

ASSEMBLY BILL NO. 416—ASSEMBLYMEN MUNFORD, KIHUEN,
KOIVISTO, MANENDO, SEGERBLOM AND STEWART

MARCH 19, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to provisions concerning the
Department of Corrections. (BDR 16-190)

FISCAL NOTE: Effect on Local Government: No.
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 correctional institutions; requiring the
Department of Corrections to conduct peer review of
certain employees; providing the Board of State Prison
Commissioners with the sole authority to prescribe
regulations for the Department; requiring the Legislative
Auditor to perform biennial performance audits of the
Department; creating the Committee on Prison Oversight;
making certain changes concerning mandatory parole of
certain prisoners; providing that meetings of the State
Board of Parole Commissioners are subject to the Open
Meeting Law; revising the additional penalty that must be
imposed for the commission of certain crimes under
certain circumstances; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Director of the Department of Corrections to
establish certain regulations concerning the Department. (NRS 209.131, 209.243,
209.246, 209.361, 209.365, 209.367, 209.385, 209.392, 209.419, 209.423, 209.481,
209.4886, 209.4888, 209.501) **Section 8** of this bill provides that the Board of State
Prison Commissioners has the sole authority to establish regulations for the
Department. **Sections 9-22** of this bill amend existing law to repeal the authority of
the Director to establish regulations.
Section 2 of this bill requires the Department to carry out a process for peer
review of employees of the Department who are in the unclassified service of the
State and requires the Board to prescribe the requirements for the process for peer
review. **Section 3** of this bill requires the Legislative Auditor to conduct biennial
performance audits of the Department and to report the findings of such



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performance audits to the Audit Subcommittee of the Legislative Commission. **Sections 4-6** of this bill create the Committee on Prison Oversight to evaluate prisons in this State and make certain reports to the Governor and the Legislative Commission concerning the status of prisons.

Section 7 of this bill requires that if the duties of an officer, employee or independent contractor of the Department require contact with a prisoner, the officer, employee or independent contractor must be of the same gender as the prisoner.

Section 23 of this bill revises certain provisions concerning determinations by the State Board of Parole Commissioners concerning the granting or revoking of parole. (NRS 213.10885) **Section 24** of this bill requires the Board to release on parole certain prisoners once the prisoners have served the minimum sentence imposed by a court in certain circumstances. **Section 24** also requires the Board to release certain prisoners on parole if the Department determines that the population of the institutions in this State exceeds 97 percent of total capacity. (NRS 213.1215)

Sections 25 and 35 of this bill provide that meetings of the State Board of Parole Commissioners are subject to the Open Meeting Law. (NRS 213.130, 241.030)

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) **Sections 26-34** of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 10 years.

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 7, inclusive, of this act.

Sec. 2. 1. *The Department shall carry out a process for peer review of the performance of employees of the Department who are in the unclassified service of the State. The Board shall prescribe the requirements for the process for peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.*

2. *On or before January 1 of each even-numbered year, the Board shall review comprehensively the process for peer review adopted by the Board. The review must include a determination of whether the process is effective in identifying problems concerning the performance of employees of the Department who are in the unclassified service. If the process is found to be ineffective, the Board shall adopt a revised process for peer review as soon as practicable.*

3. *The Board shall report to each regular session of the Legislature:*

(a) The findings of the Board concerning the effectiveness of the process for peer review;



1 (b) The results and conclusions from the Board's review
2 pursuant to subsection 2; and

3 (c) Any changes in the Department's standards, policies,
4 procedures or programs that have been or will be made as a result
5 of the review.

6 **Sec. 3.** 1. On or before January 1 of each even-numbered
7 year, the Legislative Auditor shall conduct a performance audit of
8 the Department. The performance audit must include, without
9 limitation, issues concerning:

10 (a) Financial management of the Department;

11 (b) Facilities management of the Department; and

12 (c) Personnel management of the Department.

13 2. The Legislative Auditor shall prepare a final written report
14 for each performance audit conducted pursuant to subsection 1
15 and present the report to the Audit Subcommittee of the
16 Legislative Commission on or before January 1 of each odd-
17 numbered year.

18 3. Upon the request of the Legislative Auditor or his
19 authorized representative, the officers and employees of the
20 Department shall make available to the Legislative Auditor any of
21 their books, accounts, claims, reports, vouchers or other records of
22 information, confidential or otherwise and irrespective of their
23 form or location, which the Legislative Auditor deems necessary to
24 conduct the audits required by this section.

25 **Sec. 4.** 1. The Committee on Prison Oversight is hereby
26 created.

27 2. The Committee on Prison Oversight consists of 16
28 members:

29 (a) Four members appointed by the Majority Leader of the
30 Senate, two of whom must be members of the minority political
31 party.

32 (b) Four members appointed by the Speaker of the Assembly,
33 two of whom must be members of the minority political party.

34 (c) Eight members, at least one of whom must have medical
35 training, appointed by the Legislative Commission as follows:

36 (1) Two persons whose names appear on the list of
37 registered voters of the City of Reno or Carson City.

38 (2) Two persons whose names appear on the list of
39 registered voters of the City of Las Vegas.

40 (3) One person whose name appears on the list of
41 registered voters of the City of Lovelock.

42 (4) One person whose name appears on the list of
43 registered voters of the City of Ely.

44 (5) Two persons whose names appear on the list of
45 registered voters of any unincorporated town of this State.



