

Amendment No. 205

Senate Amendment to Senate Bill No. 294	(BDR 16-282)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DP/NCA



Date: 4/1/2015

S.B. No. 294—Expands authorization for certain offenders to have access to telecommunications devices under certain circumstances.
(BDR 16-282)



SENATE BILL NO. 294—SENATORS PARKS, FORD, KIHUEN;
DENIS, MANENDO AND WOODHOUSE (BY REQUEST)

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Expands authorization for certain offenders to have access to telecommunications devices under certain circumstances. (BDR 16-282)

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 offenders; expanding the authorization for offenders to have access to telecommunications devices under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits offenders from having access to telecommunications devices except under certain circumstances. (NRS 209.417) This bill authorizes the Department of Corrections to enter into an agreement with an offender allowing the offender to use telecommunications devices for certain purposes related to education and employment.

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

Section 1. NRS 209.417 is hereby amended to read as follows:

209.417 1. Except as otherwise provided in ~~subsection 2,~~ *this section*, the warden or manager of an institution or facility shall ensure that no offender in the institution or facility *, or in a vehicle of the Department*, has access to a telecommunications device.

2. An offender may use a telephone or, for the purpose of communicating with his or her child pursuant to NRS 209.42305, any other approved telecommunications device subject to the limitations set forth in NRS 209.419.

3. *The Department may enter into an agreement with an offender who is assigned to transitional housing, a center for the purpose of making restitution pursuant to NRS 209.4827 to 209.4843, inclusive, or a specific program of education or vocational training authorizing the offender to use a telecommunications device:*

(a) To access a network, including, without limitation, the Internet, for the purpose of:

1 ***(1) Obtaining educational or vocational training that is approved by the***
2 ***Department;***

3 ***(2) Searching for or applying for employment; or***

4 ***(3) Performing essential job functions.***

5 ***(b) For any other purpose if a telecommunications device is required by an***
6 ***employer of the offender to perform essential job functions.***

7 4. As used in this section, “telecommunications device” means a device, or an
8 apparatus associated with a device, that can enable an offender to communicate
9 with a person outside of the institution or facility at which the offender is
10 incarcerated. The term includes, without limitation, a telephone, a cellular
11 telephone, a personal digital assistant, a transmitting radio or a computer that is
12 connected to a computer network, is capable of connecting to a computer network
13 through the use of wireless technology or is otherwise capable of communicating
14 with a person or device outside of the institution or facility.

15 **Sec. 2.** NRS 212.165 is hereby amended to read as follows:

16 212.165 1. A person shall not, without lawful authorization, knowingly
17 furnish, attempt to furnish, or aid or assist in furnishing or attempting to furnish to a
18 prisoner confined in an institution or a facility of the Department of Corrections, or
19 any other place where prisoners are authorized to be or are assigned by the Director
20 of the Department, a portable telecommunications device. A person who violates
21 this subsection is guilty of a category E felony and shall be punished as provided in
22 NRS 193.130.

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

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

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

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

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

42 (c) A misdemeanor is guilty of a misdemeanor.

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

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

45 (b) Must run consecutively after the prisoner has served any sentences imposed
46 upon the prisoner for the offense or offenses for which the prisoner was in lawful
47 custody or confinement when the prisoner violated the provisions of subsection 3 or
48 4.

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

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

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

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

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

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

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

19 9. As used in this section:

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

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

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

23 (d) "Telecommunications device" has the meaning ascribed to it in subsection
24 ~~4~~ 4 of NRS 209.417.

25 **Sec. 3.** This act becomes effective upon passage and approval.