

Amendment No. 900

Assembly Amendment to Assembly Bill No. 93 First Reprint (BDR S-509)

Proposed by: Assembly Committee on Ways and Means

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE all appropriations from A.B. 93.

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AMI/RRY



Date: 6/4/2011

A.B. No. 93—Provides for the establishment of a pilot diversion program within the Department of Corrections to provide treatment for alcohol or drug abuse or mental illness to certain probation violators.
(BDR S-509)



ASSEMBLY BILL NO. 93—ASSEMBLYMAN SEGERBLOM

PREFILED JANUARY 13, 2011

JOINT SPONSORS: SENATORS HORSFORD AND PARKS

Referred to Committee on Judiciary

SUMMARY—Provides for the establishment of a pilot diversion program within the Department of Corrections to provide treatment for alcohol or drug abuse or mental illness to certain probation violators. (BDR S-509)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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; requiring the Department of Corrections to establish a pilot diversion program for certain probation violators to receive treatment for alcohol or drug abuse or mental illness; ~~requiring the Department of Health and Human Services to provide such treatment; making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who violates the conditions of his or her probation must be brought before the court to determine the actions to be taken, which may include causing the sentence imposed to be executed. (NRS 176A.630) Existing law also authorizes the establishment of programs of treatment for alcohol and drug abuse by the district courts for the treatment of certain offenders. (NRS 453.580) A person who elects to participate in such a treatment program may have his or her sentence set aside upon successful completion of the treatment program. (NRS 458.330) **Section 1** of this bill requires the Department of Corrections to establish a pilot diversion program within the facilities maintained by the Department. The pilot diversion program must be used to provide ~~intensive~~ treatment to certain probation violators ~~[who are determined to be]~~ **if a court has reasonable cause to believe that the probation violators are** alcoholics or drug addicts or in need of treatment for a mental illness and **if the probation violators** are ordered to the custody of the Department to receive such treatment. The Department of Corrections is required to provide food and housing as well as emergency medical services, but is not responsible for providing treatment to the persons placed in the facilities. ~~[which instead is to be provided by the Department of Health and Human Services.]~~ **Section 1** also requires probationers to release in writing the Department of Corrections from liability as a condition of participation in the pilot diversion program. ~~[Section 2 of this bill requires the Director of the Department of Health and Human Services to provide for the evaluation of probation violators referred to the~~

~~Department of Health and Human Services by the court and authorizes the Director to enter into contracts with qualified persons or entities to provide such evaluations and treatment.]~~

Section 3 of this bill identifies the probation violators who are eligible to elect placement in the pilot diversion program. **Section 6** of this bill provides that a person placed in the pilot diversion program is required to pay for the cost of his or her treatment and supervision to the extent of his or her financial resources and authorizes a court to require such a person to perform community service upon completion of treatment to contribute toward the cost of his or her treatment and supervision.

Section 7.5 of this bill provides that upon satisfaction of the terms and conditions imposed upon a probation violator for participation in the pilot diversion program, the court shall release the probationer from supervision and order the probationer to complete any period of probation. If a probation violator violates the rules of the program or does not satisfy the terms and conditions of participation or successfully complete treatment, the court may revoke probation. **Section 8** of this bill requires the Department of Corrections ~~the Department of Health and Human Services~~ and the Division of Parole and Probation of the Department of Public Safety to jointly provide a report which provides certain data for the Interim Finance Committee. ~~[Section 10 of this bill makes an appropriation to the Department of Health and Human Services to pay for the evaluation and treatment of probation violators.]~~ This bill is established as a pilot program, and **section 11** of this bill makes it expire by limitation on July 1, 2015.

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

Section 1. 1. The Department of Corrections shall establish a pilot diversion program within the correctional institutions or other facilities maintained by the Department.

2. The Department of Corrections shall ensure that facilities of adequate capacity for the pilot diversion program are available in one or more suitable locations within the State. The Department shall not be required to provide housing for more than 50 probation violators at one time.

3. The Department of Corrections shall provide a healthful diet and appropriate, secure and sanitary housing and necessary emergency medical services for the probation violators who are placed in the pilot diversion program, but the Department is not responsible for providing treatment to the probation violators remanded to the pilot diversion program pursuant to section 3 of this act.

4. As a condition of participation in the program, a probationer must release in writing the Department from liability and agree to abide by the applicable rules and regulations of the Department.

Sec. 2. ~~[(1.) To the extent practicable within the appropriation provided in section 10 of this act, the Director of the Department of Health and Human Services shall provide for the evaluation of each probation violator who is ordered to be evaluated by a court pursuant to section 5 of this act to determine if the probation violator is an abuser of alcohol or drugs or in need of treatment for a mental illness, and shall provide treatment to any such probation violator who is remanded to the pilot diversion program pursuant to section 5 of this act. The Director may:~~

~~(a) Enter into contracts with persons or private entities that are qualified to evaluate and provide such treatment to probation violators who are alcohol or drug abusers or in need of treatment for a mental illness; and~~

~~(b) Accept donations, gifts or grants of money or services to supplement the appropriation in section 10 of this act.~~

~~2. When a person has completed treatment for the term for which the person was assigned to the pilot diversion program, the Director of the Department or a designee of the Director shall submit a report certifying to the court:~~

- ~~(a) Whether the person successfully completed the treatment;~~
~~(b) Whether the person is believed to be rehabilitated; and~~
~~(c) Any recommendations for actions to ensure that the person does not begin to abuse alcohol or drugs upon release.~~

~~3. The Director of the Department may adopt any regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 3. 1. A district court may remand a probationer who is returned to the district court for a violation of his or her probation to the pilot diversion program established pursuant to section 1 of this act for supervision for, subject to such terms and conditions as established by the court. The court may allow the probationer who is remanded to the pilot diversion program to:

(a) Leave the facilities of the Department of Corrections during the day for education, treatment or employment; or

(b) Reside outside the facilities of the Department.