1 3. *The members of the Committee on Prison Oversight shall*
2 *select a Chairman from among their membership.*

3 4. *Each member serves a term of 2 years. Members may be*
4 *reappointed for additional terms of 2 years in the same manner as*
5 *the original appointments.*

6 5. *A vacancy occurring in the membership of the Committee*
7 *on Prison Oversight must be filled in the same manner as the*
8 *original appointments.*

9 6. *A majority of the Committee on Prison Oversight*
10 *constitutes a quorum and a majority of those members present*
11 *must concur in any decision.*

12 7. *Each member of the Committee on Prison Oversight serves*
13 *without compensation. Each nonlegislative member of the*
14 *Committee is entitled to receive the per diem allowance and travel*
15 *expenses provided for state officers and employees generally. Each*
16 *Legislator who is a member of the Committee is entitled to receive*
17 *the per diem allowance provided for state officers and employees*
18 *generally and the travel expenses provided pursuant to*
19 *NRS 218.2207.*

20 8. *Each member of the Committee on Prison Oversight who*
21 *is an officer or employee of the State must be relieved from his*
22 *duties without loss of his regular compensation so that he may*
23 *prepare for and attend meetings of the Committee and perform*
24 *any work necessary to accomplish the tasks assigned to the*
25 *Committee in the most timely manner practicable. A state agency*
26 *shall not require an officer or employee who is a member of the*
27 *Committee to make up the time he is absent from work to fulfill*
28 *his obligations as a member, nor shall it require the member to*
29 *take annual vacation or compensatory time for the absence. Such*
30 *a member shall serve on the Committee without additional*
31 *compensation, except that while he is engaged in the business of*
32 *the Committee he is entitled to receive the per diem allowance and*
33 *travel expenses provided for state officers and employees*
34 *generally, which must be paid by the state agency which employs*
35 *him.*

36 **Sec. 5. 1. The Committee on Prison Oversight shall:**

37 (a) *Be informed on issues and developments relating to*
38 *correctional institutions;*

39 (b) *Submit a semiannual report to the Governor and the*
40 *Legislative Commission on or before July 1 and December 1 of*
41 *each year on the status of correctional institutions in this State;*

42 (c) *Report to the Governor and the Legislative Commission on*
43 *any other matter relating to correctional institutions that it deems*
44 *appropriate; and*



1 (d) *Meet at least quarterly and at the call of the Chairman to*
2 *review the operation of correctional institutions in this State.*

3 2. *Members of the Committee on Prison Oversight may enter*
4 *any correctional institution in this State and examine any prisoner*
5 *at any time without prior authorization of the Director or the*
6 *Department.*

7 3. *The Committee on Prison Oversight may receive testimony*
8 *from any source, including, without limitation, prisoners and*
9 *members of their families.*

10 4. *Upon request, the Director and the Department shall*
11 *provide to the Committee on Prison Oversight any information the*
12 *Committee determines is relevant to the performance of the duties*
13 *of the Committee.*

14 **Sec. 6.** *All books and papers kept by, prisons operated by,*
15 *employees employed by and prisoners held in the custody of the*
16 *Department shall at all times, on all legal days, be open to and*
17 *available for the inspection of the members of the Legislature.*

18 **Sec. 7.** *If the duties of an officer, employee or independent*
19 *contractor of the Department require any direct contact of that*
20 *officer, employee or independent contractor with:*

21 1. *A female offender confined to a prison, institution or*
22 *facility, the officer, employee or independent contractor must be a*
23 *female.*

24 2. *A male offender confined to a prison, institution or facility,*
25 *the officer, employee or independent contractor must be a male.*

26 **Sec. 8.** NRS 209.111 is hereby amended to read as follows:

27 209.111 The Board has full control of all grounds, buildings,
28 labor ~~and~~ and property of the Department, and shall:

29 1. Purchase, or cause to be purchased, all commissary supplies,
30 materials and tools necessary for any lawful purpose carried on at
31 any institution or facility of the Department.

32 2. Regulate the number of officers and employees of the
33 Department.

34 3. ~~{Prescribe}~~ *Have the sole authority to prescribe* regulations
35 for carrying on the business of the Board and the Department.

36 **Sec. 9.** NRS 209.131 is hereby amended to read as follows:

37 209.131 The Director shall:

38 1. Administer the Department under the direction of the Board.

39 2. Supervise the administration of all institutions and facilities
40 of the Department.

41 3. Receive, retain and release, in accordance with law,
42 offenders sentenced to imprisonment in the state prison.

43 4. Be responsible for the supervision, custody, treatment, care,
44 security and discipline of all offenders under his jurisdiction.



5. Ensure that any person employed by the Department whose primary responsibilities are:

(a) The supervision, custody, security, discipline, safety and transportation of an offender;

(b) The security and safety of the staff; and

(c) The security and safety of an institution or facility of the Department,

➔ is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220

~~6. [Establish regulations with the approval of the Board and enforce]~~ **Enforce** all laws governing the administration of the Department and the custody, care and training of offenders.

7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department.

8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.

9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.

Sec. 10. NRS 209.243 is hereby amended to read as follows:

209.243 1. A prisoner or former prisoner may file an administrative claim with the Department to recover compensation for the loss of his personal property, property damage, personal injuries or any other claim arising out of a tort alleged to have occurred during his incarceration as a result of an act or omission of the Department or any of its agents, former officers, employees or contractors. The claim must be filed within 6 months after the date of the alleged loss, damage or injury.

2. The Department shall evaluate each claim filed pursuant to subsection 1 and determine the amount due, if any. If the amount due is \$500 or less, the Department, within the limits of legislative appropriations, shall approve the claim for payment and submit it to be paid as other claims against the State are paid. The Department shall submit all claims in which the amount due exceeds \$500, with any recommendations it deems appropriate, to the State Board of Examiners. The State Board of Examiners, in acting upon the claim, shall consider any recommendations of the Department.

