

Senate Bill No. 32–Committee on Judiciary

CHAPTER.....

AN ACT relating to offenders; revising provisions governing certain programs of treatment for offenders established by the Director of the Department of Corrections; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections, in conjunction with the Division of Public and Behavioral Health of the Department of Health and Human Services and with the approval of the Board of State Prison Commissioners, to establish therapeutic communities to provide treatment to certain offenders with substance use disorders. (NRS 209.4236) **Section 8** of this bill eliminates the requirement that the Director establish such therapeutic communities and instead requires the Director to establish programs of treatment for offenders with substance use or co-occurring disorders. **Sections 2 and 3** of this bill respectively define “co-occurring disorder” and “program of treatment for offenders with substance use or co-occurring disorders” for such purposes. **Section 7** of this bill revises the term “substance use disorder” to conform with the definition contained in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* published by the American Psychiatric Association. **Section 16** of this bill makes a conforming change by eliminating the term “therapeutic community.”

Under existing law, offenders assigned to a therapeutic community must, to the extent practicable, be housed in areas of a facility or institution that are segregated from offenders not assigned to the therapeutic community. (NRS 209.4236) **Section 8** of this bill: (1) authorizes, rather than requires, the Director to segregate offenders assigned to a program of treatment for offenders with substance use or co-occurring disorders from offenders not assigned to such a program; (2) authorizes an offender assigned to a program of treatment for offenders with substance use or co-occurring disorders to be taken outside an institution or facility, under appropriate precautions to prevent escape, to participate in a program of treatment for offenders with substance use or co-occurring disorders; and (3) changes the period of required participation in a program of treatment or aftercare from 1 year to a minimum of 5 months for such a program of treatment and a minimum of 3 months for a program of aftercare, as deemed appropriate.

Existing law also requires the Director, in conjunction with the Division of Public and Behavioral Health of the Department of Health and Human Services and with the approval of the Board of State Prison Commissioners, to establish one or more programs of aftercare to provide continuing treatment to offenders who successfully complete treatment in a therapeutic community. (NRS 209.4238) **Section 10** of this bill instead requires the Director to establish programs of aftercare to provide continuing treatment for offenders who successfully complete a program of treatment for offenders with substance use or co-occurring disorders established pursuant to **section 8**.

Sections 4-6 and 9-15 of this bill make conforming changes by replacing the terms “therapeutic community” and “therapeutic communities” with the term “program of treatment for offenders with substance use or co-occurring disorders.”



EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for mitted-material~~ is material to be omitted.

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

Section 1. Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***“Co-occurring disorder” means the presence of at least one mental disorder and at least one substance use disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.***

Sec. 3. ***“Program of treatment for offenders with substance use or co-occurring disorders” means a program:***

1. Established pursuant to NRS 209.4236 to provide treatment to certain offenders with substance use or co-occurring disorders; and

2. Which is evidence-based or based on best practices supported by research.

Sec. 4. NRS 209.247 is hereby amended to read as follows:

209.247 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from any money deposited in the individual account of an offender from any source other than the offender’s wages:

1. An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260.

2. An amount the Director considers reasonable to meet an existing obligation of the offender for the support of the offender’s family.

3. An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this subsection may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, ***and sections 2 and 3 of this act*** in a ~~therapeutic community~~ ***program of treatment for offenders with substance use or co-occurring disorders*** or a program of aftercare, or both.

4. A deduction pursuant to NRS 209.246.

5. An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release or, if the



offender dies before his or her release, to defray expenses related to arrangements for the offender's funeral.

6. An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime.

7. An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from a source other than the wages earned by the offender during his or her incarceration, pursuant to this subsection, must be submitted:

(a) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which he or she is incarcerated.

(b) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

8. An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from any source other than the wages earned by the offender during his or her incarceration, pursuant to this subsection, must be submitted:

(a) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which he or she is incarcerated.

(b) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which any fine or administrative assessment is owing, until the balance owing has been paid.

9. An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.



↪ The Director shall determine the priority of any other deduction authorized by law from any source other than the wages earned by the offender during his or her incarceration.

Sec. 5. NRS 209.4231 is hereby amended to read as follows:

209.4231 As used in NRS 209.4231 to 209.4244, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 209.4232 ~~to 209.4235, inclusive,~~, *209.4233 and 209.4234 and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 209.4233 is hereby amended to read as follows:

209.4233 “Program of aftercare” means a program that is established pursuant to NRS 209.4238 to provide continuing treatment to those offenders who successfully complete treatment in a ~~{therapeutic community}~~ *program of treatment for offenders with substance use or co-occurring disorders*.