2. The court may require the probationer to receive treatment for alcohol or drug abuse or a mental illness if the court has reason to believe that the probationer is an alcoholic or drug addict or in need of treatment for a mental illness and the court finds that the probationer:

(a) Agrees to participate in the pilot diversion program;

(b) Was not returned to the court for committing an act involving violence, the use of force, or the threat of violence or the use of force;

(c) Meets the requirements for assignment to an institution or facility of minimum security as set forth in NRS 209.481; and

(d) Is not rejected for participation in the pilot diversion program by the Department of Corrections as posing a threat to the health, safety and welfare of:

(1) Other probationers remanded to the program; or

(2) Employees of the Department of Corrections and its agents. ~~for~~

~~(3) Employees of the Department of Health and Human Services and its agents.]~~

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~[1. Before a court remands a probation violator to the pilot diversion program, the court may order the examination of the probationer by the Department of Health and Human Services or by a person or entity designated by the Director of the Department to determine whether the probationer is an alcoholic or drug addict or in need of treatment for a mental illness and is likely to be rehabilitated through treatment.~~

~~2. If the court determines that the probation violator would benefit from and is likely to be rehabilitated through treatment and the court remands the probationer to the pilot diversion program, the court shall establish the terms and conditions for successful completion of the treatment, in addition to the terms and conditions that the court establishes pursuant to section 3 of this act.] (Deleted by amendment.)~~

Sec. 6. 1. A probation violator who is placed in the pilot diversion program for supervision and, if appropriate, to receive treatment for alcohol or drug abuse or a mental illness shall pay the cost of his or her treatment and supervision to the extent of his or her financial resources.

2. A court shall not refuse to place a probation violator in the pilot diversion program if the probation violator does not have the financial resources to pay any or all of the related costs.

3. The court may order a probation violator who is placed in the pilot diversion program to perform a specified amount of community service upon

1 release from the program to contribute toward the cost of his or her treatment and
2 supervision. Any such community service must be performed for and under the
3 supervising authority of a county, city, town or other political subdivision or agency
4 of the State of Nevada or a charitable organization that renders service to the
5 community or its residents.

6 4. The court may issue a judgment against a probation violator and in favor of
7 the State for the costs of treatment and supervision which remain unpaid when the
8 probationer is released from the pilot diversion program but in no event may the
9 amount of the judgment include any amount of debt which was extinguished by the
10 successful completion of community service pursuant to subsection 3.

11 **Sec. 7.** (Deleted by amendment.)

12 **Sec. 7.5.** 1. When the court determines that a probation violator who was
13 remanded to the pilot diversion program has satisfied the applicable terms and
14 conditions established pursuant to ~~sections 3 and 5~~ **section 3** of this act, the court
15 shall release the probationer from supervision and order the probationer to complete
16 any remaining or additional period of probation as determined by the court.

17 2. If the court determines that a probation violator who was remanded to the
18 pilot diversion program is violating the rules of participation in the program, has
19 not satisfied the terms or conditions of participation in the program or has not
20 successfully completed the treatment for alcohol or drug abuse or a mental illness,
21 the court may revoke probation.

22 **Sec. 8.** The Department of Corrections, ~~the Department of Health and~~
23 ~~Human Services~~ and the Division of Parole and Probation of the Department of
24 Public Safety shall jointly submit a report at least twice annually to the Director of
25 the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.
26 The report must include:

- 27 1. The number of probationers participating in the pilot diversion program;
- 28 2. The reasons the probationers entered the program;
- 29 3. The number of probationers who satisfied the terms and conditions of their
30 participation in the program; and
- 31 4. The status of the probationers who are in the program at the time the report
32 is prepared.

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

34 **Sec. 10.** ~~{1. There is hereby appropriated from the State General Fund to~~
35 ~~the Department of Health and Human Services for the evaluation of probation~~
36 ~~violators to determine whether they are alcoholics or drug addicts or in need of~~
37 ~~treatment for mental illness and to provide treatment to such probation violators~~
38 ~~who are remanded to the pilot diversion program as required pursuant to section 5~~
39 ~~of this act;~~

40 ~~For the Fiscal Year 2011-2012.....\$250,000~~

41 ~~For the Fiscal Year 2012-2013.....\$250,000~~

42 ~~2. The sums appropriated by subsection 1 are available for either fiscal year.~~
43 ~~Any remaining balance of those sums must not be committed for expenditure after~~
44 ~~June 30, 2013, by the entity to which the appropriation is made or any entity to~~
45 ~~which money from the appropriation is granted or otherwise transferred in any~~
46 ~~manner, and any portion of the appropriated money remaining must not be spent for~~
47 ~~any purpose after September 20, 2013, by either the entity to which the money was~~
48 ~~appropriated or the entity to which the money was subsequently granted or~~
49 ~~transferred, and must be reverted to the State General Fund on or before September~~
50 ~~20, 2013.] (Deleted by amendment.)~~

51 **Sec. 11.** ~~{1. This section and sections 1 to 9, inclusive, of this act~~

52 ~~(a) Become} **This act becomes** effective upon passage and approval ~~{for the~~
53 ~~purposes of adopting regulations, entering into contracts for the provision of~~~~

~~services and taking any other preparatory actions to carry out the provisions of this act and on January 1, 2012, for all other purposes.~~

~~(b) Expires~~ **and expires** by limitation on July 1, 2015.

~~[2. Section 10 of this act becomes effective on July 1, 2011.]~~