3. The ~~[Department]~~ **Board** shall adopt regulations necessary to carry out the provisions of this section.

Sec. 11. NRS 209.246 is hereby amended to read as follows:

209.246 The ~~[Director shall, with the approval of the Board,]~~ **Board shall** establish by regulation criteria for a reasonable deduction from money credited to the account of an offender to:



- 1 1. Repay the cost of:
- 2 (a) State property willfully damaged, destroyed or lost by the
- 3 offender during his incarceration.
- 4 (b) Medical examination, diagnosis or treatment for injuries:
- 5 (1) Inflicted by the offender upon himself or other offenders;
- 6 or
- 7 (2) Which occur during voluntary recreational activities.
- 8 (c) Searching for and apprehending the offender when he
- 9 escapes or attempts to escape.
- 10 (d) Quelling any riot or other disturbance in which the offender
- 11 is unlawfully involved.
- 12 (e) Providing a funeral for an offender.
- 13 (f) Providing an offender with clothing, transportation and
- 14 money upon his release from prison pursuant to NRS 209.511.
- 15 (g) Transportation of an offender pursuant to a court order in
- 16 cases other than a criminal prosecution, a proceeding for
- 17 postconviction relief involving the offender or a proceeding in
- 18 which the offender has challenged the conditions of his
- 19 confinement.
- 20 (h) Monetary sanctions imposed under the code of penal
- 21 discipline adopted by the Department.
- 22 2. Defray, as determined by the Director, a portion of the costs
- 23 paid by the Department for medical care for the offender, including,
- 24 but not limited to:
- 25 (a) Except as otherwise provided in paragraph (b) of subsection
- 26 1, expenses for medical or dental care, prosthetic devices and
- 27 pharmaceutical items; and
- 28 (b) Expenses for prescribed medicine and supplies.
- 29 3. Repay the costs incurred by the Department on behalf of the
- 30 offender for:
- 31 (a) Postage for personal items and items related to litigation;
- 32 (b) Photocopying of personal documents and legal documents,
- 33 for which the offender must be charged a reasonable fee not to
- 34 exceed the actual costs incurred by the Department;
- 35 (c) Legal supplies;
- 36 (d) Telephone calls charged to the Department;
- 37 (e) Charges relating to checks returned for insufficient funds and
- 38 checks for which an order to stop payment has been made;
- 39 (f) Items related to the offender's work, including, but not
- 40 limited to, clothing, shoes, boots, tools, a driver's license or
- 41 identification card issued by the Department of Motor Vehicles, a
- 42 work card issued by a law enforcement agency and a health card;
- 43 and
- 44 (g) The replacement of an identification card or prepaid ticket
- 45 for bus transportation issued to the offender by the Department.



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4. Repay any cost to the State of Nevada or any agency or political subdivision thereof that is incurred in defending the State against an action filed by an offender in federal court alleging a violation of his civil rights which is determined by the court to be frivolous.

➤ All money collected pursuant to this section must be deposited in the appropriate account in the State General Fund for reimbursement of the related expenditure.

Sec. 12. NRS 209.361 is hereby amended to read as follows:

209.361 The ~~{Director}~~ **Board** shall:

1. Adopt ~~{with the approval of the board}~~ such regulations as are necessary to:

(a) Maintain proper custody of an offender in accordance with his current classification.

(b) Prevent escapes and maintain good order and discipline.

2. Establish procedures by regulation for disposing of cases involving violations of law in institutions or facilities of the Department.

3. Establish sanctions appropriate to the type and severity of such violations.

Sec. 13. NRS 209.365 is hereby amended to read as follows:

209.365 1. The ~~{Director shall adopt, with the approval of the Board,}~~ **Board shall adopt** regulations establishing and governing a program, to be carried out within each facility and institution, to prevent an offender from possessing or receiving a publication which is detrimental to his rehabilitation or which has the potential to disrupt security or promote violence or disorder in the facility or institution because the subject matter of the publication:

(a) Is sexually explicit;

(b) Is graphically violent; or

(c) Encourages or glamorizes:

(1) Crime;

(2) The activities of a criminal gang; or

(3) Violence against law enforcement, women, children or members of a particular religion, ethnic group or race.

2. The regulations must provide that if an offender is prohibited from possessing or receiving a publication pursuant to this section, the offender possessing or receiving the publication must be provided with notice of the determination and an opportunity to appeal the determination. An appeal may be summarily denied if the appeal involves a publication that is similar to a publication that previously has been prohibited.

3. The establishment of the program required pursuant to this section does not affect:



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(a) The authority of the Department to review materials that are possessed or received by an offender, including, but not limited to, publications, for any other lawful purpose or reason; or

(b) The procedures used by the Department to conduct such reviews.

4. The Department and its officers, employees and independent contractors are immune from liability for damages arising from an act or omission that allows an offender to possess or receive a publication that is prohibited pursuant to this section.

5. As used in this section:

(a) "Criminal gang" has the meaning ascribed to it in NRS 213.1263.

(b) "Publication" means a book, magazine, newsletter, bulletin, pamphlet or other similar item as determined by the Director.

Sec. 14. NRS 209.367 is hereby amended to read as follows:

209.367 1. The Director shall establish a program, to be carried out within each facility and institution, that provides for periodic testing of offenders for use of alcohol and controlled substances. The program must provide that the selection of offenders to be tested for use of alcohol and controlled substances must be made on a random basis.

2. ~~The [Director shall adopt, with the approval of the Board,]~~ **Board shall adopt** regulations governing the operation of the program. The regulations must set forth the procedure for testing, including, but not limited to:

(a) The types of tests to be used;

(b) The manner in which a sample for a test is to be obtained;

(c) The persons who are authorized to obtain a sample for a test; and

(d) The method for preserving the chain of custody of a sample obtained for a test.

