

SENATE BILL NO. 282—SENATOR WASHINGTON

MARCH 23, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning certain facilities for persons released from prison. (BDR 40-622)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: 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 residential facilities; prohibiting a person other than a state or local government or agency thereof from operating or maintaining a facility for transitional living for released offenders without licensure by the State Board of Health; providing that each alcohol and drug abuse program operated by such a facility must be certified by the Health Division of the Department of Human Resources; providing that such facilities are facilities for the dependent; revising the definition of “halfway house for recovering alcohol and drug abusers”; requiring the Board to adopt standards and regulations governing the licensure and operation of such facilities; authorizing the Board to impose fees for the issuance and renewal of a license to operate such a facility; providing that the fact that a facility for transitional living for released offenders is located near real property which is the subject of a sale, lease or rental is not material to the transaction and is not required to be disclosed by the seller, lessor or landlord; providing a penalty; 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 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *“Facility for transitional living for released offenders” means a residence that provides housing and a living environment for persons who have been released from prison and who require assistance with reintegration into the community, other than such a residence that is operated or maintained by a state or local government or an agency thereof. The term does not include a halfway house for recovering alcohol and drug abusers or a facility for the treatment of abuse of alcohol or drugs.*

2. As used in this section, “person who has been released from prison” means:

(a) A parolee.

(b) A person who is participating in:

(1) A judicial program pursuant to NRS 209.4886 or 213.625; or

(2) A correctional program pursuant to NRS 209.4888 or 213.632.

(c) A person who is supervised by the Division of Parole and Probation of the Department of Public Safety through residential confinement pursuant to NRS 213.371 to 213.410, inclusive.

(d) A person who has been released from prison by expiration of his term of sentence.

Sec. 3. *Each alcohol and drug abuse program operated or provided by a facility for transitional living for released offenders must be certified by the Health Division in accordance with the requirements set forth in chapter 458 of NRS and any regulations adopted pursuant thereto. As used in this section, “alcohol and drug abuse program” has the meaning ascribed to it in NRS 458.010.*

Sec. 4. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.0045 is hereby amended to read as follows:

449.0045 “Facility for the dependent” includes a facility for the treatment of abuse of alcohol or drugs, halfway house for recovering alcohol and drug abusers, **facility for transitional living for released offenders**, facility for the care of adults during the day or residential facility for groups.



1 **Sec. 6.** NRS 449.008 is hereby amended to read as follows:

2 449.008 "Halfway house for recovering alcohol and drug
3 abusers" means a residence that provides housing and a living
4 environment for **recovering** alcohol and drug abusers and is
5 operated to facilitate their reintegration into the community, but
6 does not provide any treatment for alcohol or drug abuse. **The term**
7 **does not include a facility for transitional living for released**
8 **offenders.**

9 **Sec. 7.** NRS 449.037 is hereby amended to read as follows:

10 449.037 1. The Board shall adopt:

11 (a) Licensing standards for each class of medical facility or
12 facility for the dependent covered by NRS 449.001 to 449.240,
13 inclusive, **and sections 2 and 3 of this act**, and for programs of
14 hospice care.

15 (b) Regulations governing the licensing of such facilities and
16 programs.

17 (c) Regulations governing the procedure and standards for
18 granting an extension of the time for which a natural person may
19 provide certain care in his home without being considered a
20 residential facility for groups pursuant to NRS 449.017. The
21 regulations must require that such grants are effective only if made
22 in writing.

23 (d) Regulations establishing a procedure for the indemnification
24 by the Health Division, from the amount of any surety bond or other
25 obligation filed or deposited by a facility for refractive laser surgery
26 pursuant to NRS 449.068 or 449.069, of a patient of the facility who
27 has sustained any damages as a result of the bankruptcy of or any
28 breach of contract by the facility.

29 (e) Any other regulations as it deems necessary or convenient to
30 carry out the provisions of NRS 449.001 to 449.240, inclusive **and**
31 **and sections 2 and 3 of this act.**

32 2. The Board shall adopt separate regulations governing the
33 licensing and operation of:

34 (a) Facilities for the care of adults during the day; and

35 (b) Residential facilities for groups,

36 ↪ which provide care to persons with Alzheimer's disease.

37 3. The Board shall adopt separate regulations for:

38 (a) The licensure of rural hospitals which take into consideration
39 the unique problems of operating such a facility in a rural area.

40 (b) The licensure of facilities for refractive laser surgery which
41 take into consideration the unique factors of operating such a
42 facility.

43 (c) The licensure of mobile units which take into consideration
44 the unique factors of operating a facility that is not in a fixed
45 location.



1 4. The Board shall require that the practices and policies of
2 each medical facility or facility for the dependent provide
3 adequately for the protection of the health, safety and physical,
4 moral and mental well-being of each person accommodated in the
5 facility.