Sec. 7. NRS 209.4234 is hereby amended to read as follows:

209.4234 “Substance use disorder” means a ~~{disorder that causes a person to become addicted to or psychologically or physically dependent on:~~

~~—1. Alcohol;~~
~~—2. A controlled substance; or~~
~~—3. A drug, poison, solvent or toxic inhalant. This subsection does not include tobacco or products made from tobacco.}~~ *cluster of cognitive, behavioral and physiological symptoms indicating that a person continues using a substance despite significant substance-related problems.*

Sec. 8. NRS 209.4236 is hereby amended to read as follows:

209.4236 1. The Director shall, in conjunction with the Division and with the approval of the Board, establish one or more ~~{therapeutic communities}~~ *programs of treatment for offenders with substance use or co-occurring disorders* to provide treatment to certain offenders with ~~{a}~~ substance use ~~{disorder}~~ *or co-occurring disorders*. A ~~{therapeutic community}~~ *program of treatment for offenders with substance use or co-occurring disorders* must include, but is not limited to, the requirements set forth in this section.

2. A ~~{therapeutic community}~~ *program of treatment for offenders with substance use or co-occurring disorders established pursuant to subsection 1* must provide an offender with:

- (a) Intensive treatment for a substance use ~~{disorder}~~ *or co-occurring disorder*;
- (b) A clearly defined set of goals;
- (c) A clearly defined structure of authority; and



(d) A highly structured schedule that includes, but is not limited to, the treatment listed in paragraph (a) and, if practicable, programs of employment, general education or vocational training.

3. Except as otherwise provided in NRS 209.4231 to 209.4244, inclusive, *and sections 2 and 3 of this act*, offenders who are assigned to a ~~{therapeutic community,}~~ *program of treatment for offenders with substance use or co-occurring disorders*, to the extent practicable as determined by the Director or a person designated by the Director:

(a) ~~{Must}~~ *May* be housed in areas of a facility or institution that are segregated from other areas of the facility or institution in which offenders who are not assigned to the ~~{therapeutic community}~~ *program of treatment for offenders with substance use or co-occurring disorders* are housed; ~~{and}~~

(b) *May be taken outside an institution or facility, under appropriate precautions to prevent escape, to participate in a program of treatment for offenders with substance use or co-occurring disorders; and*

(c) Must participate in the ~~{therapeutic community}~~ *program of treatment for offenders with substance use or co-occurring disorders* for a period of ~~{1 year}~~ *not less than 5 months* and a program of aftercare for a period of ~~{1 year if a program of aftercare is required pursuant to NRS 209.4238.}~~ *not less than 3 months, as deemed appropriate for the level of care being offered.*

Sec. 9. NRS 209.4237 is hereby amended to read as follows:

209.4237 1. The Director shall, in conjunction with the Division and with the approval of the Board, establish a program to evaluate an offender in the custody of the Department to determine whether the offender has a substance use disorder and whether the offender may benefit from participation in a ~~{therapeutic community,}~~ *program of treatment for offenders with substance use or co-occurring disorders.*

2. An evaluation of an offender must be conducted pursuant to subsection 1 if the offender is eligible to be assigned to a ~~{therapeutic community,}~~ *program of treatment for offenders with substance use or co-occurring disorders.*

3. After an evaluation is conducted pursuant to subsection 1, the Director or a person designated by the Director shall determine whether the offender has a substance use disorder and whether the offender may benefit from participation in a ~~{therapeutic community,}~~ *program of treatment for offenders with substance use or co-occurring disorders.*



4. If a determination is made that the offender has a substance use disorder and that the offender may benefit from participation in a ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*, the Director or a person designated by the Director shall determine whether to assign the offender to participate in a ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*. In determining whether to assign an offender to participate in a ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*, the Director or a person designated by the Director shall:

(a) Consider the severity of the problem of the substance use *or co-occurring* disorder of the offender and the availability of space in each ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*; and

(b) Give preference, to the extent practicable, to those offenders who appear to be most capable of successfully participating in and completing treatment in a ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*.

5. To be eligible to be assigned to participate in a ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*, an offender must be within 2 years of the date on which the offender is reasonably expected to be released, as determined by the Director.