3. The Department shall inform the offenders in each facility and institution of the requirement to submit to a test and the sanctions for refusing or failing to submit to a test and for using alcohol or a controlled substance. The Department may provide this information through a general notice posted or distributed in each facility and institution.

4. The Department may sanction, pursuant to subsection 5, an offender:

(a) Who refuses or fails to submit to a test;

(b) Whose test detects alcohol or a controlled substance;

(c) Who manufactures, possesses, uses, sells, supplies, provides, distributes, conceals or stores alcohol or a controlled substance; or



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(d) Who attempts to manufacture, possess, use, sell, supply, provide, distribute, conceal or store alcohol or a controlled substance.

5. In addition to any other sanction or penalty that may be imposed pursuant to law or regulation, an offender who violates subsection 4 may be sanctioned by:

(a) Forfeiture of all deductions of time earned by the offender before commission of the violation or forfeiture of such part of those deductions as the Director considers just, pursuant to NRS 209.451; and

(b) Denial of the privilege to have visitors for a specified period, as determined by the Director.

6. If alcohol or a controlled substance is found in a facility or institution, the Director may order that for a specified period:

(a) The offenders housed in the general area where the alcohol or controlled substance is found; or

(b) All offenders in the facility or institution, be confined to their cells or housing units or be denied the privilege to have visitors, or both.

7. The establishment of the program to test offenders for use of alcohol and controlled substances pursuant to this section does not affect:

(a) The authority of the Department to test an offender for use of alcohol or a controlled substance for any other lawful purpose or reason; or

(b) The procedures used by the Department to conduct such tests.

Sec. 15. NRS 209.385 is hereby amended to read as follows:

209.385 1. Each offender committed to the custody of the department for imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:

(a) The appropriate approved tests must be administered; and

(b) The offender must receive counseling regarding the virus.

2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.

3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:

(a) The Director;

(b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;



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(c) The manager or warden of the facility or institution at which the offender is confined; and

(d) Each other employee of the Department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

(a) The results of a supplemental test are positive; and

(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The Director, with the approval of the Board ~~[-]~~ ~~[-(a) Shall]~~, *shall* establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.

~~[(b) May]~~

6. *The Board may* adopt such regulations as are necessary to carry out the provisions of this section.

~~[-6-]~~ 7. As used in this section:

(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.

(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.

Sec. 16. 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]~~ *Board* 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 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



1 Division of Parole and Probation. If any victim of a crime
2 committed by the offender has, pursuant to subsection 4 of NRS
3 213.130, requested to be notified of the consideration of a prisoner
4 for parole and has provided a current address, the Division of Parole
5 and Probation shall notify the victim of the offender's request and
6 advise the victim that he may submit documents regarding the
7 request to the Division of Parole and Probation. If a current address
8 has not been provided as required by subsection 4 of NRS 213.130,
9 the Division of Parole and Probation must not be held responsible if
10 such notification is not received by the victim. All personal
11 information, including, but not limited to, a current or former
12 address, which pertains to a victim and which is received by the
13 Division of Parole and Probation pursuant to this subsection is
14 confidential.

15 3. The ~~Director~~ Board, after consulting with the Division of
16 Parole and Probation, shall adopt, by regulation, standards providing
17 which offenders are eligible for residential confinement. The
18 standards adopted by the ~~Director~~ Board must provide that an
19 offender who:

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

22 (b) Has recently committed a serious infraction of the rules of an
23 institution or facility of the Department;

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

26 (d) Has ever been convicted of:

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

29 (2) A sexual offense;

30 (e) Has more than one prior conviction for any felony in this
31 State or any offense in another state that would be a felony if
32 committed in this State, not including a violation of NRS 484.379,
33 484.3795 or 484.37955;

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

36 (g) Has not made an effort in good faith to participate in or to
37 complete any educational or vocational program or any program of
38 treatment, as ordered by the Director,

39 ➤ is not eligible for assignment to the custody of the Division of
40 Parole and Probation to serve a term of residential confinement
41 pursuant to this section.

42 4. If an offender assigned to the custody of the Division of
43 Parole and Probation pursuant to this section escapes or violates any
44 of the terms or conditions of his residential confinement:



1 (a) The Division of Parole and Probation may, pursuant to the
2 procedure set forth in NRS 213.410, return the offender to the
3 custody of the Department.

4 (b) The offender forfeits all or part of the credits for good
5 behavior earned by him before the escape or violation, as
6 determined by the Director. The Director may provide for a
7 forfeiture of credits pursuant to this paragraph only after proof of the
8 offense and notice to the offender and may restore credits forfeited
9 for such reasons as he considers proper. The decision of the Director
10 regarding such a forfeiture is final.

11 5. The assignment of an offender to the custody of the Division
12 of Parole and Probation pursuant to this section shall be deemed:

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

15 (b) For the purposes of NRS 209.341, an assignment to a facility
16 of the Department,

17 ↪ except that the offender is not entitled to obtain any benefits or to
18 participate in any programs provided to offenders in the custody of the
19 Department.

20 6. An offender does not have a right to be assigned to the
21 custody of the Division of Parole and Probation pursuant to this
22 section, or to remain in that custody after such an assignment, and it
23 is not intended that the provisions of this section or of NRS 213.371
24 to 213.410, inclusive, create any right or interest in liberty or
25 property or establish a basis for any cause of action against the
26 State, its political subdivisions, agencies, boards, commissions,
27 departments, officers or employees.

28 **Sec. 17.** NRS 209.419 is hereby amended to read as follows:

29 209.419 1. Communications made by an offender on any
30 telephone in an institution or facility to any person outside the
31 institution or facility may be intercepted if:

32 (a) The interception is made by an authorized employee of the
33 Department; and

34 (b) Signs are posted near all telephones in the institution or
35 facility indicating that communications may be intercepted.

