

Amendment No. 827

Senate Amendment to Assembly Bill No. 420 First Reprint
(BDR 16-1073)

Proposed by: Senate Committee on Judiciary

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 420 R1 (§ 1).

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.

VG/NCA



Date: 5/22/2017

A.B. No. 420—Revises provisions governing the use of electronic devices by offenders. (BDR 16-1073)



ASSEMBLY BILL NO. 420—ASSEMBLYMAN OHRENSCHALL

MARCH 27, 2017

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions governing the use of electronic devices by offenders. (BDR 16-1073)

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 corrections; authorizing the Director of the Department of Corrections to establish by regulation a charge on the use of videoconference equipment by offenders to conduct certain visits; ~~revising provisions governing the use of electronic devices by offenders for certain purposes;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that money received for the benefit of offenders through contributions, that is not required to be deposited elsewhere, be placed in the Offenders' Store Fund and expended for the welfare and benefit of all offenders sentenced to imprisonment in the state prison. (NRS 209.221) Existing law additionally requires the Department of Corrections, under certain circumstances, to allow a prisoner to videoconference with his or her child if such equipment is available. (NRS 209.42305) Section 1 of this bill authorizes the Director of the Department, ~~of Corrections,~~ with approval of the Board of State Prison Commissioners, to establish by regulation a charge on the use by offenders of videoconferencing equipment for conducting visits and correspondence to defray the costs of operating and maintaining such equipment. Section 1 also prohibits such a charge on the use of videoconference equipment for an offender to conduct a visit or correspondence with his or her child.

~~Existing law prohibits offenders from having access to telecommunications devices except under certain circumstances. (NRS 209.417) Section 2 of this bill authorizes an offender to use an approved telecommunications device to conduct certain visits and correspondence. Section 2 also authorizes the Department to enter into an agreement with an offender allowing the offender to use a telecommunications device for certain purposes related to correctional activities and educational, vocational and legal research.~~

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

Section 1. NRS 209.221 is hereby amended to read as follows:

209.221 1. The Offenders' Store Fund is hereby created as a special revenue fund. All money received for the benefit of offenders through contributions, and from other sources not otherwise required to be deposited in another fund, must be deposited in the Offenders' Store Fund.

2. The Director shall:

(a) Keep, or cause to be kept, a full and accurate account of the Fund;

(b) Submit reports to the Board relative to money in the Fund as may be required from time to time; and

(c) Submit a monthly report to the offenders of the amount of money in the Fund by posting copies of the report at locations accessible to offenders generally or by delivery of copies to the appropriate representatives of the offenders if any are selected.

3. Except as otherwise provided in subsections 4 to ~~9~~ 10, inclusive, money in the Offenders' Store Fund, except interest earned upon it, must be expended for the welfare and benefit of all offenders.

4. If necessary to cover a shortfall of money in the Prisoners' Personal Property Fund, the Director may, after obtaining the approval of the Interim Finance Committee, authorize the State Controller to transfer money from the Offenders' Store Fund to the Prisoners' Personal Property Fund, and the State Controller shall make the transfer.

5. If an offender has insufficient money in his or her individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the Director shall authorize the State Controller to transfer sufficient money from the Offenders' Store Fund to the appropriate account in the State General Fund to pay costs remaining unpaid, and the State Controller shall make the transfer. Any money so transferred must be accounted for separately. The Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

6. If the Department incurs costs related to state property that has been willfully damaged, destroyed or lost or incurs costs related to medical examination, diagnosis or treatment for an injury to an offender, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray those costs if:

(a) The Director has reason to believe that an offender caused the damage, destruction, loss or injury; and

(b) The identity of the offender is unknown or cannot be determined by the Director with reasonable certainty.

➤ The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. If the identity of the offender is determined after money has been transferred, the Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

7. The Director may, with approval of the Board, establish by regulation criteria for a reasonable deduction from money credited to the Offenders' Store Fund to repay or defray the costs relating to the operation and maintenance of the offenders' store, coffee shop, gymnasium and correctional officers' salaries for visitation posts where they exist in each facility. Any regulations adopted pursuant

1 to this subsection must be adopted in accordance with the provisions of chapter
2 233B of NRS.

