

ASSEMBLY BILL NO. 117—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE ADVISORY COMMISSION ON THE
ADMINISTRATION OF JUSTICE)

PREFILED JANUARY 27, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes relating to prisoners and parole. (BDR 16-630)

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 convicted persons; providing that certain persons participating in a hearing concerning clemency or parole who speak a language other than English and do not know the English language are entitled to the services of an interpreter at public expense; revising provisions governing the mandatory parole of certain prisoners; making various other changes relating to parole hearings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 3 of this bill provide that an applicant or a witness at a clemency hearing or a prisoner, parolee or witness at a parole hearing who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense. (NRS 213.055, 213.128)

Section 2 of this bill revises existing law, which provides for the mandatory parole of certain prisoners 12 months before the end of their maximum terms in certain circumstances, to provide instead for mandatory consideration of parole for such prisoners. (NRS 213.1215)

Section 4 of this bill authorizes the State Board of Parole Commissioners to grant parole to a prisoner without a meeting if the Board anticipates that parole will be granted. (NRS 213.130)

Section 5 of this bill provides that a member of the Board or a case hearing representative may recommend releasing a prisoner on parole without a hearing if certain conditions are met. **Section 5** also provides that such a recommendation remains subject to final approval by a majority of the Board. (NRS 213.133)



* A B 1 1 7 *

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

Section 1. NRS 213.055 is hereby amended to read as follows:

213.055 **1.** An applicant or a witness at a hearing upon an application for clemency who is a person with a communications disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.050 to 50.053, inclusive.

2. *An applicant or a witness at a hearing upon an application for clemency who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.054.*

3. The ~~interpreter must be appointed by the~~ Governor or a member of the Board designated by ~~him~~ *the Governor shall appoint an interpreter whose services are required pursuant to subsection 1 or 2.*

Sec. 2. NRS 213.1215 is hereby amended to read as follows:

213.1215 **1.** Except as otherwise provided in subsections 3, 4 and 5 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~~ *considered by the Board for release* on parole 12 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 *, after considering a prisoner for release on parole pursuant to this section and determining that the prisoner will be released on parole,* shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

3. If the Board finds, at least 2 months before a prisoner would otherwise be ~~paroled~~ *considered for release on parole* pursuant to subsection 1, 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~~ *consider* the *prisoner for release on* parole *as* provided ~~for~~ in subsection 1. If, pursuant to this subsection, the Board does not



1 ~~{grant}~~ *consider* the *prisoner for release on* parole *as* provided ~~{for}~~
2 in subsection 1, the Board shall provide to the prisoner a written
3 statement of its reasons for ~~{denying}~~ *not considering the prisoner*
4 *for release on* parole.

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

9 5. If the *Board has determined that a prisoner will be released*
10 *on parole pursuant to this section but the* Division has not
11 completed its establishment of a program for the prisoner's activities
12 during his parole pursuant to this section, the prisoner must be
13 released on parole as soon as practicable after the prisoner's
14 program is established.

15 6. For the purposes of this section, the determination of the 12-
16 month period before the end of a prisoner's term must be calculated
17 without consideration of any credits he may have earned to reduce
18 his sentence ~~{had}~~ *if* he *were* not ~~{been}~~ paroled.

19 **Sec. 3.** NRS 213.128 is hereby amended to read as follows:

20 213.128 1. A prisoner, parolee or ~~{a}~~ witness at the hearing of
21 a case who is a person with a communications disability as defined
22 in NRS 50.050 is entitled to the services of an interpreter at public
23 expense in accordance with the provisions of NRS 50.050 to 50.053,
24 inclusive.

25 2. *A prisoner, parolee or witness at the hearing of a case who*
26 *speaks a language other than English and does not know the*
27 *English language is entitled to the services of an interpreter at*
28 *public expense in accordance with the provisions of NRS 50.054.*

29 3. The ~~{interpreter must be appointed by the}~~ Chairman of the
30 Board or other person who presides at the hearing ~~{}~~ *shall appoint*
31 *an interpreter whose services are required pursuant to subsection*
32 *1 or 2.*

33 **Sec. 4.** NRS 213.130 is hereby amended to read as follows:

34 213.130 1. The Department of Corrections shall:

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

37 (b) Notify the ~~{State}~~ Board ~~{of Parole Commissioners}~~ of the
38 eligibility of the prisoner to be considered for parole; and

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

42 2. If a prisoner is being considered for parole from a sentence
43 imposed for conviction of a crime which involved the use of force
44 or violence against a victim and which resulted in bodily harm to a
45 victim and if original or duplicate photographs that depict the



1 injuries of the victim or the scene of the crime were admitted at the
2 trial of the prisoner or were part of the report of the presentence
3 investigation and are reasonably available, a representative sample
4 of such photographs must be included with the information
5 submitted to the Board at the meeting. A prisoner may not bring a
6 cause of action against the State of Nevada, its political
7 subdivisions, agencies, boards, commissions, departments, officers
8 or employees for any action that is taken pursuant to this subsection
9 or for failing to take any action pursuant to this subsection,
10 including, without limitation, failing to include photographs or
11 including only certain photographs. As used in this subsection,
12 "photograph" includes any video, digital or other photographic
13 image.

14 3. Meetings to consider prisoners for parole may be held
15 semiannually or more often, on such dates as may be fixed by the
16 Board. All meetings are quasi-judicial and must be open to the
17 public. No rights other than those conferred pursuant to this section
18 or pursuant to specific statute concerning meetings to consider
19 prisoners for parole are available to any person with respect to such
20 meetings.