36 2. The Director shall provide notice or cause notice to be
37 provided to both parties to a communication which is being
38 intercepted pursuant to subsection 1, indicating that the
39 communication is being intercepted. For the purposes of this
40 section, a periodic sound which is heard by both parties during the
41 communication shall be deemed notice to both parties that the
42 communication is being intercepted.

43 3. The ~~Director~~ **Board** shall adopt regulations providing for
44 an alternate method of communication for those communications by
45 offenders which are confidential.



1 4. A communication made by an offender is confidential if it is
2 made to:

3 (a) A federal or state officer.

4 (b) A local governmental officer who is at some time
5 responsible for the custody of the offender.

6 (c) An officer of any court.

7 (d) An attorney who has been admitted to practice law in any
8 state or is employed by a recognized agency providing legal
9 assistance.

10 (e) A reporter or editorial employee of any organization that
11 reports general news including, but not limited to, any wire service
12 or news service, newspaper, periodical, press association or radio or
13 television station.

14 (f) The Director.

15 (g) Any other employee of the Department whom the Director
16 may ~~[, by regulation,]~~ designate.

17 5. Reliance in good faith on a request or order from the
18 Director or his authorized representative constitutes a complete
19 defense to any action brought against any public utility intercepting
20 or assisting in the interception of communications made by
21 offenders pursuant to subsection 1.

22 **Sec. 18.** NRS 209.423 is hereby amended to read as follows:

23 209.423 Wardens and managers may authorize visits and
24 correspondence between offenders and appropriate friends,
25 relatives, and others under regulations adopted by the ~~[Director and~~
26 ~~approved by the]~~ Board.

27 **Sec. 19.** NRS 209.481 is hereby amended to read as follows:

28 209.481 1. The Director shall not assign any prisoner to an
29 institution or facility of minimum security if the prisoner:

30 (a) Except as otherwise provided in NRS 484.3792, 484.3795,
31 484.37955, 488.420 and 488.427, is not eligible for parole or release
32 from prison within a reasonable period;

33 (b) Has recently committed a serious infraction of the rules of an
34 institution or facility of the Department;

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

37 (d) Has been convicted of a sexual offense;

38 (e) Has committed an act of serious violence during the previous
39 year; or

40 (f) Has attempted to escape or has escaped from an institution of
41 the Department.

42 2. The ~~[Director]~~ **Board** shall, by regulation, establish
43 procedures for classifying and selecting qualified prisoners.



Sec. 20. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial 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 reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial 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 reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The ~~Director~~ Board shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial 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 judicial program.

4. The ~~Director~~ Board shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the



1 Department for the cost of their participation in a judicial program,
2 to the extent of their ability to pay.

3 5. The reentry court may return the offender to the custody of
4 the Department at any time for any violation of the terms and
5 conditions imposed by the reentry court.

6 6. If an offender assigned to the custody of the Division
7 pursuant to this section violates any of the terms or conditions
8 imposed by the reentry court and is returned to the custody of the
9 Department, the offender forfeits all or part of the credits for good
10 behavior earned by him before he was returned to the custody of the
11 Department, as determined by the Director. The Director may
12 provide for a forfeiture of credits pursuant to this subsection only
13 after proof of the violation and notice is given to the offender. The
14 Director may restore credits so forfeited for such reasons as he
15 considers proper. The decision of the Director regarding such a
16 forfeiture is final.

17 7. The assignment of an offender to the custody of the Division
18 pursuant to this section shall be deemed:

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

21 (b) For the purposes of NRS 209.341, an assignment to a facility
22 of the Department,

23 ➡ except that the offender is not entitled to obtain any benefits or to
24 participate in any programs provided to offenders in the custody of
25 the Department.

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

33 **Sec. 21.** NRS 209.4888 is hereby amended to read as follows:

34 209.4888 1. Except as otherwise provided in this section, if a
35 correctional program has been established by the Director in the
36 county in which an offender was sentenced to imprisonment, the
37 Director may, after consulting with the Division, determine that an
38 offender is suitable to participate in the correctional program if:

39 (a) The Director believes that the offender would participate
40 successfully in and benefit from the correctional program;

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

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

44 (2) Meet any existing obligation for restitution to any victim
45 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 determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The ~~Director~~ Board shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional 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 correctional program.

4. The ~~Director~~ Board shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman 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



1 subsection only after proof of the violation and notice is given to the
2 offender. The Director may restore credits so forfeited for such
3 reasons as he considers proper. The decision of the Director
4 regarding such a forfeiture is final.

5 7. The assignment of an offender to the custody of the Division
6 pursuant to this section shall be deemed:

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

9 (b) For the purposes of NRS 209.341, an assignment to a facility
10 of the Department,

11 ➔ except that the offender is not entitled to obtain any benefits or to
12 participate in any programs provided to offenders in the custody of
13 the Department.

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

22 **Sec. 22.** NRS 209.501 is hereby amended to read as follows:

23 209.501 1. The Director may grant temporary furloughs
24 consistent with classification evaluations and requirements:

25 (a) To permit offenders to:

- 26 (1) Be interviewed by prospective employers;
27 (2) Respond to family emergencies; or
28 (3) Participate in other approved activities.

29 (b) For such other purposes as may be deemed appropriate by
30 the Director with the approval of the Board.

31 2. Furloughs:

32 (a) Are limited to the confines of the State.

33 (b) Must not be granted to offenders:

34 (1) Sentenced to life imprisonment without the possibility of
35 parole.
36 (2) Imprisoned for violations of chapter 201 of NRS who
37 have not been certified by the designated board as eligible for
38 parole.

