

Joint Sponsor: Assemblywoman Leslie

CHAPTER.....

AN ACT relating to incarcerated persons; requiring the Department of Education to adopt regulations that establish a statewide program of education for incarcerated persons and to coordinate with and assist school districts in operating programs of education for incarcerated persons; creating in the State Treasury the Fund for Programs of Education for Incarcerated Persons; authorizing school districts to operate programs of education for incarcerated persons under certain circumstances; providing procedures if a manager or warden excludes from a facility or institution a person employed by a school district to operate a program of education for incarcerated persons in the facility or institution; authorizing the University and Community College System of Nevada to offer courses that lead to a postsecondary degree for incarcerated persons; providing free tuition to certain incarcerated persons under certain conditions; waiving the registration fees of certain incarcerated persons; making various changes to provisions relating to credits against the sentence of an offender; revising the provisions governing the manner in which prisoners may be released from jail when the jail becomes overcrowded; 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 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, “incarcerated persons” means persons who are incarcerated in a facility or institution operated by the Department of Corrections.*

Sec. 3. 1. *The Department of Education, after consulting with the Department of Corrections, shall:*

(a) Adopt regulations that establish a statewide program of education for incarcerated persons; and

(b) Coordinate with and assist school districts in operating programs of education for incarcerated persons.

2. *The statewide program may include courses of study for:*

(a) A high school diploma;

(b) Basic literacy;

- (c) *English as a second language;*
- (d) *General educational development;*
- (e) *Life skills;*
- (f) *Occupational education; and*
- (g) *Postsecondary education.*

3. *The statewide program does not include the programs of general education, vocational education and training established by the Board of State Prison Commissioners pursuant to NRS 209.389.*

4. *The statewide program must establish:*

(a) *Standards for each course of study that set forth the:*

- (1) *Curriculum;*
- (2) *Qualifications for entry; and*
- (3) *Evaluation of incarcerated persons for placement; and*

(b) *Procedures to ensure that an incarcerated person who earns credits in a program of education for incarcerated persons operated by a school district at a facility or institution shall, if transferred to a different facility or institution, transfer those credits to the program operated by a school district at that facility or institution.*

5. *As used in this section, "general educational development" means preparation for and administration of the standardized examinations that enable persons who have not graduated from high school to demonstrate that they have achieved an educational level which denotes competency in core curriculum. The term includes programs for obtaining a general educational development certificate.*

Sec. 4. 1. *There is hereby created in the State Treasury the Fund for Programs of Education for Incarcerated Persons. The Fund is administered by the State Board. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Fund. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.*

2. *Money in the Fund must be used for programs of education for incarcerated persons.*

3. *Money in the Fund must not be:*

(a) *Considered in negotiations between a recognized organization of employees of a school district and the school district; or*

(b) *Used to reduce the amount of money which would otherwise be made available for programs of education for incarcerated persons in the absence of this section.*

4. *The Department shall establish a formula for equitably allocating money from the Fund to each school district that operates a program of education for incarcerated persons.*

5. *The State Board shall establish annually, within the limits of money available in the Fund, a basic allocation to each school district that operates a program of education for incarcerated persons.*

Sec. 5. 1. *The board of trustees of a school district may, with the cooperation of the Department of Corrections, operate a program of education for incarcerated persons in any facility or institution operated by the Department of Corrections in the county of the school district.*

2. *A school district that operates a program of education for incarcerated persons shall:*

(a) *Comply with the standards for such programs established by the Department of Education in the statewide program established pursuant to section 3 of this act;*

(b) *As a condition for obtaining an allocation from the Fund for Programs of Education for Incarcerated Persons, submit to the Department of Education:*

(1) *An application to operate such a program; and*

(2) *A detailed budget for the program; and*

(c) *If the school district receives an allocation from the Fund, obtain the approval of the Department of Education before it makes any changes in categorical expenditures.*

Sec. 6. *The Board of Regents of the University of Nevada may, with the cooperation of the Department of Corrections, offer courses that lead to a postsecondary degree for incarcerated persons in any facility or institution operated by the Department of Corrections.*

