

Amendment No. 1046

Senate Amendment to Senate Bill No. 306 First Reprint

(BDR 16-298)

Proposed by: Senator Ford

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

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.

NCA



Date: 5/30/2017

S.B. No. 306—Revises provisions relating to offenders. (BDR 16-298)



SENATE BILL NO. 306—SENATORS FORD, PARKS, CANCELA, ATKINSON, FARLEY;
DENIS, MANENDO, RATTI, SEGERBLOM, SPEARMAN AND WOODHOUSE

MARCH 17, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to offenders. (BDR 16-298)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Contains Appropriation not included in
Executive Budget.

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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~~ revising provisions governing the authorization for offenders to have access to telecommunications devices under certain circumstances; authorizing the Department of Corrections to create a pilot program governing certain uses of telecommunications devices by offenders; directing the Board of State Prison Commissioners to create a pilot program of education and training for certain offenders; setting forth the goals and functions of the pilot program ~~of~~ of education and training; making an appropriation; 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 ~~it~~ including pursuant to an agreement with the Department of Corrections. (NRS 209.417) **Section 1** of this bill removes the authority to enter into such agreements and instead authorizes ~~it~~ (1) an offender to use a telecommunications device for visits and correspondence under certain circumstances; and (2) the Director of the Department of Corrections to adopt regulations, with the approval of the Board of State Prison Commissioners, governing the use of telecommunications devices for certain purposes related to education and employment. Section 1.7 of this bill provides for the development, creation and operation of a pilot program that will operate in this State from July 1, 2017, through June 30, 2019, for the purpose of authorizing the Department to allow certain offenders to use telecommunications devices for certain reentry programs and services.

Existing law requires the Board of State Prison Commissioners to adopt regulations to establish programs of general education, vocational education and training and other rehabilitation for offenders. (NRS 209.389) **Section 3** of this bill provides for the development, creation and operation of a pilot program that will operate in this State from July 1, 2017, through June 30, 2019, and focus its efforts on a program of education and training for certain offenders.

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 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, if authorized pursuant to NRS 209.423, may use a telecommunications device for visits and correspondence between the offender and appropriate friends, relatives and others, subject to the limitations set forth in NRS 209.419.*~~

~~3. 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] Director may [enter into an agreement with], with the approval of the Board, adopt regulations authorizing 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) 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. 1.5. ~~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 192.120.~~

~~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 192.130.

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 192.130.

(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. 1.7. 1. The Department of Corrections may develop a pilot program authorizing offenders to use a telecommunications device, which may not include direct Internet access, for programs for reentry and direct correctional services.

2. An offender authorized to use a telecommunications device pursuant to this section must be determined to be eligible by the Department and meet the minimum criteria to be eligible for programs of reentry into the community, including any appropriate assessment based on the Nevada Risk Assessment Services instrument.

3. Any communication made by an offender pursuant to this section is subject to monitoring, security and the limitations set forth in NRS 209.419.

4. As used in this section:

(a) “Direct correctional service” means a service related to an internal grievance, or a request for medical or mental health.

(b) “Program for reentry” means a program for the rehabilitation of offenders for reentry into the community, including without limitation, programs for education, vocational education, mental health or substance abuse treatment.

(c) “Telecommunications device” has the meaning ascribed to it in NRS 209.417.

Sec. 2. The Legislature finds and declares that:

1. It is in the interest of the State to enhance the existing programs of education and training for certain offenders for the purpose of:

(a) Increasing employment and education opportunities for offenders who are released from custody; and

(b) Reducing the risk of recidivism.

2. Offenders convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison:

(a) Should be offered education and training to prepare the offender for a seamless transition to higher education upon release from custody; and

(b) Who receive such education and training will improve his or her quality of life.

3. It is the intent of the Legislature that resources be provided for the operation of the pilot program described in section 3 of this act.

4. The purpose of the pilot program described in section 3 of this act is to reduce future costs to this State and increase the employability of offenders by enhancing the programs of education and training for certain offenders.

Sec. 3. 1. The Board in consultation with the College of Southern Nevada shall develop, create and administer a pilot program of education and training for certain offenders with a view towards increasing the employability of those offenders.

2. Under the auspices of the pilot program, the College of Southern Nevada shall, in cooperation with the Board:

(a) Expand opportunities for offenders in Clark County to:

(1) Successfully complete the high school equivalency assessment provided by the State Board of Education;

(2) Participate in programs related to college and career readiness;

(3) Receive vocational education and training; and

(4) Receive counseling related to the reentry of offenders;

(b) Provide job placement assistance to offenders upon release of custody; and

(c) Partner with the Department of Employment, Training and Rehabilitation, other local agencies and nonprofit organizations whose purpose is to provide counseling, services and assistance relating to the reentry of offenders.

3. To the extent possible, the pilot program must:

(a) Establish the conditions under which an offender may be selected to participate in the pilot program; and

(b) Be conducted with the goal of selecting 50 female offenders and 50 male offenders to participate in the pilot program.

4. As used in this section:

(a) "Board" means the Board of State Prison Commissioners as defined by Section 21 of Article 5 of the Nevada Constitution.

(b) "Offender" means any person convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison.

Sec. 4. There is hereby appropriated from the State General Fund to the Nevada System of Higher Education the sum of \$300,000 to allow the College of Southern Nevada to carry out the pilot program of education and training for certain offenders pursuant to section 3 of this act.

Sec. 5. Any remaining balance of the appropriation made by section 4 of this act must not be committed for expenditure after June 30, 2019, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 6. 1. This act becomes effective upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act, and on July 1, 2017, for all other purposes.

2. Sections 1.7, 2 and 3 of this act expire by limitation on June 30, 2019.