39 (c) Must not be granted to an offender who is imprisoned for
40 committing a battery which constitutes domestic violence pursuant
41 to NRS 33.018, unless the Director makes a finding that the offender
42 is not likely to pose a threat to the victim of the battery.

43 3. The Director shall notify appropriate law enforcement
44 authorities in the affected county or city to anticipate the arrival of
45 the offender within their jurisdiction and inform them of the date



1 and time of the offender's arrival, the reason the furlough was
2 granted, the time when the furlough expires and any other pertinent
3 information which the Director deems appropriate.

4 4. The ~~Director with the approval of the~~ Board shall adopt
5 regulations for administering the provisions of this section and
6 governing the conduct of offenders granted a furlough.

7 **Sec. 23.** NRS 213.10885 is hereby amended to read as
8 follows:

9 213.10885 1. The Board shall adopt by regulation specific
10 standards for each type of convicted person to assist the Board in
11 determining whether to grant or revoke parole. The regulations must
12 include standards for determining whether to grant or revoke the
13 parole of a convicted person:

14 (a) Who committed a capital offense.

15 (b) Who was sentenced to serve a term of imprisonment for life.

16 (c) Who was convicted of a sexual offense involving the use or
17 threat of use of force or violence.

18 (d) Who was convicted as a habitual criminal.

19 (e) Who is a repeat offender.

20 (f) Who was convicted of any other type of offense.

21 ➔ The standards must be based upon objective criteria for
22 determining the person's probability of success on parole.

23 2. In establishing the standards, the Board shall consider the
24 information on decisions regarding parole that is compiled and
25 maintained pursuant to NRS 213.10887 and all other factors which
26 are relevant in determining the probability that a convicted person
27 will live and remain at liberty without violating the law if parole is
28 granted or continued. The other factors the Board considers must
29 include, but are not limited to:

30 (a) The severity of the crime committed;

31 (b) *Whether the crime committed was part of the same act or*
32 *transaction as another crime for which the person was convicted;*

33 (c) The criminal history of the person;

34 ~~(e)~~ (d) Any disciplinary action taken against the person while
35 incarcerated;

36 ~~(d)~~ (e) Any previous parole violations or failures;

37 ~~(e)~~ (f) Any potential threat to society or himself; ~~and~~

38 ~~(f)~~ (g) *Any potential family or community support available to*
39 *the person; and*

40 (h) The length of his incarceration.

41 3. The standards adopted by the Board must provide for a
42 greater punishment for a convicted person who has a history of
43 repetitive criminal conduct or who commits a serious crime, with a
44 violent crime considered the most serious, than for a convicted



1 person who does not have a history of repetitive crimes and did not
2 commit a serious crime.

3 4. The Board shall make available to the public a sample of the
4 form the Board uses in determining the probability that a convicted
5 person will live and remain at liberty without violating the law if
6 parole is granted or continued.

7 5. On or before January 1 of each even-numbered year, the
8 Board shall review comprehensively the standards adopted by
9 the Board. The review must include a determination of whether the
10 standards are effective in predicting the probability that a convicted
11 person will live and remain at liberty without violating the law if
12 parole is granted or continued. If a standard is found to be
13 ineffective, the Board shall not use that standard in its decisions
14 regarding parole and shall adopt revised standards as soon as
15 practicable after the review.

16 6. The Board shall report to each regular session of the
17 Legislature:

18 (a) The number and percentage of the Board's decisions that
19 conflicted with the standards;

20 (b) The results and conclusions from the Board's review
21 pursuant to subsection 5; and

22 (c) Any changes in the Board's standards, policies, procedures,
23 programs or forms that have been or will be made as a result of the
24 review.

25 **Sec. 24.** NRS 213.1215 is hereby amended to read as follows:

26 213.1215 1. Except as otherwise provided in subsections ~~13,~~
27 ~~4 and~~ 5, 6 and 7 and in cases where a consecutive sentence is still
28 to be served, if a prisoner *has served the minimum sentence of*
29 *imprisonment imposed, he must be released on parole. For the*
30 *purposes of determining the eligibility of a prisoner for parole*
31 *pursuant to this subsection, the minimum sentence of*
32 *imprisonment imposed must be calculated without consideration*
33 *of any credits the prisoner may have earned to reduce his sentence*
34 *pursuant to chapter 209 of NRS.*

35 2. *If the Department of Corrections determines that the*
36 *population of the institutions of this State exceeds 97 percent of*
37 *total capacity, the Board shall release on parole a sufficient*
38 *number of prisoners to reduce the population of the institutions of*
39 *this State to not more than 95 percent of total capacity as provided*
40 *in this subsection. Except as otherwise provided in this subsection*
41 *and subsections 1, 3, 5, 6 and 7, and in cases where a consecutive*
42 *sentence is still to be served, the Board shall release a prisoner on*
43 *parole 24 months before the end of his maximum term, as reduced*
44 *by any credits he has earned to reduce his sentence pursuant to*
45 *chapter 209 of NRS, if the prisoner:*



(a) *Has not been released on parole previously for that sentence; and*

(b) *Is not otherwise ineligible for parole.*

3. *Except as otherwise provided in subsections 1, 2, 5, 6 and 7, and in cases where a consecutive sentence is still to be served, if a prisoner* sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➔ he must be released on parole ~~[12]~~ 18 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. ~~[The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.~~

~~—2.]~~ 4. Each parolee ~~[so]~~ released *pursuant to this section* must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~[3.]~~ 5. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to ~~[subsection 1.]~~ *this section*, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in ~~[subsection 1.]~~

~~—4.]~~ *this section.*

6. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~[5.]~~ 7. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~[6.]~~ 8. *The Board shall prescribe any conditions necessary for the orderly conduct of a parolee upon his release pursuant to this section.*

9. *For the purposes of release of a prisoner on parole to reduce the population of the institutions of this State pursuant to subsection 2, the Board shall give priority to the release on parole of a prisoner who has been sentenced to a term of imprisonment imposed for conviction of a crime which did not involve the use of force or violence against a victim.*

10. For the purposes of this section, the determination of the ~~[12-month]~~ *18-month or 24-month* period before the end of a prisoner's term must be calculated without consideration of any



1 credits he may have earned to reduce his sentence had he not been
2 paroled.

