

ASSEMBLY BILL NO. 514—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 23, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Revises certain provisions governing criminal offenders. (BDR 16-1171)

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 criminal offenders; revising provisions relating to the residential confinement of certain offenders; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. **Section 1** of this bill amends existing law to provide that an offender who has been convicted of a category B felony is eligible for residential confinement under certain circumstances. (NRS 209.392)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. **Section 3** of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure perimeter. Further, **section 3** authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

Section 2 of this bill amends chapter 213 of NRS, which governs parolees, in a manner similar to **section 3** of this bill. **Section 2** provides that a parolee who is returned to confinement in a facility or institution of the Department of Corrections



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21 is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS,
22 with the exception of certain credits which are earned by an offender who is
23 released on parole. (NRS 213.152)

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

1 **Section 1.** NRS 209.392 is hereby amended to read as follows:
2 209.392 1. Except as otherwise provided in NRS 209.3925
3 and 209.429, the Director may, at the request of an offender who is
4 eligible for residential confinement pursuant to the standards
5 adopted by the Director pursuant to subsection 3 and who has:

6 (a) Demonstrated a willingness and ability to establish a position
7 of employment in the community;

8 (b) Demonstrated a willingness and ability to enroll in a
9 program for education or rehabilitation; or

10 (c) Demonstrated an ability to pay for all or part of the costs of
11 his confinement and to meet any existing obligation for restitution to
12 any victim of his crime,

13 ➔ assign the offender to the custody of the Division of Parole and
14 Probation of the Department of Public Safety to serve a term of
15 residential confinement, pursuant to NRS 213.380, for not longer
16 than the remainder of his sentence.

17 2. Upon receiving a request to serve a term of residential
18 confinement from an eligible offender, the Director shall notify the
19 Division of Parole and Probation. If any victim of a crime
20 committed by the offender has, pursuant to subsection 4 of NRS
21 213.130, requested to be notified of the consideration of a prisoner
22 for parole and has provided a current address, the Division of Parole
23 and Probation shall notify the victim of the offender's request and
24 advise the victim that he may submit documents regarding the
25 request to the Division of Parole and Probation. If a current address
26 has not been provided as required by subsection 4 of NRS 213.130,
27 the Division of Parole and Probation must not be held responsible if
28 such notification is not received by the victim. All personal
29 information, including, but not limited to, a current or former
30 address, which pertains to a victim and which is received by the
31 Division of Parole and Probation pursuant to this subsection is
32 confidential.

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

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



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

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) A category A ~~for-B~~ felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

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

4. 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 for good behavior earned by him 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 such a forfeiture is final.

5. 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.

6. An offender 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



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

3 **Sec. 2.** NRS 213.152 is hereby amended to read as follows:

4 213.152 1. Except as otherwise provided in subsection ~~6, 7,~~
5 if a parolee violates a condition of his parole, the Board may order
6 him to a term of residential confinement in lieu of suspending his
7 parole and returning him to confinement. In making this
8 determination, the Board shall consider the criminal record of the
9 parolee and the seriousness of the crime committed.

10 2. In ordering the parolee to a term of residential confinement,
11 the Board shall:

12 (a) Require:

13 (1) The parolee to be confined to his residence during the
14 time he is away from his employment, community service or other
15 activity authorized by the Division; and

16 (2) Intensive supervision of the parolee, including, without
17 limitation, unannounced visits to his residence or other locations
18 where he is expected to be in order to determine whether he is
19 complying with the terms of his confinement; or

20 (b) Require the parolee to be confined to a facility *or institution*
21 of the Department of Corrections ~~{approved by the Board}~~ for a
22 period not to exceed 6 months. *The Department may select the*
23 *facility or institution in which to place the parolee.*

24 3. An electronic device approved by the Division may be used
25 to supervise a parolee ordered to a term of residential confinement.
26 The device must be minimally intrusive and limited in capability to
27 recording or transmitting information concerning the presence of
28 the parolee at his residence, including, but not limited to, the
29 transmission of still visual images which do not concern the
30 activities of the person while inside his residence. A device which is
31 capable of recording or transmitting:

32 (a) Oral or wire communications or any auditory sound; or

33 (b) Information concerning the activities of the parolee while
34 inside his residence,

35 ➔ must not be used.

36 4. *A parolee who is confined to a facility or institution of the*
37 *Department of Corrections pursuant to paragraph (b) of*
38 *subsection 2:*

39 (a) *May earn credits to reduce his sentence pursuant to*
40 *chapter 209 of NRS; and*

41 (b) *Shall not be deemed to be released on parole for purposes*
42 *of NRS 209.447 or 209.4475 during the period of that*
43 *confinement.*

44 5. The Board shall not order a parolee to a term of residential
45 confinement unless he agrees to the order.



~~[5-]~~ 6. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

~~[6-]~~ 7. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

~~[7-]~~ 8. As used in this section ~~[, "facility"]~~:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" *has the meaning ascribed to it in NRS 209.071.*

Sec. 3. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division and require:

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) ~~[Direct]~~ *If the person was placed on probation for a felony conviction, direct* that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility *or institution* of the Department ~~[approved by the Division and the court]~~ for a period not to exceed 6 months. *The Department may select the facility or institution in which to place the person.*

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or



(b) Information concerning the person's activities while inside his residence,

→ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section ~~the "facility"~~:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 4. 1. The amendatory provisions of this act apply to offenses committed before, on or after October 1, 2009.

2. For the purpose of calculating credits earned by a person pursuant to NRS 213.152, the amendatory provisions of section 2 of this act must be applied to credits earned by the person before, on or after October 1, 2009.

