

ASSEMBLY BILL NO. 510—SELECT COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 2** of this bill eliminates certain requirements that an offender must meet
2 to be eligible for residential confinement and revises the prohibition against
3 assigning a prisoner who has been convicted of a sexual offense to residential
4 confinement by prohibiting the Director of the Department of Corrections from
5 assigning a prisoner to a minimum security facility if the prisoner has ever been
6 convicted of a sexual offense that is a felony. In addition, **section 2** revises a
7 provision which prohibits an offender from receiving residential confinement if the
8 offender has ever been convicted of a violent crime by prohibiting an offender from
9 receiving residential confinement if the offender has, within the immediately
10 preceding 3 years, been convicted of a violent crime that is a felony. (NRS
11 209.392) Finally, **section 2** provides that an offender who has been convicted of a
12 category A or B felony is not eligible for residential confinement.

13 Existing law requires the Director to assign certain offenders who are abusers
14 of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill
15 eliminates certain requirements that such an offender must meet for the Director to
16 assign him to residential confinement.

17 **Section 5** of this bill increases from 10 days to 20 days the deduction from the
18 sentence of an offender who engages in certain good behavior. In addition, **section**



5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. 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 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 Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address



1 has not been provided as required by subsection 4 of NRS 213.130,
2 the Division of Parole and Probation must not be held responsible if
3 such notification is not received by the victim. All personal
4 information, including, but not limited to, a current or former
5 address, which pertains to a victim and which is received by the
6 Division of Parole and Probation pursuant to this subsection is
7 confidential.

8 3. The Director, after consulting with the Division of Parole
9 and Probation, shall adopt, by regulation, standards providing which
10 offenders are eligible for residential confinement. The standards
11 adopted by the Director must provide that an offender who:

12 (a) ~~Is not eligible for parole or release from prison within a~~
13 ~~reasonable period;~~

14 ~~—(b) Has recently committed a serious infraction of the rules of~~
15 ~~an institution or facility of the Department;~~

16 ~~[(e)] (b)~~ Has not performed the duties assigned to him in a
17 faithful and orderly manner;

18 ~~[(d)] (c)~~ Has ever been convicted of:

19 (1) Any crime *that is punishable as a felony* involving the
20 use or threatened use of force or violence against the victim ~~[(c)]~~
21 *within the immediately preceding 3 years;*

22 (2) A sexual offense ~~[(c)]~~

23 ~~—(e)] that is punishable as a felony; or~~

24 (3) *A category A or B felony;*

25 (d) Has more than one prior conviction for any felony in this
26 State or any offense in another state that would be a felony if
27 committed in this State, not including a violation of NRS 484.379,
28 484.3795 or 484.37955; *or*

29 ~~[(f)] (e)~~ Has escaped or attempted to escape from any jail or
30 correctional institution for adults, ~~[(c)]~~

31 ~~—(g) Has not made an effort in good faith to participate in or to~~
32 ~~complete any educational or vocational program or any program of~~
33 ~~treatment, as ordered by the Director.]~~

34 ➔ is not eligible for assignment to the custody of the Division of
35 Parole and Probation to serve a term of residential confinement
36 pursuant to this section.

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

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

43 (b) The offender forfeits all or part of the credits for good
44 behavior earned by him before the escape or violation, as
45 determined by the Director. The Director may provide for a



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

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

22 **Sec. 3.** NRS 209.429 is hereby amended to read as follows:

23 209.429 1. Except as otherwise provided in subsection 6, the
24 Director shall assign an offender to the custody of the Division of
25 Parole and Probation of the Department of Public Safety to serve a
26 term of residential confinement, pursuant to NRS 213.380, for not
27 longer than the remainder of the maximum term of his sentence if ~~§~~:

28 ~~—(a) The~~ *the* offender has:

29 ~~{(1)}~~ *(a)* Established a position of employment in the
30 community;

