

ASSEMBLY BILL NO. 61—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the authority of the Director of the Department of Corrections to assign certain offenders to serve a term of residential confinement. (BDR 16-203)

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; revising provisions relating to the residential confinement of offenders who are in a program of treatment for the abuse of alcohol or drugs; requiring the Division of Parole and Probation of the Department of Public Safety to notify victims of certain information relating to residential confinement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections to establish a program of treatment for offenders who are abusers of alcohol or drugs. (NRS 209.425) Pursuant to such a program of treatment, after an initial period of rehabilitation in a facility of the Department, existing law requires the Director to assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement. (NRS 209.425, 209.427, 209.429) **Section 1** of this bill: (1) authorizes rather than requires the Director to assign offenders in a program of treatment to residential confinement; and (2) prohibits the Director from assigning offenders to residential confinement who have failed or refused to comply with the entire program of treatment or any other program related to the classification of the offender.

Existing law provides that if a victim of an offender serving a term of imprisonment in state prison has submitted a request to be notified of the consideration of a prisoner for parole to the State Board of Parole Commissioners, the Division of Parole and Probation of the Department of Public Safety is required to notify the victim of: (1) the offender's request to serve a term of residential confinement and the victim's right to submit documents regarding the request to the



Division; and (2) the intent to assign the offender to residential confinement and the victim's right to submit documents regarding the assignment. (NRS 209.392, 209.3925) **Section 1** similarly requires the Division to notify the victim of an offender of: (1) the intent of the Director of the Department of Corrections to consider whether to assign the offender to serve a term of residential confinement pursuant to a program for the treatment of an abuser of alcohol or drugs; and (2) the victim's right to submit documents regarding the assignment.

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

Section 1. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in ~~subsection 6,~~
subsections 7 and 8, the Director ~~shall~~ *may* assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term or the maximum aggregate term, as applicable, of his or her sentence if the offender has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his or her confinement and to meet any existing obligation for restitution to any victim of his or her crime.

2. *Before the Director assigns an offender to serve a term of residential confinement pursuant to this section, the Director shall notify the Division of Parole and Probation. Except as otherwise provided in NRS 213.10915, if any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that the Director intends to consider whether to assign the offender to serve a term of residential confinement pursuant to this section and advise the victim that the victim may submit documents for the consideration of the Director, regarding such an assignment to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, without limitation, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.*



3. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he or she must submit to the Division of Parole and Probation a signed document stating that:

(a) He or she will comply with the terms or conditions of the residential confinement; and

(b) If he or she fails to comply with the terms or conditions of the residential confinement and is taken into custody outside of this State, he or she waives all rights relating to extradition proceedings.

~~13.1~~ 4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his or her residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by the offender to reduce his or her sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding forfeiture of credits is final.

~~14.1~~ 5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~15.1~~ 6. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

~~16.1~~ 7. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement



1 unless the Director makes a finding that the offender is not likely to
2 pose a threat to the victim of the battery.

3 ~~[7.]~~ 8. *The Director shall not assign an offender to the*
4 *custody of the Division of Parole and Probation to serve a term of*
5 *residential confinement if the Director determines that the*
6 *offender has failed or refused to comply with any term or*
7 *condition of the entire program of treatment or any term or*
8 *condition of any other program related to the classification of the*
9 *offender.*

10 9. The Division of Parole and Probation may receive and
11 distribute restitution paid by an offender assigned to the custody of
12 the Division of Parole and Probation pursuant to this section.

13 10. *As used in this section, "entire program" has the meaning*
14 *ascribed to it in NRS 209.427.*

15 **Sec. 2.** NRS 213.10915 is hereby amended to read as follows:

16 213.10915 1. The Board, in consultation with the Division,
17 may enter into an agreement with the manager of an automated
18 victim notification system to notify victims of the information
19 described in NRS 209.392 , ~~[and]~~ 209.3925 *and 209.429* and
20 subsections 4 and 7 of NRS 213.131 through the system if the
21 system is capable of:

22 (a) Automatically notifying by telephone or electronic means a
23 victim registered with the system of the information described in
24 NRS 209.392 , ~~[and]~~ 209.3925 *and 209.429* and subsections 4 and 7
25 of NRS 213.131 with the timeliness required by NRS 209.392 ,
26 ~~[and]~~ 209.3925 *and 209.429* and subsections 4 and 7 of NRS
27 213.131; and

28 (b) Notifying victims registered with the system, using language
29 provided by the Board, if the Board decides that it will discontinue
30 the use of the system to notify victims of the information described
31 in NRS 209.392 , ~~[and]~~ 209.3925 *and 209.429* and subsections 4
32 and 7 of NRS 213.131. The notice must:

33 (1) Be provided to each victim registered with the system not
34 less than 90 days before the date on which the Board will
35 discontinue use of the system; and

36 (2) Advise each victim to submit a written request for
37 notification pursuant to subsection 4 of NRS 213.131 if the victim
38 wishes to receive notice of the information described in NRS
39 209.392 , ~~[and]~~ 209.3925 *and 209.429* and subsections 4 and 7 of
40 NRS 213.131.

