

Amendment No. 674

Senate Amendment to Assembly Bill No. 212 First Reprint (BDR 16-639)

Proposed by: Senate Committee on Judiciary

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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.

NCA/BAW



Date: 5/21/2013

A.B. No. 212—Prohibits the possession of portable telecommunications devices by certain prisoners. (BDR 16-639)



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:

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

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

Section 1. NRS 212.165 is hereby amended to read as follows:

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

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

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

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

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

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

(c) A misdemeanor is guilty of a misdemeanor.

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

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

(b) Must run consecutively after the prisoner has served any sentences imposed upon the prisoner for the offense or offenses for which the prisoner was in lawful custody or confinement when the prisoner violated the provisions of subsection 3 ~~†~~ ~~5-†~~ or 4.

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

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

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

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

1 (a) Order that his or her original sentence pursuant to subsection 4 be
2 reduced to a misdemeanor; and

3 (b) Resentence him or her in accordance with the penalties prescribed for a
4 misdemeanor.

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

10 9. As used in this section:

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

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

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

14 (d) "Telecommunications device" has the meaning ascribed to it in subsection
15 of NRS 209.417.