

ASSEMBLY BILL NO. 212—ASSEMBLYMEN HANSEN, HAMBRICK;
PAUL ANDERSON, ELLISON, GRADY, KIRNER, LIVERMORE,
STEWART AND WHEELER

MARCH 7, 2013

JOINT SPONSOR: SENATOR GUSTAVSON

Referred to Committee on Judiciary

SUMMARY—Prohibits the possession of portable
telecommunications devices by certain prisoners.
(BDR 16-639)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 correctional institutions; prohibiting the
possession of portable telecommunications devices by
certain prisoners; authorizing persons convicted of
possessing portable telecommunications devices to
request a modification of sentence under certain
circumstances; providing penalties; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits the possession of portable telecommunications devices
2 by prisoners in state institutions and facilities. (NRS 212.165) This bill extends that
3 prohibition to include any prisoner in a jail, branch county jail or other local
4 detention facility and provides that a prisoner who violates the prohibition is guilty
5 of: (1) a category D felony if he or she was confined as a result of a felony; (2) a
6 gross misdemeanor if he or she was confined as a result of a gross misdemeanor; or
7 (3) a misdemeanor if he or she was confined as a result of a misdemeanor. This bill
8 also authorizes a person who was convicted of possessing a portable
9 telecommunications device in a jail, branch county jail or other local detention
10 facility to request a modification of his or her sentence if the underlying charge for



11 which the person was in lawful custody or confinement has been reduced, declined
12 for prosecution or dismissed.

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

1 **Section 1.** NRS 212.165 is hereby amended to read as follows:
2 212.165 1. A person shall not, without lawful authorization,
3 knowingly furnish, attempt to furnish, or aid or assist in furnishing
4 or attempting to furnish to a prisoner confined in an institution or a
5 facility of the Department of Corrections, or any other place where
6 prisoners are authorized to be or are assigned by the Director of the
7 Department, a portable telecommunications device. A person who
8 violates this subsection is guilty of a category E felony and shall be
9 punished as provided in NRS 193.130.

10 2. A person shall not, without lawful authorization, carry into
11 an institution or a facility of the Department, or any other place
12 where prisoners are authorized to be or are assigned by the Director
13 of the Department, a portable telecommunications device. A person
14 who violates this subsection is guilty of a misdemeanor.

15 3. A prisoner confined in an institution or a facility of the
16 Department, or any other place where prisoners are authorized to be
17 or are assigned by the Director of the Department, shall not, without
18 lawful authorization, possess or have in his or her custody or control
19 a portable telecommunications device. A prisoner who violates this
20 subsection is guilty of a category D felony and shall be punished as
21 provided in NRS 193.130.

22 4. *A prisoner confined in a jail or any other place where such*
23 *prisoners are authorized to be or are assigned by the sheriff, chief*
24 *of police or other officer responsible for the operation of the jail,*
25 *shall not, without lawful authorization, possess or have in his or*
26 *her custody or control a portable telecommunications device. A*
27 *prisoner who violates this subsection and who is in lawful custody*
28 *or confinement for a charge, conviction or sentence for:*

29 *(a) A felony is guilty of a category D felony and shall be*
30 *punished as provided in NRS 193.130.*

31 *(b) A gross misdemeanor is guilty of a gross misdemeanor.*

32 *(c) A misdemeanor is guilty of a misdemeanor.*

33 5. A sentence imposed upon a prisoner pursuant to subsection
34 3 ~~or~~ 4:

35 (a) Is not subject to suspension or the granting of probation; and

36 (b) Must run consecutively after the prisoner has served any
37 sentences imposed upon the prisoner for the offense or offenses for



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1 which the prisoner was in lawful custody or confinement when the
2 prisoner violated the provisions of subsection 3 ~~†~~
3 ~~—5.† or 4.~~

4 *6. A person who was convicted and sentenced pursuant to*
5 *subsection 4 may file a petition, if the underlying charge for which*
6 *the person was in lawful custody or confinement has been reduced*
7 *to a charge for which the penalty is less than the penalty which*
8 *was imposed upon the person pursuant to subsection 4, with the*
9 *court of original jurisdiction requesting that the court, for good*
10 *cause shown:*

11 *(a) Order that his or her sentence imposed pursuant to*
12 *subsection 4 be modified to a sentence equivalent to the penalty*
13 *imposed for the underlying charge for which the person was*
14 *convicted; and*

15 *(b) Resentence him or her in accordance with the penalties*
16 *prescribed for the underlying charge for which the person was*
17 *convicted.*

18 *7. A person who was convicted and sentenced pursuant to*
19 *subsection 4 may file a petition, if the underlying charge for which*
20 *the person was in lawful custody or confinement has been*
21 *declined for prosecution or dismissed, with the court of original*
22 *jurisdiction requesting that the court, for good cause shown:*

23 *(a) Order that his or her original sentence pursuant to*
24 *subsection 4 be reduced to a misdemeanor; and*

25 *(b) Resentence him or her in accordance with the penalties*
26 *prescribed for a misdemeanor.*

27 *8. No person has a right to the modification of a sentence*
28 *pursuant to subsection 6 or 7, and the granting or denial of a*
29 *petition pursuant to subsection 6 or 7 does not establish a basis for*
30 *any cause of action against this State, any political subdivision of*
31 *this State or any agency, board, commission, department, officer,*
32 *employee or agent of this State or a political subdivision of this*
33 *State.*

34 *9. As used in this section:*

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

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

37 *(c) "Jail" means a jail, branch county jail or other local*
38 *detention facility.*

39 *(d) "Telecommunications device" has the meaning ascribed to it*
40 *in subsection 3 of NRS 209.417.*