21 4. Not later than 5 days after the date on which the Board fixes
22 the date of the meeting to consider a prisoner for parole, the Board
23 shall notify the victim of the prisoner who is being considered for
24 parole of the date of the meeting and of his rights pursuant to this
25 subsection, if the victim has requested notification in writing and
26 has provided his current address or if the victim's current address is
27 otherwise known by the Board. The victim of a prisoner being
28 considered for parole may submit documents to the Board and may
29 testify at the meeting held to consider the prisoner for parole. A
30 prisoner must not be considered for parole until the Board has
31 notified any victim of his rights pursuant to this subsection and he is
32 given the opportunity to exercise those rights. If a current address is
33 not provided to or otherwise known by the Board, the Board must
34 not be held responsible if such notification is not received by the
35 victim.

36 5. The Board may deliberate in private after a public meeting
37 held to consider a prisoner for parole.

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

40 7. If a victim is notified of a meeting to consider a prisoner for
41 parole pursuant to subsection 4, the Board shall, upon making a final
42 decision concerning the parole of the prisoner, notify the victim of
43 its final decision.



8. 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. The Board *may grant parole without a meeting, pursuant to NRS 213.133, but the Board* must not deny parole to a prisoner unless the prisoner has been given reasonable notice of the meeting and the opportunity to be present at the meeting. If the Board fails to provide notice of the meeting to the prisoner or to provide the prisoner with an opportunity to be present and determines that it may deny parole, the Board may reschedule the meeting.

10. During a meeting to consider a prisoner for parole, the Board shall allow the prisoner:

(a) At his own expense, to have a representative present with whom he may confer; and

(b) To speak on his own behalf or to have his representative speak on his behalf.

11. Upon making a final decision concerning the parole of the prisoner, the Board shall provide written notice to the prisoner of its decision not later than 10 working days after the meeting and, if parole is denied, specific recommendations of the Board to improve the possibility of granting parole the next time the prisoner is considered for parole, if any.

12. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 5. NRS 213.133 is hereby amended to read as follows:

213.133 1. Except as otherwise provided in subsections 6 , ~~and~~ 7 ~~and~~ and 8, the Board may delegate its authority to hear, consider and act upon the parole of a prisoner and on any issue before the Board to a panel consisting of:

(a) Two or more members of the Board, two of whom constitute a quorum; or

(b) One member of the Board who is assisted by a case hearing representative.

2. No action taken by any panel created pursuant to paragraph (a) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. The decision of a panel is subject to final approval by the affirmative action of a majority of the members appointed to the Board. Such action may be taken at a meeting of the Board ~~or~~ or without a meeting by the delivery of written approval to the *Executive* Secretary of the Board.

4. The degree of complexity of issues presented must be taken into account before the Board makes any delegation of its authority and before it determines the extent of a delegation.



1 5. The Board shall adopt regulations which establish the basic
2 types of delegable cases and the size of the panel required for each
3 type of case.

4 6. A hearing concerning the parole of a prisoner or any
5 decision on an issue involving a person:

6 (a) Who committed a capital offense;

7 (b) Who is serving a sentence of imprisonment for life;

8 (c) Who has been convicted of a sexual offense involving the
9 use or threat of use of force or violence;

10 (d) Who is a habitual criminal; or

11 (e) Whose sentence has been commuted by the State Board of
12 Pardons Commissioners,

13 ➔ must be conducted by at least three members of the Board, and
14 action may be taken only with the concurrence of at least four
15 members.

16 7. If a recommendation made by a panel deviates from the
17 standards adopted by the Board pursuant to NRS 213.10885 or
18 the recommendation of the Division, the Chairman must concur in
19 the recommendation.

20 8. *A member of the Board or a person who has been*
21 *designated as a case hearing representative in accordance with*
22 *NRS 213.135 may recommend to the Board that a prisoner be*
23 *released on parole without a meeting if:*

24 (a) *The prisoner is not serving a sentence for a crime*
25 *described in subsection 6;*

26 (b) *The parole standards created pursuant to NRS 213.10885*
27 *suggest that parole should be granted;*

28 (c) *There are no current requests for notification of hearings*
29 *made in accordance with subsection 4 of NRS 213.130; and*

30 (d) *Notice to law enforcement of the eligibility for parole of the*
31 *prisoner was given pursuant to subsection 5 of NRS 213.1085, and*
32 *no person objected to granting parole without a meeting during*
33 *the 30-day notice period.*

34 9. *A recommendation made in accordance with subsection 8*
35 *is subject to final approval by the affirmative action of a majority*
36 *of the members appointed to the Board. The final approval by*
37 *affirmative action must not take place until the expiration of the*
38 *30-day notice period to law enforcement of the eligibility for*
39 *parole of the prisoner in accordance with subsection 5 of NRS*
40 *213.1085. Such action may be taken at a meeting of the Board or*
41 *without a meeting of the Board by delivery of written approval to*
42 *the Executive Secretary of the Board by a majority of the*
43 *members.*



- 1 **Sec. 6.** The amendatory provisions of:
2 1. Section 1 of this act apply to an applicant or a witness at a
3 hearing for clemency held on or after July 1, 2009.
4 2. Sections 2, 4 and 5 of this act apply to any prisoner who is in
5 the custody of the Department of Corrections before, on or after
6 July 1, 2009.
7 3. Section 3 of this act apply to a prisoner, parolee or witness at
8 a hearing for parole held on or after July 1, 2009.
9 **Sec. 7.** This act becomes effective on July 1, 2009.

