

ASSEMBLY BILL NO. 299—ASSEMBLYMEN FIORE, HICKEY, HARDY;
PAUL ANDERSON, DUNCAN, ELLISON, GRADY, HAMBRICK,
HANSEN, KIRNER, LIVERMORE, OSCARSON, WHEELER AND
WOODBURY

MARCH 15, 2013

JOINT SPONSORS: SENATORS HAMMOND; CEGAVSKE,
GUSTAVSON, KIECKHEFER AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to the provision of
medical and dental services within the Department of
Corrections. (BDR 16-749)

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 the Department of Corrections; requiring the
Director of the Department to contract with physicians
and dentists who provide medical and dental services to
offenders serving terms of imprisonment in an institution
or facility of the Department; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the Director of the Department of Corrections, with the
2 approval of the Board of State Prison Commissioners, to adopt standards for the
3 medical and dental services of each institution or facility of the Department. (NRS
4 209.381) Under existing law, a state agency may contract for the services of a
5 person as an independent contractor. (NRS 333.700) Existing law also establishes
6 certain restrictions on state agencies that enter into contracts with a person to
7 provide services for the agency, including, without limitation, prohibiting a state
8 agency from entering into a contract with a former employee of a state agency if
9 less than 2 years have expired since the termination of that person's employment
10 with the State unless, before the contract is executed by the agency, the State Board
11 of Examiners approves the employment of that person. (NRS 284.1729) Under
12 existing law, a person who enters into a contract to provide medical services for the
13 Department of Corrections is treated the same as an employee of the state for the



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purposes of any civil action arising out of an act or omission within the scope of the person's employment. (NRS 41.0307)

Section 1 of this bill requires the Director of the Department of Corrections to contract with physicians and dentists to provide as independent contractors medical and dental services to offenders who are serving a term of imprisonment in an institution or facility of the Department. Under **section 4** of this bill, a physician or dentist employed by the Department to provide medical or dental services may continue to perform such services as an employee of the Department until the Department enters into a contract with a physician or dentist to perform those services.

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

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall contract for the services of physicians and dentists, in accordance with the provisions of NRS 333.700, to provide medical and dental services to offenders who are serving terms of imprisonment in an institution or facility.

2. Any physician or dentist who provides medical or dental services to offenders who are serving terms of imprisonment in an institution or facility must be an independent contractor with the Department pursuant to subsection 1.

Sec. 2. NRS 209.3925 is hereby amended to read as follows:

209.3925 1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his or her sentence, if:

(a) The Director has reason to believe that the offender is:

(1) Physically incapacitated or in ill health to such a degree that the offender does not presently, and likely will not in the future, pose a threat to the safety of the public; or

(2) In ill health and expected to die within 12 months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and

(b) At least two physicians licensed pursuant to chapter 630 or 633 of NRS ~~1, one of whom is not employed by the Department,~~ verify, in writing, that the offender is:

(1) Physically incapacitated or in ill health; or

(2) In ill health and expected to die within 12 months.

2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least



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45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:

(a) If the offender will reside within this State after the offender is released from the custody of the Department, the board of county commissioners of the county in which the offender will reside; and

(b) The Division of Parole and Probation.

3. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:

(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and

(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.

➔ If a current address has not been provided by a victim as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

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 or her residential confinement or other appropriate supervision as determined by the Division of Parole and Probation:

(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 the offender 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 the Director 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 the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,



1 ➤ except that the offender is not entitled to obtain any benefits or to
2 participate in any programs provided to offenders in the custody of
3 the Department.

4 6. The Director may not assign an offender to the custody of
5 the Division of Parole and Probation pursuant to this section if the
6 offender is sentenced to death or imprisonment for life without the
7 possibility of parole.

8 7. An offender does not have a right to be assigned to the
9 custody of the Division of Parole and Probation pursuant to this
10 section, or to remain in that custody after such an assignment, and it
11 is not intended that the provisions of this section or of NRS 213.371
12 to 213.410, inclusive, create any right or interest in liberty or
13 property or establish a basis for any cause of action against the
14 State, its political subdivisions, agencies, boards, commissions,
15 departments, officers or employees.

16 **Sec. 3.** NRS 41.0307 is hereby amended to read as follows:

17 41.0307 As used in NRS 41.0305 to 41.039, inclusive:

18 1. "Employee" includes an employee of a:

19 (a) Part-time or full-time board, commission or similar body of
20 the State or a political subdivision of the State which is created by
21 law.

22 (b) Charter school.

23 (c) University school for profoundly gifted pupils described in
24 chapter 392A of NRS.

25 2. "Employment" includes any services performed by an
26 immune contractor.

27 3. "Immune contractor" means any natural person, professional
28 corporation or professional association which:

29 (a) Is an independent contractor with the State pursuant to NRS
30 333.700; and

31 (b) Contracts to provide medical *or dental* services for the
32 Department of Corrections.

33 ➤ As used in this subsection, "professional corporation" and
34 "professional association" have the meanings ascribed to them in
35 NRS 89.020.

36 4. "Public officer" or "officer" includes:

37 (a) A member of a part-time or full-time board, commission or
38 similar body of the State or a political subdivision of the State which
39 is created by law.

40 (b) A public defender and any deputy or assistant attorney of a
41 public defender or an attorney appointed to defend a person for a
42 limited duration with limited jurisdiction.

43 (c) A district attorney and any deputy or assistant district
44 attorney or an attorney appointed to prosecute a person for a limited
45 duration with limited jurisdiction.



1 **Sec. 4.** Notwithstanding the provisions of section 1 of this act,
2 any physician or dentist employed by the Department of Corrections
3 on July 1, 2013, may continue to provide medical or dental services
4 as an employee of the Department to offenders who are serving a
5 term of imprisonment in an institution or facility of the Department
6 until the Director of the Department contracts with a physician or
7 dentist to provide such services pursuant to the provisions of section
8 1 of this act.

9 **Sec. 5.** This act becomes effective on July 1, 2013.

