

CHAPTER.....

AN ACT relating to offenders; providing that certain prisoners may be assigned to the custody of the division of parole and probation of the department of motor vehicles and public safety to participate in a program for re-entry into the community; providing that certain parolees may be ordered to participate in a program for re-entry into the community; revising the provisions regarding the sealing of records; 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.** Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Division” means the division of parole and probation of the department of motor vehicles and public safety.*

**Sec. 4.** *“Program” means a program for re-entry of prisoners and parolees into the community that is established in a judicial district pursuant to section 6 of this act.*

**Sec. 5.** *“Re-entry court” means the court in a judicial district that has established a program.*

**Sec. 6. 1.** *A judicial district may establish a program for re-entry of offenders and parolees into the community pursuant to this section.*

**2.** *If a judicial district establishes a program pursuant to this section, the re-entry court shall:*

*(a) Determine whether offenders who are referred by the director pursuant to section 7 of this act should be assigned to the custody of the division to participate in a program.*

*(b) Determine whether parolees who are referred by the chairman of the state board of parole commissioners pursuant to section 19 of this act should be ordered by the board to participate in a program as a condition of their parole.*

*(c) Supervise offenders and parolees participating in the program during their participation in the program.*

**3.** *An offender may not be assigned to the custody of the division to participate in a program unless the re-entry court grants prior approval of the assignment pursuant to this section.*

**4.** *Except as otherwise provided in section 19 of this act, a parolee may not participate in a program as a condition of his parole unless the re-entry court grants prior approval for his participation pursuant to this section.*

**Sec. 7. 1.** *Except as otherwise provided in this section, if a program has been established in the judicial district in which an offender was sentenced to imprisonment, the director may, after consulting with the division, refer the offender to the re-entry court if:*

*(a) The director believes that the offender would participate successfully in and benefit from the program;*

*(b) The offender has demonstrated a willingness to:*

*(1) Engage in employment or participate in vocational rehabilitation or job skills training; and*

*(2) Meet any existing obligation for restitution to any victim of his crime; and*

*(c) The offender is within 2 years of his probable release from prison, as determined by the director.*

*2. Except as otherwise provided in this section, if the director is notified by the re-entry court pursuant to section 6 of this act that an offender should be assigned to the custody of the division to participate in the program, the director shall assign the offender to the custody of the division to participate in the program for not longer than the remainder of his sentence.*

*3. The director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the division to participate in the program pursuant to this section. The standards adopted by the director must be approved by the board and must provide that an offender who:*

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

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

*(c) Has, within the immediately preceding 5 years, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;*

*(d) Has ever been convicted of a sexual offense;*

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

*(f) 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 pursuant to this section to participate in a program.*

*4. The director shall adopt regulations requiring offenders who are assigned to the custody of the division pursuant to this section to reimburse the re-entry court, the division and the department for the cost of their participation in a program, to the extent of their ability to pay.*

*5. The re-entry court may return the offender to the custody of the department at any time for any violation of the terms and conditions imposed by the re-entry court.*

*6. If an offender assigned to the custody of the division pursuant to this section violates any of the terms or conditions imposed by the re-entry court and is returned to the custody of the department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the department, as determined by the director. The director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The director may restore credits so forfeited for such reasons as he considers proper. The decision of the director regarding such a forfeiture is final.*

7. *The assignment of an offender to the custody of the division 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.*

8. *An offender does not have a right to be assigned to the custody of the division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.*

**Sec. 8.** 1. *The director may, after consulting with the division, enter into one or more contracts with one or more public or private entities to provide any of the following services, as necessary and appropriate, to offenders or parolees participating in a program:*

*(a) Transitional housing;*

*(b) Treatment pertaining to substance abuse or mental health;*

*(c) Training in life skills;*

*(d) Vocational rehabilitation and job skills training; and*

*(e) Any other services required by offenders or parolees who are participating in a program.*

2. *The director shall, as necessary and appropriate, provide referrals and information regarding:*

*(a) Any of the services provided pursuant to subsection 1;*

*(b) Access and availability of any appropriate self-help groups;*

*(c) Social services for families and children; and*

*(d) Permanent housing.*

3. *The director may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section.*

4. *As used in this section, "training in life skills" includes, without limitation, training in the areas of:*

*(a) Parenting;*

*(b) Improving human relationships;*

*(c) Preventing domestic violence;*

*(d) Maintaining emotional and physical health;*

*(e) Preventing abuse of alcohol and drugs;*

*(f) Preparing for and obtaining employment; and*

*(g) Budgeting, consumerism and personal finances.*

**Sec. 9.** NRS 209.432 is hereby amended to read as follows:

209.432 As used in NRS 209.432 to 209.451, inclusive, unless the context otherwise requires:

1. "Offender" includes ~~ta~~:

*(a) A person who is convicted of a felony under the laws of this state and sentenced, ordered or otherwise assigned to serve a term of residential confinement.*

*(b) A person who is convicted of a felony under the laws of this state and assigned to the custody of the division pursuant to section 7 of this act.*

2. “Residential confinement” means the confinement of a person convicted of a felony to his place of residence under the terms and conditions established pursuant to specific statute. The term does not include any confinement ordered pursuant to NRS 176A.530 to 176A.560, inclusive, 176A.660 to 176A.690, inclusive, 213.15105, 213.15193 or 213.152 to 213.1528, inclusive.

