

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 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.

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



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

Sec. 1.6. (Deleted by amendment.)

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

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



1 **Sec. 1.67.** (Deleted by amendment.)

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

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

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

8 **(b) A prisoner assigned to a private facility or institution in**
9 **this State,**

10 **↳ to the same extent that those provisions would apply if the**
11 **prisoner had been assigned to a facility or institution operated by**
12 **the Department.**

13 **2. A private organization that operates a private facility or**
14 **institution must provide training to any person employed by the**
15 **private facility or institution to perform the duties of a correctional**
16 **officer described in subsection 5 of NRS 209.131. The training**
17 **must be equivalent to the training provided to a correctional**
18 **officer in this State.**

19 **3. The private organization that operates a private facility or**
20 **institution must reimburse the State for any expenses charged**
21 **against the State or paid by the State pursuant to NRS 212.040,**
22 **212.050 or 212.070 concerning a prisoner who escapes from the**
23 **private facility or institution.**

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

25 **(a) "Prisoner" means any person who is:**

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

28 **(2) Convicted of a crime under the laws of another**
29 **jurisdiction and sentenced to imprisonment by that jurisdiction.**

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

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

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

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