Sec. 7. 1. *If a manager or warden excludes from the facility or institution a person employed by a school district to operate a program of education for incarcerated persons in the facility or institution, an interagency panel must be convened.*

2. *The interagency panel must:*

(a) *Consist of:*

(1) *The Director of the Department of Corrections or his designee;*

(2) *The Superintendent of Public Instruction or his designee; and*

(3) *The immediate supervisor of the person employed by the school district.*

(b) *Conduct a hearing in compliance with all applicable provisions of chapter 233B of NRS.*

3. *The decision of the interagency panel is a final decision in a contested case.*

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 209.396 is hereby amended to read as follows:

209.396 1. Except as otherwise provided in this section, an offender who is illiterate may not be assigned to an industrial or a vocational program unless:

(a) He is regularly attending and making satisfactory progress in a program for general education; or

(b) The Director for good cause determines that the limitation on assignment should be waived under the circumstances with respect to a particular offender.

2. An offender whose:

(a) Native language is not English;

(b) Ability to read and write in his native language is at or above the level of literacy designated by the Board in its regulations; and

(c) Ability to read and write the English language is below the level of literacy designated by the Board in its regulations,

may not be assigned to an industrial or a vocational program unless he is regularly attending and making satisfactory progress in a course which teaches English as a second language or the Director for good cause determines that the limitation on assignment should be waived under the circumstances with respect to a particular offender.

3. Upon written documentation that an illiterate offender has a developmental, learning or other similar disability which affects his ability to learn, the Director may:

(a) Adapt or create an educational program or guidelines for evaluating the educational progress of the offender to meet his particular needs; or

(b) Exempt the offender from the required participation in an educational program prescribed by this section.

4. The provisions of this section do not apply to an offender who presents satisfactory evidence that he has a high school *diploma* or ~~[general equivalency diploma.]~~ *a general educational development certificate.*

5. As used in this section, “illiterate” means having an ability to read and write that is below the level of literacy designated by the Board in its regulations.

Sec. 10. NRS 209.433 is hereby amended to read as follows:

209.433 1. Every offender who was sentenced to prison on or before June 30, 1969, 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 for his term a deduction of 2 months in each of the first 2 years, 4 months in each of the next 2 years, and 5 months in each of the remaining years of the term,

and pro rata for any part of a year where the sentence is for more or less than a year.

2. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits the credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a general ~~[equivalency diploma,]~~ *educational development certificate*, 30 days.

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

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

3. Each offender is entitled to the deductions allowed by this section if he has satisfied the conditions of subsection 1 or 2 as determined by the Director.

Sec. 11. NRS 209.443 is hereby amended to read as follows:

209.443 1. Every offender who is sentenced to prison after June 30, 1969, for a crime committed before July 1, 1985, 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, a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years ~~[]~~ and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned for actual time served.

2. The credits earned by an offender must be deducted from the maximum term imposed by the sentence and, except as otherwise provided in subsection 5, *must* apply to eligibility for parole.

3. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a general ~~[equivalency diploma,]~~ *educational development certificate*, 30 days.

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

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

4. Each offender is entitled to the deductions allowed by this section if he has satisfied the conditions of subsection 1 or 3 as determined by the Director.

5. Credits earned pursuant to this section do not apply to eligibility for parole if a statute specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 12. 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;

(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 Public Safety pursuant to NRS 209.4886,

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,~~ *educational development certificate*, 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. 13. 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;

(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 Public Safety pursuant to NRS 209.4886,

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,]~~ *educational development certificate*, 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. 14. NRS 209.449 is hereby amended to read as follows:

209.449 **1.** An offender 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 must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of 30 days from the maximum term of his sentence for the completion of ~~the~~:

(a) A program of vocational education and training ~~the~~; or

(b) *Any other program approved by the Director.*

2. If the offender completes ~~the program of vocational education and training~~ *such a program* with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the 30 days allowed for completion of the program.