**Sec. 10.** NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before July 17, 1997, who has no serious infraction of the regulations of the department, the terms and conditions of his residential confinement, or the laws of the state recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

(a) For the period he is actually incarcerated under sentence; ~~and~~

(b) For the period he is in residential confinement ~~+~~ ; and

*(c) For the period he is in the custody of the division of parole and probation of the department of motor vehicles and public safety pursuant to section 7 of this act,*

a deduction of 10 days from his sentence for each month he serves.

2. In addition to the credit provided for in subsection 1, the director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general equivalency diploma, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

3. The director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. Credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence which must be served before a person becomes eligible for parole.

**Sec. 11.** NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the

regulations of the department, the terms and conditions of his residential confinement or the laws of the state recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

(a) For the period he is actually incarcerated pursuant to his sentence;  
~~and~~

(b) For the period he is in residential confinement ~~H~~ ; and

(c) *For the period he is in the custody of the division of parole and probation of the department of motor vehicles and public safety pursuant to section 7 of this act,*

a deduction of 10 days from his sentence for each month he serves.

2. In addition to the credits allowed pursuant to subsection 1, the director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general equivalency diploma, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning his first associate degree, 90 days.

3. The director may, in his discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 20 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence;  
and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

**Sec. 12.** NRS 212.187 is hereby amended to read as follows:

212.187 1. A prisoner who is in lawful custody or confinement, other than *in the custody of the division of parole and probation of the department of motor vehicles and public safety pursuant to section 7 of this act or* residential confinement, and who voluntarily engages in sexual conduct with another person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. A person who voluntarily engages in sexual conduct with a prisoner who is in lawful custody or confinement, other than *in the custody of the division of parole and probation of the department of motor vehicles and public safety pursuant to section 7 of this act or* residential confinement,

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section, “sexual conduct”:

(a) Includes acts of masturbation, homosexuality, sexual intercourse or physical contact with another person’s clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.

(b) Does not include acts of a person who has custody of a prisoner or an employee of the institution in which the prisoner is confined that are performed to carry out the necessary duties of such a person or employee.

**Sec. 13.** Chapter 213 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 21, inclusive, of this act.

**Sec. 14.** *As used in sections 14 to 21, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 15 to 18, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 15.** *“Board” means the state board of parole commissioners.*

**Sec. 16.** *“Division” means the division of parole and probation of the department of motor vehicles and public safety.*

**Sec. 17.** *“Program” means a program for re-entry of prisoners and parolees into the community that is established in a judicial district pursuant to section 6 of this act.*

**Sec. 18.** *“Re-entry court” means the court in a judicial district that has established a program.*

**Sec. 19.** *1. Except as otherwise provided in this section, if a program has been established in the judicial district in which a prisoner or parolee may be paroled, the chairman of the board may, after consulting with the division, refer a prisoner who is being considered for parole or a parolee who has violated a term or condition of his parole to the re-entry court if the chairman believes that the person:*

*(a) Would participate successfully in and benefit from a program; and*

*(b) Has demonstrated a willingness to:*

*(1) Engage in employment or participate in vocational rehabilitation or job skills training; and*

*(2) Meet any existing obligation for restitution to any victim of his crime.*

*2. Except as otherwise provided in this section, if the chairman is notified by the re-entry court pursuant to section 6 of this act that a person should be ordered to participate in a program, the board may, in accordance with the provisions of this section:*

*(a) If the person is a prisoner who is being considered for parole, upon the granting of parole to the prisoner, require as a condition of parole that the person participate in and complete the program; or*

*(b) If the person is a parolee who has violated a term or condition of his parole, order him to participate in and complete the program as a condition of the continuation of his parole and in lieu of revoking his parole and returning him to confinement.*

*3. If a prisoner who has been assigned to the custody of the division to participate in a program pursuant to section 7 of this act is being considered for parole:*

*(a) The board shall, if the board grants parole to the prisoner, require as a condition of parole that the person continue to participate in and complete the program.*

*(b) The board is not required to refer the prisoner to the re-entry court pursuant to subsection 1 or to obtain prior approval of the re-entry court pursuant to section 6 of this act for the prisoner to continue participating in the program while he is on parole.*