3 **Sec. 25.** NRS 213.130 is hereby amended to read as follows:

4 213.130 1. The Department of Corrections shall:

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

7 (b) Notify the State Board of Parole Commissioners of the
8 eligibility of the prisoner to be considered for parole; and

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

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

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

32 ~~—4.— Not later than 5 days after the date on which the Board fixes~~
33 ~~the date of the] Except as otherwise provided in subsection 6, the~~
34 ~~Board shall comply with the provisions of chapter 241 of NRS and~~
35 ~~all meetings of the Board must be conducted in accordance with~~
36 ~~that chapter.~~

37 4. *In addition to satisfying the requirements set forth in NRS*
38 *241.020 and regardless of whether the Board holds a closed*
39 *meeting pursuant to subsection 6, the Board shall:*

40 (a) *Cause notice of a meeting to consider a prisoner for parole* ~~;~~
41 ~~the Board shall notify the] to be given in accordance with NRS~~
42 ~~241.020 to:~~

43 (1) *The prisoner who is being considered for parole; and*

44 (2) *The victim of the prisoner who is being considered for*
45 *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]~~; and

(b) Allow the prisoner who is being considered for parole, his representative and the victim of ~~[a]~~ *the* prisoner *who is* being considered for parole ~~[may]~~ *to* submit documents to the Board and ~~[may]~~ *to* testify at the meeting held to consider the prisoner for parole.

5. 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]~~ *the* notification *described in subsection 4* is not received by the victim.

~~[5.]~~ 6. The Board may ~~[deliberate in private after a public meeting held]~~ *hold a closed meeting* to consider a prisoner for parole ~~[~~.

~~—6.]~~ *if the Board determines that a closed meeting is necessary to protect the identity of a minor, witness, victim or other person whose identity is in need of protection for safety reasons.*

7. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.

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

~~[8.]~~ 9. 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.

~~[9.]~~ 10. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 26. NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection 2 and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section must run consecutively with the sentence prescribed by statute for the crime.

2. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an



1 additional term of imprisonment as provided pursuant to subsection
2 1, if a felony that resulted in death or substantial bodily harm to the
3 victim was committed on the property of a public or private school
4 when pupils or employees of the school were present or may have
5 been present, at an activity sponsored by a public or private school
6 or on a school bus while the bus was engaged in its official duties,
7 and the person who committed the felony intended to create a great
8 risk of death or substantial bodily harm to more than one person by
9 means of a weapon, device or course of action that would normally
10 be hazardous to the lives of more than one person, the felony may
11 be deemed a category A felony and the person who committed the
12 felony may be punished by imprisonment in the state prison:

13 (a) For life without the possibility of parole;

14 (b) For life with the possibility of parole, with eligibility for
15 parole beginning when a minimum of 20 years has been served; or

16 (c) For a definite term of 50 years, with eligibility for parole
17 beginning when a minimum of 20 years has been served.

18 3. Subsection 1 does not create a separate offense but provides
19 an additional penalty for the primary offense, the imposition of
20 which is contingent upon the finding of the prescribed fact.
21 Subsection 2 does not create a separate offense but provides an
22 alternative penalty for the primary offense, the imposition of which
23 is contingent upon the finding of the prescribed fact.

24 4. For the purposes of this section, "school bus" has the
25 meaning ascribed to it in NRS 483.160.

26 **Sec. 27.** NRS 193.162 is hereby amended to read as follows:

27 193.162 1. Except as otherwise provided in NRS 193.169
28 and 454.306, an adult who, with the assistance of a child:

29 (a) Commits a crime that is punishable as a category A or a
30 category B felony shall, *in addition to the term of imprisonment*
31 *prescribed by statute for the crime*, be punished by imprisonment in
32 the state prison for ~~[an additional term equal to the]~~ *a minimum*
33 ~~term of [imprisonment prescribed by statute for the crime.]~~ *not less*
34 *than 1 year and a maximum term of not more than 10 years.*

35 (b) Commits any felony other than a category A or a category B
36 felony shall, *in addition to the term of imprisonment prescribed by*
37 *statute for the crime*, be punished by imprisonment in the state
38 prison for ~~[an additional term not less than 25 percent and not more~~
39 ~~than 100 percent of the]~~ *a minimum* term of ~~[imprisonment~~
40 ~~prescribed by statute for the crime.]~~ *not less than 1 year and a*
41 *maximum term of not more than 10 years.*

42 ➡ An additional sentence prescribed by this section runs
43 consecutively with the sentence prescribed by statute for the crime.



2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

Sec. 28. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section runs consecutively with the sentence prescribed by statute for the crime.

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.

Sec. 29. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ *minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section runs consecutively with the sentence prescribed by statute for the crime.

2. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. The provisions of subsections 1 and 2 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

4. The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;



(c) Sexual assault; or

(d) Robbery.

5. As used in this section, "deadly weapon" means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 30. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

➔ shall, *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by statute for that crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. The sentence prescribed by this section runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

2. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.