41 2. The Division is not required to notify the victim of an
42 offender of the information described in NRS 209.392 , ~~[and]~~
43 209.3925 *and 209.429*, and the Board is not required to notify the
44 victim of a prisoner of the information described in subsections 4
45 and 7 of NRS 213.131 if:



(a) The Board has entered into an agreement pursuant to subsection 1; and

(b) Before discontinuing the notification of victims pursuant to NRS 209.392 , ~~and~~ 209.3925 *and 209.429* and subsections 4 and 7 of NRS 213.131, the Board, not less than two times and not less than 60 days apart, has notified each victim who has requested notification pursuant to subsection 4 of NRS 213.131 and who has provided his or her current address or whose current address is otherwise known by the Board of the change in the manner in which a victim is notified of the information described in NRS 209.392 , ~~and~~ 209.3925 *and 209.429* and subsections 4 and 7 of NRS 213.131. The notice must:

(1) Advise the victim that the Division will no longer notify the victim of the information described in NRS 209.392 , ~~and~~ 209.3925 ~~and~~ *and 209.429*, that the Board will no longer notify the victim of the information described in subsections 4 and 7 of NRS 213.131, and that the victim may register with the automated victim notification system if he or she wishes to be notified of the information described in NRS 209.392 , ~~and~~ 209.3925 *and 209.429* and subsections 4 and 7 of NRS 213.131; and

(2) Include instructions for registering with the automated victim notification system to receive notice of the information described in NRS 209.392 , ~~and~~ 209.3925 *and 209.429* and subsections 4 and 7 of NRS 213.131.

3. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 3. NRS 178.5698 is hereby amended to read as follows:

178.5698 1. The prosecuting attorney, sheriff or chief of police shall, upon the request of a victim or witness, inform the victim or witness:

(a) When the defendant is released from custody at any time before or during the trial, including, without limitation, when the defendant is released pending trial or subject to electronic supervision;

(b) If the defendant is so released, the amount of bail required, if any; and

(c) Of the final disposition of the criminal case in which the victim or witness was directly involved.

2. A request for information pursuant to subsection 1 must be made:

(a) In writing; or

(b) By telephone through an automated or computerized system of notification, if such a system is available.



3. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

(a) To each witness, documentation that includes:

(1) A form advising the witness of the right to be notified pursuant to subsection 5;

(2) The form that the witness must use to request notification in writing; and

(3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.

(b) To each person listed in subsection 4, documentation that includes:

(1) A form advising the person of the right to be notified pursuant to subsection 5 or 6 and NRS 176.015, 176A.630, 178.4715, 209.392, 209.3925, 209.429, 209.521, 213.010, 213.040, 213.095 and 213.131 or NRS 213.10915;

(2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

4. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 3:

(a) A person against whom the offense is committed.

(b) A person who is injured as a direct result of the commission of the offense.

(c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.

(d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.

(e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

5. Except as otherwise provided in subsection 6, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides a current address, notify the victim or witness at that address when the offender is released from the prison.

6. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, the warden of the prison shall notify:

(a) The immediate family of the victim if the immediate family provides their current address;



(b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides a current address; and

(c) The victim, if the victim will be 18 years of age or older at the time of the release and has provided a current address, ➤ before the offender is released from prison.

7. The warden must not be held responsible for any injury proximately caused by the failure to give any notice required pursuant to this section if no address was provided to the warden or if the address provided is inaccurate or not current.

8. As used in this section:

(a) "Immediate family" means any adult relative of the victim living in the victim's household.

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

(3) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(4) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(5) Incest pursuant to NRS 201.180;

(6) Open or gross lewdness pursuant to NRS 201.210;

(7) Indecent or obscene exposure pursuant to NRS 201.220;

(8) Lewdness with a child pursuant to NRS 201.230;

(9) Sexual penetration of a dead human body pursuant to NRS 201.450;

(10) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;

(11) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;

(12) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or

(14) An attempt to commit an offense listed in this paragraph.

Sec. 4. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,



1 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
2 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130,
3 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,
4 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625,
5 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
6 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772,
7 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925,
8 209.419, **209.429**, 209.521, 211A.140, 213.010, 213.040, 213.095,
9 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625,
10 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450,
11 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105,
12 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
13 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
14 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
15 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
16 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,
17 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,
18 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
19 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,
20 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
21 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
22 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
23 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
24 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
25 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
26 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
27 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
28 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
29 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
30 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
31 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
32 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
33 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
34 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
35 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
36 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
37 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
38 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
39 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
40 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
41 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
42 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
43 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
44 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
45 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,



625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38
and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
chapter 391, Statutes of Nevada 2013 and unless otherwise declared
by law to be confidential, all public books and public records of a
governmental entity must be open at all times during office hours to
inspection by any person, and may be fully copied or an abstract or
memorandum may be prepared from those public books and public
records. Any such copies, abstracts or memoranda may be used to
supply the general public with copies, abstracts or memoranda of the
records or may be used in any other way to the advantage of the
governmental entity or of the general public. This section does not
supersede or in any manner affect the federal laws governing
copyrights or enlarge, diminish or affect in any other manner the
rights of a person in any written book or record which is
copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record
which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a
public book or record shall not deny a request made pursuant to
subsection 1 to inspect or copy or receive a copy of a public book or
record on the basis that the requested public book or record contains
information that is confidential if the governmental entity can
redact, delete, conceal or separate the confidential information from
the information included in the public book or record that is not
otherwise confidential.



1 4. A person may request a copy of a public record in any
2 medium in which the public record is readily available. An officer,
3 employee or agent of a governmental entity who has legal custody
4 or control of a public record:

5 (a) Shall not refuse to provide a copy of that public record in a
6 readily available medium because the officer, employee or agent has
7 already prepared or would prefer to provide the copy in a different
8 medium.

9 (b) Except as otherwise provided in NRS 239.030, shall, upon
10 request, prepare the copy of the public record and shall not require
11 the person who has requested the copy to prepare the copy himself
12 or herself.

13 **Sec. 5.** This act becomes effective on July 1, 2019.