3 8. The Director may, with approval of the Board, establish by regulation a
4 charge on the purchase of electronic devices by offenders to defray the costs
5 relating to the operation of the devices. The Director shall utilize the proceeds
6 collected from the charge established for operation of the devices to offset the
7 energy costs of the facilities within the Department. Any regulations adopted
8 pursuant to this subsection must be adopted in accordance with the provisions of
9 chapter 233B of NRS.

10 9. *The Director may, with approval of the Board, establish by regulation a*
11 *charge on the use by offenders of videoconferencing equipment for conducting*
12 *visits or correspondence which is authorized pursuant to NRS 209.423 and*
13 *subject to the limitations set forth in NRS 209.419, to defray the costs relating to*
14 *the operation and maintenance of the equipment. Such charges must not include*
15 *a charge on the use by an offender of videoconferencing equipment for*
16 *conducting visits or correspondence with his or her child pursuant to NRS*
17 *209.42305. The Director shall utilize the proceeds collected from the charge*
18 *established for the operation and maintenance of the equipment to offset the costs*
19 *of operating and maintaining the videoconferencing equipment and correctional*
20 *officers' salaries for posts for conducting visits by videoconference where the*
21 *posts exist in each facility.*

22 10. If an offender who has been assigned to a center for the purpose of
23 making restitution is returned to an institution for committing an infraction of the
24 regulations of the Department and the center has not been fully compensated for the
25 cost of providing the offender with housing, transportation, meals, or medical or
26 dental services at the center, the Director may authorize the State Controller to
27 transfer money from the Offenders' Store Fund to the appropriate account in the
28 State General Fund to repay or defray those costs. The State Controller shall make
29 the transfer if authorized by the Director. Any money transferred must be accounted
30 for separately. The Director shall cause the Offenders' Store Fund to be reimbursed
31 from the offender's individual account in the Prisoners' Personal Property Fund, as
32 money becomes available.

33 ~~H0+~~ 11. If an offender has insufficient money in his or her individual
34 account in the Prisoners' Personal Property Fund to repay or defray costs assessed
35 to the offender pursuant to NRS 209.246, the offender shall sign a statement under
36 penalty of perjury concerning his or her financial situation. Such a statement must
37 include, but is not limited to, the following information:

- 38 (a) The value of any interest the offender has in real estate;
39 (b) The value of the personal property of the offender;
40 (c) The assets in any bank account of the offender; and
41 (d) The employment status of the offender.

42 ~~H1+~~ 12. The statement required by subsection ~~H0+~~ 11 must also authorize
43 the Department to access any relevant document, for the purpose of verifying the
44 accuracy of the information provided by the offender pursuant to this section,
45 including, but not limited to, information regarding any bank account of the
46 offender, information regarding any bank account held in trust for the offender and
47 any federal income tax return, report or withholding form of the offender.

48 ~~H2+~~ 13. An offender who conceals assets from the Department or provides
49 false or misleading information on a statement prepared pursuant to this section is
50 guilty of a gross misdemeanor.

51 ~~H3+~~ 14. A person who aids or encourages an offender to conceal assets from
52 the Department or to provide false or misleading information on a statement
53 prepared pursuant to this section is guilty of a gross misdemeanor.

Sec. 2. ~~NRS 209.417 is hereby amended to read as follows:~~

~~209.417 1. Except as otherwise provided in 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 209.42205, any other approved telecommunications device subject to the limitations set forth in NRS 209.419.~~

~~3. An offender may use an approved telecommunications device for the purpose of conducting a visit or correspondence which is authorized pursuant to NRS 209.423, subject to the limitations set forth in NRS 209.419.~~

~~4. The Department may enter into an agreement with [an]:~~

~~(a) An offender authorizing the offender to use a telecommunications device to facilitate or participate in correctional activities or to perform educational, vocational or legal research, subject to the limitations set forth in NRS 209.419; or~~

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

~~[(1)] (I) Obtaining educational or vocational training that is approved by the Department;~~

~~[(2)] (II) Searching for or applying for employment; or~~

~~[(3)] (III) Performing essential job functions.~~

~~[(b)] (2) For any other purpose if a telecommunications device is required by an employer of the offender to perform essential job functions.~~

~~4.1 5. 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.]~~

(Deleted by amendment.)

Sec. 3. ~~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 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:

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

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

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

9. As used in this section:

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

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

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

(d) "Telecommunications device" has the meaning ascribed to it in subsection [4] 5 of NRS 209.417. **(Deleted by amendment.)**

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2018, for all other purposes.