*4. In determining whether to order a person to participate in and complete a program pursuant to this section, the board shall consider:*

*(a) The criminal history of the person; and*

*(b) The safety of the public.*

*5. The board shall adopt regulations requiring persons who are ordered to participate in and complete a program pursuant to this section to reimburse the re-entry court and the division for the cost of their participation in a program, to the extent of their ability to pay.*

*6. The board shall not order a person to participate in a program if the time required to complete the program is longer than the unexpired maximum term of the person's original sentence.*

**Sec. 20.** *1. If the re-entry court determines that a parolee has violated a term or condition of his participation in the program or a term or condition of his parole, the court may:*

*(a) Establish and impose any appropriate sanction for the violation; and*

*(b) If necessary, report the violation to the board.*

*2. If a violation of a term or condition of parole is reported to the board pursuant to this section, the board shall proceed in the manner provided in this chapter for any other violation of a term or condition of parole.*

**Sec. 21.** *The division shall supervise each person who is participating in a program pursuant to section 7 or 19 of this act.*

**Sec. 22.** Chapter 179 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsections 3 and 4, 5 years after an eligible person completes a program for re-entry, the court may order sealed all documents, papers and exhibits in the eligible person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court may order those records sealed without a hearing unless the division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.*

*2. If the court orders sealed the record of an eligible person, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.*

*3. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.*

*4. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.*



*5. As used in this section:*

*(a) “Crime against a child” has the meaning ascribed to it in NRS 179D. 210.*

*(b) “Eligible person” means a person who has:*

*(1) Successfully completed a program for re-entry to which he participated in pursuant to section 7 or 19 of this act; and*

*(2) Been convicted of a single offense which was punishable as a felony and which did not involve the use or threatened use of force or violence against the victim. For the purposes of this subparagraph, multiple convictions for an offense punishable as a felony shall be deemed to constitute a single offense if those offenses arose out of the same transaction or occurrence.*

*(c) “Program for re-entry” means a program for re-entry of prisoners and parolees into the community that is established in a judicial district pursuant to section 6 of this act.*

*(d) “Sexual offense” has the meaning ascribed to it in paragraph (b) of subsection 6 of NRS 179.245.*

**Sec. 23.** NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 453.3365, *and section 22 of this act*, a person who has been convicted of:

(a) Any felony may, after 15 years from the date of his conviction or, if he is imprisoned, from the date of his release from actual custody;

(b) Any gross misdemeanor may, after 10 years from the date of his conviction or release from custody;

(c) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony may, after 7 years from the date of his conviction or release from custody; or

(d) Any other misdemeanor may, after 5 years from the date of his conviction or release from custody, petition the court in which the conviction was obtained for the sealing of all records relating to the conviction.

2. A petition filed pursuant to subsection 1 must be accompanied by current, verified records of the petitioner’s criminal history received from:

(a) The central repository for Nevada records of criminal history; and

(b) The local law enforcement agency of the city or county in which the conviction was entered.

3. Upon receiving a petition pursuant to this section, the court shall notify:

(a) The prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been arrested, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records



of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California *bureau of* identification and ~~investigation bureau,~~ *information*, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.210.

(b) "Sexual offense" ~~has the meaning ascribed to it in NRS 179D.210.~~ *means:*

*(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.*

*(2) Sexual assault pursuant to NRS 200.366.*

*(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.*

*(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.*

*(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.*

*(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.*

*(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.*

*(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.*

*(9) Incest pursuant to NRS 201.180.*

*(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.*

*(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.*

*(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.*

*(13) Lewdness with a child pursuant to NRS 201.230.*

*(14) Sexual penetration of a dead human body pursuant to NRS 201.450.*

*(15) Annoyance or molestation of a minor pursuant to NRS 207.260.*

*(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.*

**Sec. 24.** NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 179.245, 179.255 or 453.3365, *or section 22 of this act*, a copy of the order must be sent to:

1. The central repository for Nevada records of criminal history; and
2. Each public or private company, agency or official named in the order, and that person shall seal the records in his custody which relate to the matters contained in the order, shall advise the court of his compliance, and shall then seal the order.

**Sec. 25.** NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301, if the court orders a record sealed pursuant to NRS 179.245, 179.255 or 453.3365, *or section 22 of this act*, all proceedings recounted in the record are deemed never to have occurred, and the person to whom it pertains may properly answer accordingly to any inquiry concerning the arrest, conviction or acquittal and the events and proceedings relating to the arrest, conviction or acquittal.

**Sec. 26.** NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 179.245, 179.255 or 453.3365 *or section 22 of this act* may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section and NRS 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

**Sec. 27.** The amendatory provisions of section 12 of this act do not apply to offenses committed before July 1, 2001.

**Sec. 28.** This act becomes effective on July 1, 2001.