6 5. The Board shall establish minimum qualifications for
7 administrators and employees of residential facilities for groups. In
8 establishing the qualifications, the Board shall consider the related
9 standards set by nationally recognized organizations which accredit
10 such facilities.

11 6. The Board shall adopt separate regulations regarding the
12 assistance which may be given pursuant to NRS 453.375 and
13 454.213 to an ultimate user of controlled substances or dangerous
14 drugs by employees of residential facilities for groups. The
15 regulations must require at least the following conditions before
16 such assistance may be given:

17 (a) The ultimate user's physical and mental condition is stable
18 and is following a predictable course.

19 (b) The amount of the medication prescribed is at a maintenance
20 level and does not require a daily assessment.

21 (c) A written plan of care by a physician or registered nurse has
22 been established that:

23 (1) Addresses possession and assistance in the administration
24 of the medication; and

25 (2) Includes a plan, which has been prepared under the
26 supervision of a registered nurse or licensed pharmacist, for
27 emergency intervention if an adverse condition results.

28 (d) The prescribed medication is not administered by injection
29 or intravenously.

30 (e) The employee has successfully completed training and
31 examination approved by the Health Division regarding the
32 authorized manner of assistance.

33 7. The Board shall adopt separate regulations governing the
34 licensing and operation of residential facilities for groups which
35 provide assisted living services. The regulations must prohibit a
36 residential facility for groups from claiming that it provides
37 "assisted living services" unless:

38 (a) Before authorizing a person to move into the facility, the
39 facility makes a full written disclosure to the person regarding what
40 services of personalized care will be available to the person and the
41 amount that will be charged for those services throughout the
42 resident's stay at the facility.



(b) The residents of the facility reside in their own living units which:

(1) Contain toilet facilities and a sleeping area or bedroom; and

(2) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;



(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

9. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

Sec. 8. NRS 449.050 is hereby amended to read as follows:

449.050 1. Except as otherwise provided in subsection 2, each application for a license must be accompanied by such fee as may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.

2. A facility for the care of adults during the day is exempt from the fees imposed by the Board pursuant to this section.

3. The fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.

4. If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

Sec. 9. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection ~~5~~ 6, in any sale, lease or rental of real property, the fact that the property is or has been:



(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

↳ is not material to the transaction.

2. In any sale, ~~lessor~~ *lease* or rental of real property, the fact that a sex offender, as defined in NRS 179D.400, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. *In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.*

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, ~~for~~ 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

~~4.~~ 5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, ~~for~~ 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

~~5.~~ 6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by a governmental entity.



1 **7. As used in this section, “facility for transitional living for**
2 **released offenders” has the meaning ascribed to it in section 2 of**
3 **this act.**

4 **Sec. 10.** NRS 209.511 is hereby amended to read as follows:

5 209.511 1. When an offender is released from prison by
6 expiration of his term of sentence, by pardon or by parole, the
7 Director:

8 (a) May furnish him with a sum of money not to exceed \$100,
9 the amount to be based upon the offender’s economic need as
10 determined by the Director;

11 (b) Shall give him notice of the provisions of chapter 179C of
12 NRS and NRS 202.360;

13 (c) Shall require him to sign an acknowledgment of the notice
14 required in paragraph (b);

15 (d) Shall give him notice of the provisions of NRS 179.245 and
16 the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

17 (e) May provide him with clothing suitable for reentering
18 society;

19 (f) May provide him with the cost of transportation to his place
20 of residence anywhere within the continental United States, or to the
21 place of his conviction; ~~and~~

22 (g) **May, but is not required to, release him to a facility for**
23 **transitional living for released offenders that is licensed pursuant**
24 **to chapter 449 of NRS; and**

25 (h) Shall require him to submit to at least one test for exposure
26 to the human immunodeficiency virus.

27 2. The costs authorized in paragraphs (a), (e), (f) and ~~(g)~~ (h)
28 of subsection 1 must be paid out of the appropriate account within
29 the State General Fund for the use of the Department as other claims
30 against the State are paid to the extent that the costs have not been
31 paid in accordance with subsection 5 of NRS 209.221 and
32 NRS 209.246.

33 **3. As used in this section, “facility for transitional living for**
34 **released offenders” has the meaning ascribed to it in section 2 of**
35 **this act.**

36 **Sec. 11.** Notwithstanding the provisions of sections 1 to 10,
37 inclusive, of this act, a person is not required to possess a license
38 issued by the State Board of Health to operate or maintain a facility
39 for transitional living for released offenders in this State before
40 January 1, 2006, unless the Board establishes, by regulation, an
41 earlier date for compliance with the amendatory provisions of
42 sections 1 to 10, inclusive, of this act.

43 **Sec. 12.** 1. This section and section 11 of this act become
44 effective upon passage and approval.



- 1 2. Sections 1 to 10, inclusive, of this act become effective upon
- 2 passage and approval for the purpose of adopting regulations and on
- 3 October 1, 2005, for all other purposes.