31 ~~{(2)}~~ *(b)* Enrolled in a program for education or
32 rehabilitation; or

33 ~~{(3)}~~ *(c)* Demonstrated an ability to pay for all or part of the
34 costs of his confinement and to meet any existing obligation for
35 restitution to any victim of his crime. ~~§~~

36 ~~—(b) The offender has successfully completed the initial period of~~
37 ~~treatment required under the program of treatment established~~
38 ~~pursuant to NRS 209.425; and~~

39 ~~—(c) The Director believes that the offender will be able to:~~

40 ~~—(1) Comply with the terms and conditions required under~~
41 ~~residential confinement; and~~

42 ~~—(2) Complete successfully the remainder of the program of~~
43 ~~treatment while under residential confinement.~~

44 ➔ ~~If an offender assigned to the program of treatment pursuant to~~
45 ~~NRS 209.427 completes the initial phase of the program and~~



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~~thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

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

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

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

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

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

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

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

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its



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1 political subdivisions, agencies, boards, commissions, departments,
2 officers or employees.

3 6. The Director shall not assign an offender who is serving a
4 sentence for committing a battery which constitutes domestic
5 violence pursuant to NRS 33.018 to the custody of the Division of
6 Parole and Probation to serve a term of residential confinement
7 unless the Director makes a finding that the offender is not likely to
8 pose a threat to the victim of the battery.

9 **Sec. 4.** NRS 209.446 is hereby amended to read as follows:

10 209.446 1. Every offender who is sentenced to prison for a
11 crime committed on or after July 1, 1985, but before July 17, 1997,
12 who has no serious infraction of the regulations of the Department,
13 the terms and conditions of his residential confinement, or the laws
14 of the State recorded against him, and who performs in a faithful,
15 orderly and peaceable manner the duties assigned to him, must be
16 allowed:

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

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

19 (c) For the period he is in the custody of the Division of Parole
20 and Probation of the Department of Public Safety pursuant to NRS
21 209.4886 or 209.4888,

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

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

30 (a) For earning a general educational development certificate, 30
31 days.

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

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

34 3. The Director may allow not more than 10 days of credit each
35 month for an offender who participates in a diligent and responsible
36 manner in a center for the purpose of making restitution, *program*
37 *for reentry of offenders and parolees into the community*,
38 conservation camp, program of work release or another program
39 conducted outside of the prison. An offender who earns credit
40 pursuant to this subsection is entitled to the entire 20 days of credit
41 each month which is authorized in subsections 1 and 2.

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

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



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6. Credits earned pursuant to this section:

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

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

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

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

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

(c) For the period he is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

➤ a deduction of ~~140~~ 20 days from his sentence for each month he serves.

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

(a) For earning a general educational development certificate, ~~130~~ 60 days.

(b) For earning a high school diploma, ~~160~~ 90 days.

(c) For earning his first associate degree, ~~190~~ 120 days.

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

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

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



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

7. Credits earned pursuant to this section:

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

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

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~140~~ 20 days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

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

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

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



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

(d) Has *ever* been convicted of a sexual offense ~~[.]~~ *that is punishable as a felony;*

(e) Has ~~[committed an act of serious violence during the previous year;]~~ , *within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;* or

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

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

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

(a) The Director believes that the offender would participate successfully in and benefit from the correctional 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 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 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.]~~ *year*, 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 ~~[.]~~ *that is punishable as a felony; or*

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

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

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

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

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

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any



1 cause of action against the State of Nevada, its political
2 subdivisions, agencies, boards, commissions, departments, officers
3 or employees.

4 **Sec. 9.** (Deleted by amendment.)

5 **Sec. 10.** For the purpose of calculating the credits earned by an
6 offender pursuant to NRS 209.4465, the amendatory provisions of
7 section 5 of this act apply only to credits earned by an offender on
8 or after July 1, 2008.

9 **Sec. 11.** This act becomes effective on July 1, 2008.

