

Senate Bill No. 395–Senator Washington

CHAPTER.....

AN ACT relating to parole; requiring under certain circumstances that certain photographs 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:

Section 1. NRS 209.392 is hereby amended to read as follows:

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

- (a) Established a position of employment in the community;
- (b) Enrolled in a program for education or rehabilitation; or
- (c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

assign the offender 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, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the director shall notify the division of parole and probation. If any victim of a crime committed by the offender has, pursuant to subsection ~~3~~ 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the division of parole and probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the division of parole and probation. If a current address has not been provided as required by subsection ~~3~~ 4 of NRS 213.130, the division of parole and probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the division of parole and probation pursuant to this subsection is confidential.

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

- (a) Is not eligible for parole or release from prison within a reasonable period;
- (b) Has recently committed a serious infraction of the rules of an institution or facility of the department;

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

(d) Has ever been convicted of:

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

(2) A sexual offense;

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

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

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

4. 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.

(b) The offender forfeits all or part of the credits for good behavior earned by him 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 such a forfeiture is final.

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

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

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

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

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

Sec. 2. NRS 209.3925 is hereby amended to read as follows:

209.3925 1. Except as otherwise provided in subsection 6, the director may assign an offender 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 pursuant to NRS 213.380, for not longer than the remainder of his sentence, if:

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

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

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

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

(1) Physically incapacitated; or

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

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

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

(b) The division of parole and probation.

3. If any victim of a crime committed by the offender has, pursuant to subsection ~~3~~ 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the division of parole and probation shall notify the victim that:

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

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

If a current address has not been provided by a victim as required by subsection ~~3~~ 4 of NRS 213.130, the division of parole and probation must not be held responsible if notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the division of parole and probation pursuant to this subsection is confidential.

4. 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.

(b) The offender forfeits all or part of the credits for good behavior earned by him 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 such a forfeiture is final.

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

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

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

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

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

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

Sec. 3. NRS 213.130 is hereby amended to read as follows:

213.130 1. The department of prisons shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the state board of parole commissioners of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the board data that will assist the board in determining whether parole should be granted.

2. *If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this*

subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the board. All meetings must be open to the public.

~~3.1~~ 4. Not later than 5 days after the date on which the board fixes the date of the meeting to consider a prisoner for parole, the board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim's current address is otherwise known by the board. The victim of a prisoner being considered for parole may submit documents to the board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the board, the board must not be held responsible if such notification is not received by the victim.

~~4.1~~ 5. The board may deliberate in private after a public meeting held to consider a prisoner for parole.

~~5.1~~ 6. The board of state prison commissioners shall provide suitable and convenient rooms or space for use of the board.

~~6.1~~ 7. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection ~~3.1~~ 4, the board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

~~7.1~~ 8. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the board pursuant to this section is confidential.

~~8.1~~ 9. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

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