to serve a term of residential confinement pursuant to this  
6 section.

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

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

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

19 5. The assignment of an offender to the custody of the division of  
20 parole and probation pursuant to this section shall be deemed:

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

22 (b) For the purposes of NRS 209.341, an assignment to a facility of the  
23 department,  
24 except that the offender is not entitled to obtain any benefits or to  
25 participate in any programs provided to offenders in the custody of the  
26 department.

27 6. An offender does not have a right to be assigned to the custody of  
28 the division of parole and probation pursuant to this section, or to remain in  
29 that custody after such an assignment, and it is not intended that the  
30 provisions of this section or of NRS 213.371 to 213.410, inclusive, create  
31 any right or interest in liberty or property or establish a basis for any cause  
32 of action against the state, its political subdivisions, agencies, boards,  
33 commissions, departments, officers or employees.

34 **Sec. 3.** NRS 209.3925 is hereby amended to read as follows:

35 209.3925 1. Except as otherwise provided in subsection 6, the  
36 director may assign an offender to the custody of the division of parole and  
37 probation of the department of motor vehicles and public safety to serve a  
38 term of residential confinement pursuant to NRS 213.380, for not longer  
39 than the remainder of his sentence, if:

40 (a) The director has reason to believe that the offender is:

41 (1) Physically incapacitated to such a degree that he does not  
42 presently, and likely will not in the future, pose a threat to the safety of the  
43 public;

or

1 (2) In ill health and expected to die within 12 months, and does not  
2 presently, and likely will not in the future, pose a threat to the safety of the  
3 public; and

4 (b) At least two physicians licensed pursuant to chapter 630 of NRS, one  
5 of whom is not employed by the department, verify, in writing, that the  
6 offender is:

7 (1) Physically incapacitated; or

8 (2) In ill health and expected to die within 12 months.

9 2. If the director intends to assign an offender to the custody of the  
10 division of parole and probation pursuant to this section, at least 45 days  
11 before the date the offender is expected to be released from the custody of  
12 the department, the director shall notify:

13 (a) If the offender will reside within this state after he is released from  
14 the custody of the department, the board of county commissioners of the  
15 county in which the offender will reside; and

16 (b) The division of parole and probation.

17 3. If any victim of a crime committed by the offender has, pursuant to  
18 subsection ~~3~~ 5 of NRS 213.130, requested to be notified of an application  
19 for parole and has provided a current address, the division of parole and  
20 probation shall notify the victim that:

21 (a) The director intends to assign the offender to the custody of the  
22 division of parole and probation pursuant to this section; and

23 (b) The victim may submit documents to the division of parole and  
24 probation regarding such an assignment.

25 If a current address has not been provided by a victim as required by  
26 subsection ~~3~~ 5 of NRS 213.130, the division of parole and probation must  
27 not be held responsible if notification is not received by the victim. All  
28 personal information, including, but not limited to, a current or former  
29 address, which pertains to a victim and which is received by the division of  
30 parole and probation pursuant to this subsection is confidential.

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

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

37 (b) The offender forfeits all or part of the credits for good behavior  
38 earned by him before the escape or violation, as determined by the  
39 director.

40 The director may provide for a forfeiture of credits pursuant to this  
41 paragraph only after proof of the offense and notice to the offender, and  
42 may restore credits forfeited for such reasons as he considers proper. The  
43 decision of the director regarding such a forfeiture is final.

1     5. 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,

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.

9     6. The director may not assign an offender to the custody of the  
10 division of parole and probation pursuant to this section if the offender is  
11 sentenced to death or imprisonment for life without the possibility of  
12 parole.

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