3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 31. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;
- (g) Sexual assault;
- (h) Embezzlement of money or property of a value of \$250 or more;

(i) Obtaining money or property of a value of \$250 or more by false pretenses; or

(j) Taking money or property from the person of another, against any person who is 60 years of age or older or against a vulnerable person shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished , *if the crime is a misdemeanor or gross misdemeanor*, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime ~~[]~~ , *and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years*. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished , *if the crime is a misdemeanor or gross misdemeanor*, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to and in addition to the term of imprisonment prescribed by statute for the ~~criminal violation.] crime~~ , *and if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years*. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the criminal violation.



3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 32. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may, *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for ~~an additional term not to exceed 25 percent of the~~ *a minimum* term of ~~imprisonment prescribed by statute for the crime.~~ *not less than 1 year and a maximum term of not more than 10 years.*

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 33. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall, *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by the statute for the crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section must run consecutively with the sentence prescribed by statute for the crime.

2. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and



(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

4. Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

5. In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;

(b) Specific rivalries between criminal gangs;

(c) Common practices and operations of criminal gangs and the members of those gangs;

(d) Social customs and behavior of members of criminal gangs;

(e) Terminology used by members of criminal gangs;

(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and

(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

6. As used in this section, “criminal gang” means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

(a) Has a common name or identifying symbol;

(b) Has particular conduct, status and customs indicative of it; and

(c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.



1 **Sec. 34.** NRS 193.1685 is hereby amended to read as follows:

2 193.1685 1. Except as otherwise provided in this section and
3 NRS 193.169, any person who commits a felony with the intent to
4 commit, cause, aid, further or conceal an act of terrorism shall , *in*
5 *addition to the term of imprisonment prescribed by statute for the*
6 *crime*, be punished by imprisonment in the state prison for a ~~term~~
7 ~~equal to and in addition to the~~ *minimum* term of ~~imprisonment~~
8 ~~prescribed by statute for the crime.~~ *not less than 1 year and a*
9 *maximum term of not more than 10 years.* The sentence prescribed
10 by this section must run consecutively with the sentence prescribed
11 by statute for the crime.

12 2. Unless a greater penalty is provided by specific statute and
13 except as otherwise provided in NRS 193.169, in lieu of an
14 additional term of imprisonment as provided pursuant to subsection
15 1, if a felony that resulted in death or substantial bodily harm to the
16 victim was committed with the intent to commit, cause, aid, further
17 or conceal an act of terrorism, the felony may be deemed a category
18 A felony and the person who committed the felony may be punished
19 by imprisonment in the state prison:

20 (a) For life without the possibility of parole;

21 (b) For life with the possibility of parole, with eligibility for
22 parole beginning when a minimum of 20 years has been served; or

23 (c) For a definite term of 50 years, with eligibility for parole
24 beginning when a minimum of 20 years has been served.

25 3. Subsection 1 does not create a separate offense but provides
26 an additional penalty for the primary offense, the imposition of
27 which is contingent upon the finding of the prescribed fact.
28 Subsection 2 does not create a separate offense but provides an
29 alternative penalty for the primary offense, the imposition of which
30 is contingent upon the finding of the prescribed fact.

31 4. The provisions of this section do not apply to an offense
32 committed in violation of NRS 202.445.

33 5. As used in this section, "act of terrorism" has the meaning
34 ascribed to it in NRS 202.4415.

35 **Sec. 35.** NRS 241.030 is hereby amended to read as follows:

36 241.030 1. Except as otherwise provided in this section and
37 NRS *213.130*, 241.031 and 241.033, a public body may hold a
38 closed meeting to:

39 (a) Consider the character, alleged misconduct, professional
40 competence, or physical or mental health of a person.

41 (b) Prepare, revise, administer or grade examinations that are
42 conducted by or on behalf of the public body.

43 (c) Consider an appeal by a person of the results of an
44 examination that was conducted by or on behalf of the public body,



1 except that any action on the appeal must be taken in an open
2 meeting and the identity of the appellant must remain confidential.

3 2. A person whose character, alleged misconduct, professional
4 competence, or physical or mental health will be considered by a
5 public body during a meeting may waive the closure of the meeting
6 and request that the meeting or relevant portion thereof be open to
7 the public. A request described in this subsection:

8 (a) May be made at any time before or during the meeting; and

9 (b) Must be honored by the public body unless the consideration
10 of the character, alleged misconduct, professional competence, or
11 physical or mental health of the requester involves the appearance
12 before the public body of another person who does not desire that
13 the meeting or relevant portion thereof be open to the public.

14 3. A public body may close a meeting pursuant to subsection 1
15 upon a motion which specifies:

16 (a) The nature of the business to be considered; and

17 (b) The statutory authority pursuant to which the public body is
18 authorized to close the meeting.

19 4. This chapter does not:

20 (a) Apply to judicial proceedings.

21 (b) Prevent the removal of any person who willfully disrupts a
22 meeting to the extent that its orderly conduct is made impractical.

23 (c) Prevent the exclusion of witnesses from a public or private
24 meeting during the examination of another witness.

25 (d) Require that any meeting be closed to the public.

26 (e) Permit a closed meeting for the discussion of the
27 appointment of any person to public office or as a member of a
28 public body.

29 5. The exceptions provided by this section, and electronic
30 communication, must not be used to circumvent the spirit or letter of
31 this chapter to act, outside of an open and public meeting, upon a
32 matter over which the public body has supervision, control,
33 jurisdiction or advisory powers.

34 **Sec. 36.** A regulation adopted by the Director of the
35 Department of Corrections pursuant to title 16 of NRS remains in
36 effect as a regulation of the Board of State Prison Commissioners
37 until amended or repealed by the Board of State Prison
38 Commissioners.

39 **Sec. 37.** This act becomes effective on July 1, 2007.

