

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:

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

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

1 **Section 1.** NRS 209.417 is hereby amended to read as follows:
2 209.417 1. Except as otherwise provided in ~~subsection 2,~~
3 *this section*, the warden or manager of an institution or facility shall
4 ensure that no offender in the institution or facility, *or in a vehicle*
5 *of the Department*, has access to a telecommunications device.
6 2. An offender may use a telephone or, for the purpose of
7 communicating with his or her child pursuant to NRS 209.42305,
8 any other approved telecommunications device subject to the
9 limitations set forth in NRS 209.419.



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3. *The Department may enter into an agreement with an offender authorizing the offender to use a telecommunications device:*

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

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

(2) Searching for or applying for employment; or

(3) Performing essential job functions.

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

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

Sec. 2. 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



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1 police or other officer responsible for the operation of the jail, shall
2 not, without lawful authorization, possess or have in his or her
3 custody or control a portable telecommunications device. A prisoner
4 who violates this subsection and who is in lawful custody or
5 confinement for a charge, conviction or sentence for:

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

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

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

10 5. A sentence imposed upon a prisoner pursuant to subsection
11 3 or 4:

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

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

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

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

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

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

35 (a) Order that his or her original sentence pursuant to subsection
36 4 be reduced to a misdemeanor; and

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

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

45 9. As used in this section:



- 1 (a) “Facility” has the meaning ascribed to it in NRS 209.065.
- 2 (b) “Institution” has the meaning ascribed to it in NRS 209.071.
- 3 (c) “Jail” means a jail, branch county jail or other local detention
- 4 facility.
- 5 (d) “Telecommunications device” has the meaning ascribed to it
- 6 in subsection ~~3~~ 4 of NRS 209.417.
- 7 **Sec. 3.** This act becomes effective upon passage and approval.

