

ASSEMBLY BILL NO. 385—ASSEMBLYMAN HORNE

MARCH 16, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning prisons.
(BDR 16-523)

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 prisons; requiring the Board of State Prison Commissioners to adopt regulations pertaining to a facility or institution operated by a private organization; requiring the monitoring of certain private facilities and institutions; providing for the development of minimum staffing levels for institutions and facilities of the Department of Corrections; providing that certain provisions relating to a prisoner confined in a facility or institution also apply to a prisoner confined in a private facility or institution operated by a private organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) **Section 1.4** of this bill requires the Board to adopt additional regulations establishing the maximum number of prisoners that may be incarcerated in a private facility or institution. Those regulations must be based upon the standards adopted by the American Correctional Association.

Section 1.5 of this bill requires the Department to monitor private facilities or institutions which house prisoners incarcerated pursuant to the authority of another state to ensure that the care and custody of the prisoners comply with the Nevada Constitution and the United States Constitution. **Section 1.6** of this bill provides that the provisions of this bill which relate to private facilities or institutions do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government.

Section 1.67 of this bill revises the duties of the Director of the Department by requiring the Director to consult with representatives of the employees of the Department to develop a minimum staffing level which is necessary to ensure the



safety of the public, the employees of the Department and the prisoners and which is within the limits of legislative appropriation.

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100-212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) Further, existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) **Section 1.7** of this bill provides that those provisions also apply to a prisoner incarcerated in a private prison operated by a private organization as well as to certain other persons. **Section 1.7** also provides that the private organization which operates a private facility or institution must: (1) reimburse the State for expenses incurred by the State in recapturing a prisoner who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.35 to 1.6, inclusive, of this act.

Sec. 1.35. *“Private facility or institution” means a facility or institution operated by a private organization to house prisoners.*

Sec. 1.4. 1. *To ensure the safety of the residents of the State of Nevada, the Board shall adopt regulations establishing the maximum number of prisoners who may be incarcerated in a private facility or institution. The regulations must be based upon the standards adopted by the American Correctional Association or its successor organization.*

2. *As used in this section, “prisoner” has the meaning ascribed to it in section 1.7 of this act.*

Sec. 1.5. 1. *The Department shall monitor each private facility or institution which houses prisoners who are incarcerated pursuant to the authority of another state to ensure that the custody and care of the prisoners comply with the requirements of the Nevada Constitution and the Constitution of the United States.*

2. *A private facility or institution which is monitored by the Department pursuant to subsection 1 shall reimburse the Department for the costs of such monitoring. The Department*



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1 *shall determine the cost of the monitoring required by subsection 1*
2 *on a per-prisoner basis.*

3 **Sec. 1.6.** *The provisions of sections 1.4, 1.5 and 1.7 of this*
4 *act do not apply with respect to prisoners incarcerated in a private*
5 *facility or institution pursuant to a contract with the Federal*
6 *Government or an agency of the Federal Government.*

7 **Sec. 1.63.** NRS 209.011 is hereby amended to read as follows:

8 209.011 As used in this chapter, unless the context otherwise
9 requires, the terms defined in NRS 209.021 to 209.085, inclusive,
10 *and section 1.35 of this act* have the meanings ascribed to them in
11 those sections.

12 **Sec. 1.67.** NRS 209.131 is hereby amended to read as follows:

13 209.131 The Director shall:

- 14 1. Administer the Department under the direction of the Board.
- 15 2. Supervise the administration of all institutions and facilities
16 of the Department.
- 17 3. Receive, retain and release, in accordance with law,
18 offenders sentenced to imprisonment in the state prison.
- 19 4. Be responsible for the supervision, custody, treatment, care,
20 security and discipline of all offenders under his jurisdiction.
- 21 5. Ensure that any person employed by the Department whose
22 primary responsibilities are:
 - 23 (a) The supervision, custody, security, discipline, safety and
24 transportation of an offender;
 - 25 (b) The security and safety of the staff; and
 - 26 (c) The security and safety of an institution or facility of the
27 Department,
- 28 ➔ is a correctional officer who has the powers of a peace officer
29 pursuant to subsection 1 of NRS 289.220
- 30 6. Establish regulations with the approval of the Board and
31 enforce all laws governing the administration of the Department and
32 the custody, care and training of offenders.
- 33 7. Take proper measures to protect the health and safety of the
34 staff and offenders in the institutions and facilities of the
35 Department.
- 36 8. Cause to be placed from time to time in conspicuous places
37 about each institution and facility copies of laws and regulations
38 relating to visits and correspondence between offenders and others.
- 39 9. Provide for the holding of religious services in the
40 institutions and facilities and make available to the offenders copies
41 of appropriate religious materials.

42 **10.** *Consult with the representatives of the employees of the*
43 *Department to develop the minimum level of staffing in the*
44 *institutions and facilities of the Department which is necessary to*
45 *ensure the safety of the public, the employees of the Department*



1 and offenders and which is within the limits of legislative
2 appropriation. If the Director, or his designee, or a representative
3 of the employees of the Department requests a meeting to review
4 the minimum level of staffing developed pursuant to this
5 subsection, the Director, or his designee, and the representatives
6 of the employees shall meet to review the minimum level of
7 staffing. At such a meeting, the minimum level of staffing may be
8 revised if the revision is agreed to by the Director, or his designee,
9 and the representative of the employees and is within the limits of
10 legislative appropriation.

11 **Sec. 1.7.** Chapter 212 of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 **1.** The provisions of this section and NRS 212.030 to 212.130,
14 inclusive, and 212.160 to 212.189, inclusive, apply to:

15 (a) A person who has custody of a prisoner assigned to a
16 private facility or institution in this State; and

17 (b) A prisoner assigned to a private facility or institution in
18 this State,

19 to the same extent that those provisions would apply if the
20 prisoner had been assigned to a facility or institution operated by
21 the Department.

22 **2.** A private organization that operates a private facility or
23 institution must provide training to any person employed by the
24 private facility or institution to perform the duties of a correctional
25 officer described in subsection 5 of NRS 209.131. The content of
26 the training must be equivalent to the training provided to a
27 correctional officer in this State, but a person employed by a
28 private facility or institution to perform the duties of a correctional
29 officer is not required to be certified as a peace officer.

30 **3.** The private organization that operates a private facility or
31 institution must reimburse the State for any expenses charged
32 against the State or paid by the State pursuant to NRS 212.040,
33 212.050 or 212.070 concerning a prisoner who escapes from the
34 private facility or institution.

35 **4.** As used in this section:

36 (a) "Prisoner" means any person who is:

37 (1) Convicted of a crime under the laws of this State and
38 sentenced to imprisonment in the state prison; or

39 (2) Convicted of a crime under the laws of another
40 jurisdiction and sentenced to imprisonment by that jurisdiction.

41 (b) "Private facility or institution" has the meaning ascribed to
42 it in section 1.35 of this act.

43 **Sec. 2.** (Deleted by amendment.)

44 **Sec. 3.** (Deleted by amendment.)



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1 **Sec. 4.** This act becomes effective on July 1, 2009.

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