Sec. 15. NRS 211.240 is hereby amended to read as follows:

211.240 **1.** ~~The~~ *Except as otherwise provided in subsection 2, the* sheriff with respect to a county jail, or the officer in charge with respect to a city jail, may apply to the ~~presiding judge, or to the judges jointly if there is no presiding judge,~~ *chief judge of the judicial district* for authority to release prisoners pursuant to the provisions of this section. *After considering the application, the chief judge may enter an order consistent with the provisions of this section granting authority to release prisoners in the manner set forth in the order.* The duration of this authority, if granted, must not exceed 30 days.

2. *In a county in which there is not a city jail, the sheriff may apply to the chief judge of the judicial district for authority to release prisoners pursuant to the provisions of this section. Upon receipt of such an application, the chief judge shall consult with a justice of the peace designated by the justices of the peace for the county and a judge designated by the municipal courts for the county. After the consultation, the chief judge may enter an order consistent with the provisions of this section granting authority to release prisoners in the manner set forth in the order. The duration of this authority, if granted, must not exceed 30 days.*

3. At any time within the duration of an authority granted when the number of prisoners exceeds the number of beds available in the jail, the sheriff or other officer in charge may release the lesser of:

(a) The number of prisoners eligible under this section; or

(b) The difference between the number of prisoners and the number of beds.

~~3.~~ **4.** A prisoner is eligible for release only if:

(a) He ~~is serving a sentence of fixed duration and has already served at least 90 percent of the sentence after deduction of any credit; and~~

~~—(b) His sentence would expire or he would otherwise be released within 5 days.~~

~~—4.] has served at least 75 percent of his sentence;~~

(b) He is not serving a sentence for a crime for which a mandatory sentence is required by statute;

(c) He is not serving a sentence for a crime which involved an act of violence; and

(d) He does not pose a danger to the community.

5. Among prisoners eligible, priority must be given to those whose expiration of sentence or other release is closest.

6. A prisoner released pursuant to this section may be required to remain on residential confinement for the remainder of his sentence or may be required to participate in another alternative program of supervision.

Sec. 16. NRS 211.330 is hereby amended to read as follows:

211.330 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.340, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated shall deduct 5 days from his term of imprisonment for earning a ~~[general equivalency diploma or the equivalence]~~ *general educational development certificate, or the equivalent* thereof, by successfully completing an educational program for adults conducted jointly by the local detention facility in which he is incarcerated and the school district in which the facility is located.

2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more.

Sec. 17. NRS 213.315 is hereby amended to read as follows:

213.315 1. Except as otherwise provided in this section, an offender who is illiterate is not eligible to participate in a program of work release unless:

(a) He is regularly attending and making satisfactory progress in a program for general education; or

(b) The Director, for good cause, determines that the limitation on eligibility should be waived under the circumstances with respect to a particular offender.

2. An offender whose:

(a) Native language is not English;

(b) Ability to read and write in his native language is at or above the level of literacy designated by the Board of State Prison Commissioners in its regulations; and

(c) Ability to read and write the English language is below the level of literacy designated by the Board of State Prison Commissioners in its regulations,

may not be assigned to an industrial or a vocational program unless he is regularly attending and making satisfactory progress in a course which teaches English as a second language or the Director, for good cause, determines that the limitation on eligibility should be waived under the circumstances with respect to a particular offender.

3. Upon written documentation that an illiterate offender has a developmental, learning or other similar disability which affects his ability to learn, the Director of the Department of Corrections may:

(a) Adapt or create an educational program or guidelines for evaluating the educational progress of the offender to meet his particular needs; or

(b) Exempt the offender from the required participation in an educational program prescribed by this section.

4. The provisions of this section do not apply to an offender who:

(a) Presents satisfactory evidence that he has a high school *diploma* or ~~[general equivalency diploma;]~~ *a general educational development certificate*; or

(b) Is admitted into a program of work release for the purpose of obtaining additional education in this state.

5. As used in this section, "illiterate" means having an ability to read and write that is below the level of literacy designated by the Board of State Prison Commissioners in its regulations.

Sec. 18. This act becomes effective on July 1, 2003.