

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 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:

- 1 **Section 1.** NRS 209.392 is hereby amended to read as follows:
2 209.392 1. Except as otherwise provided in NRS 209.3925 and
3 209.429, the director may, at the request of an offender who is eligible for
4 residential confinement pursuant to the standards adopted by the director
5 pursuant to subsection 3 and who has:
6 (a) Established a position of employment in the community;
7 (b) Enrolled in a program for education or rehabilitation; or
8 (c) Demonstrated an ability to pay for all or part of the costs of his
9 confinement and to meet any existing obligation for restitution to any
10 victim of his crime,
11 assign the offender to the custody of the division of parole and probation of
12 the department of motor vehicles and public safety to serve a term of
13 residential confinement, pursuant to NRS 213.380, for not longer than the
14 remainder of his sentence.
15 2. Upon receiving a request to serve a term of residential confinement
16 from an eligible offender, the director shall notify the division of parole and
17 probation. If any victim of a crime committed by the offender has, pursuant
18 to subsection ~~3~~ 4 of NRS 213.130, requested to be notified of the
19 consideration of a prisoner for parole and has provided a current address,

1 the division of parole and probation shall notify the victim of the offender's
2 request and advise the victim that he may submit documents regarding the
3 request to the division of parole and probation. If a current address has not
4 been provided as required by subsection ~~3~~ 4 of NRS 213.130, the division
5 of parole and probation must not be held responsible if such notification is
6 not received by the victim. All personal information, including, but not
7 limited to, a current or former address, which pertains to a victim and
8 which is received by the division of parole and probation pursuant to this
9 subsection is confidential.

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

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

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

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

20 (d) Has ever been convicted of:

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

23 (2) A sexual offense;

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

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

29 (g) Has not made an effort in good faith to participate in or to complete
30 any educational or vocational program or any program of treatment, as
31 ordered by the director,

32 is not eligible for assignment to the custody of the division of parole and
33 probation to serve a term of residential confinement pursuant to this
34 section.

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

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

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

43 The director may provide for a forfeiture of credits pursuant to this

1 paragraph only after proof of the offense and notice to the offender, and
2 may restore credits forfeited for such reasons as he considers proper. The
3 decision of the director regarding such a forfeiture is final.

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

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

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

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

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

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

20 209.3925 1. Except as otherwise provided in subsection 6, the
21 director may assign an offender to the custody of the division of parole and
22 probation of the department of motor vehicles and public safety to serve a
23 term of residential confinement pursuant to NRS 213.380, for not longer
24 than the remainder of his sentence, if:

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

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

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

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

35 (1) Physically incapacitated; or

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

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

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

1 (b) The division of parole and probation.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 7. An offender does not have a right to be assigned to the custody of
42 the division of parole and probation pursuant to this section, or to remain in
43 that custody after such an assignment, and it is not intended that the

1 provisions of this section or of NRS 213.371 to 213.410, inclusive, create
2 any right or interest in liberty or property or establish a basis for any cause
3 of action against the state, its political subdivisions, agencies, boards,
4 commissions, departments, officers or employees.

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

6 213.130 1. The department of prisons shall:

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

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

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

14 2. *If a prisoner is being considered for parole from a sentence*
15 *imposed for conviction of a crime which involved the use of force or*
16 *violence against a victim and which resulted in bodily harm to a victim*
17 *and if original or duplicate photographs that depict the injuries of the*
18 *victim or the scene of the crime were admitted at the trial of the prisoner*
19 *or were part of the report of the presentence investigation and are*
20 *reasonably available, a representative sample of such photographs must*
21 *be included with the information submitted to the board at the meeting. A*
22 *prisoner may not bring a cause of action against the State of Nevada, its*
23 *political subdivisions, agencies, boards, commissions, departments,*
24 *officers or employees for any action that is taken pursuant to this*
25 *subsection or for failing to take any action pursuant to this subsection,*
26 *including, without limitation, failing to include photographs or including*
27 *only certain photographs. As used in this subsection, "photograph"*
28 *includes any video, digital or other photographic image.*

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

32 ~~13.1~~ 4. Not later than 5 days after the date on which the board fixes the
33 date of the meeting to consider a prisoner for parole, the board shall notify
34 the victim of the prisoner who is being considered for parole of the date of
35 the meeting and of his rights pursuant to this subsection, if the victim has
36 requested notification in writing and has provided his current address or if
37 the victim's current address is otherwise known by the board. The victim of
38 a prisoner being considered for parole may submit documents to the board
39 and may testify at the meeting held to consider the prisoner for parole. A
40 prisoner must not be considered for parole until the board has notified any
41 victim of his rights pursuant to this subsection and he is given the
42 opportunity to exercise those rights. If a current address is not provided to

1 or otherwise known by the board, the board must not be held responsible if
2 such notification is not received by the victim.

3 ~~[4.]~~ 5. The board may deliberate in private after a public meeting held
4 to consider a prisoner for parole.

5 ~~[5.]~~ 6. The board of state prison commissioners shall provide suitable
6 and convenient rooms or space for use of the board.

7 ~~[6.]~~ 7. If a victim is notified of a meeting to consider a prisoner for
8 parole pursuant to subsection ~~[3.]~~ 4, the board shall, upon making a final
9 decision concerning the parole of the prisoner, notify the victim of its final
10 decision.

11 ~~[7.]~~ 8. All personal information, including, but not limited to, a current
12 or former address, which pertains to a victim and which is received by the
13 board pursuant to this section is confidential.

14 ~~[8.]~~ 9. For the purposes of this section, "victim" has the meaning
15 ascribed to it in NRS 213.005.

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