

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.

~

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; 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; 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. (NRS 209.417) **Section 1** of this bill authorizes: (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.

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:

1 **Section 1.** NRS 209.417 is hereby amended to read as follows:
2 209.417 1. Except as otherwise provided in this section, the
3 warden or manager of an institution or facility shall ensure that no
4 offender in the institution or facility, or in a vehicle of the
5 Department, has access to a telecommunications device.

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

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

14 ~~{3-}~~ 4. The ~~{Department}~~ *Director* may ~~{enter into an~~
15 ~~agreement with}~~ , *with the approval of the Board, adopt*
16 *regulations authorizing* an offender who is assigned to transitional
17 housing, a center for the purpose of making restitution pursuant to
18 NRS 209.4827 to 209.4843, inclusive, or a specific program of
19 education or vocational training ~~{authorizing the offender}~~ to use a
20 telecommunications device:

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

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

25 (2) Searching for or applying for employment; or

26 (3) Performing essential job functions.

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

30 ~~{4-}~~ 5. As used in this section, "telecommunications device"
31 means a device, or an apparatus associated with a device, that can
32 enable an offender to communicate with a person outside of the
33 institution or facility at which the offender is incarcerated. The term
34 includes, without limitation, a telephone, a cellular telephone, a
35 personal digital assistant, a transmitting radio or a computer that is
36 connected to a computer network, is capable of connecting to a
37 computer network through the use of wireless technology or is
38 otherwise capable of communicating with a person or device outside
39 of the institution or facility.

40 **Sec. 1.5.** NRS 212.165 is hereby amended to read as follows:

41 212.165 1. A person shall not, without lawful authorization,
42 knowingly furnish, attempt to furnish, or aid or assist in furnishing



1 or attempting to furnish to a prisoner confined in an institution or a
2 facility of the Department of Corrections, or any other place where
3 prisoners are authorized to be or are assigned by the Director of the
4 Department, a portable telecommunications device. A person who
5 violates this subsection is guilty of a category E felony and shall be
6 punished as provided in NRS 193.130.

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

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

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

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

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

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

30 5. A sentence imposed upon a prisoner pursuant to subsection
31 3 or 4:

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

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

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

43 (a) Order that his or her sentence imposed pursuant to
44 subsection 4 be modified to a sentence equivalent to the penalty



1 imposed for the underlying charge for which the person was
2 convicted; and

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

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

11 (a) Order that his or her original sentence pursuant to subsection
12 4 be reduced to a misdemeanor; and

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

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

21 9. As used in this section:

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

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

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

26 (d) "Telecommunications device" has the meaning ascribed to it
27 in subsection ~~44~~ 5 of NRS 209.417.

28 **Sec. 2.** The Legislature finds and declares that:

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

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

34 (b) Reducing the risk of recidivism.

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

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

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

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



* S B 3 0 6 R 1 *

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



1 was appropriated or the entity to which the money was subsequently
2 granted or transferred, and must be reverted to the State General
3 Fund on or before September 20, 2019.

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

8 2. Sections 2 and 3 of this act expire by limitation on June 30,
9 2019.