Sec. 10. NRS 209.4238 is hereby amended to read as follows:

209.4238 1. The Director shall, in conjunction with the Division and with the approval of the Board, establish one or more programs of aftercare to provide continuing treatment to those offenders who successfully complete treatment in a ~~{therapeutic community;}~~ *program of treatment for offenders with substance use or co-occurring disorders*.

2. Except as otherwise provided in NRS 209.4231 to 209.4244, inclusive ~~{;}~~ *, and sections 2 and 3 of this act:*

(a) An offender who successfully completes treatment in a ~~{therapeutic community}~~ *program of treatment for offenders with substance use or co-occurring disorders* must be assigned, to the extent practicable as determined by the Director or a person designated by the Director, to a program of aftercare upon completion of treatment in ~~{a therapeutic community;}~~ *the program of treatment for offenders with substance use or co-occurring disorders*.



(b) An offender shall participate, to the extent practicable as determined by the Director or a person designated by the Director, in a program of aftercare for a period of ~~{1-year}~~ **not less than 3 months, as deemed appropriate for the level of care being offered.**

(c) If an offender is assigned to a program of aftercare and, before or during participation in such a program, the offender is released on parole:

(1) The offender shall continue to participate in a program of aftercare, to the extent practicable as determined by the Director or a person designated by the Director and by the State Board of Parole Commissioners; and

(2) That participation, if any, must be made a condition of parole pursuant to NRS 213.1235.

(d) If an offender is assigned to a program of aftercare and, before or during participation in such a program, the offender is assigned to serve a term of residential confinement pursuant to NRS 209.392, the offender shall continue to participate in a program of aftercare to the extent practicable as determined by the Director or a person designated by the Director.

Sec. 11. NRS 209.4239 is hereby amended to read as follows:

209.4239 1. The Director or a person designated by the Director may remove an offender from a ~~{therapeutic community}~~ **program of treatment for offenders with substance use or co-occurring disorders** or a program of aftercare, temporarily or permanently, for any lawful reason or purpose.

2. The Director may impose conditions on the participation of an offender in a ~~{therapeutic community}~~ **program of treatment for offenders with substance use or co-occurring disorders** or a program of aftercare and may establish sanctions and incentives relating to participation in a ~~{therapeutic community}~~ **program of treatment for offenders with substance use or co-occurring disorders** or a program of aftercare.

3. The provisions of NRS 209.4231 to 209.4244, inclusive, **and sections 2 and 3 of this act** do not create a right on behalf of an offender to participate in a ~~{therapeutic community}~~ **program of treatment for offenders with substance use or co-occurring disorders** or a program of aftercare and do not establish a basis for any cause of action against the State or its officers or employees for denial of the ability to participate in or for removal from a ~~{therapeutic community}~~ **program of treatment for offenders with substance use or co-occurring disorders** or a program of aftercare.



Sec. 12. NRS 209.424 is hereby amended to read as follows:

209.424 An offender may not participate in a ~~{therapeutic community}~~ **program of treatment for offenders with substance use or co-occurring disorders** if the offender:

1. Was sentenced to death or a term of imprisonment for life without the possibility of parole; or

2. Is or was eligible to participate in the program of treatment established pursuant to NRS 209.425, whether or not the offender actually participated in or completed that program of treatment.

Sec. 13. NRS 209.4242 is hereby amended to read as follows:

209.4242 To carry out the provisions of NRS 209.4231 to 209.4244, inclusive, **and sections 2 and 3 of this act**, the Director may contract with persons or private entities that are qualified to evaluate offenders with ~~{a}~~ substance use ~~{disorder}~~ **or co-occurring disorders** or qualified to administer ~~{therapeutic communities}~~ **programs of treatment for offenders with substance use or co-occurring disorders** or programs of aftercare.

Sec. 14. NRS 209.4244 is hereby amended to read as follows:

209.4244 The Director shall provide the following information to the Interim Finance Committee on or before January 31 of each even-numbered year and to the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means at the beginning of each regular session of the Legislature:

1. The number of offenders who are currently participating in ~~{therapeutic communities}~~ **programs of treatment for offenders with substance use or co-occurring disorders** and programs of aftercare;

2. The number of offenders who have participated in ~~{therapeutic communities}~~ **programs of treatment for offenders with substance use or co-occurring disorders** and programs of aftercare and the number of those offenders who subsequently have been arrested for other offenses; and

3. The number of offenders who have successfully completed treatment in ~~{therapeutic communities}~~ **programs of treatment for offenders with substance use or co-occurring disorders** and programs of aftercare and the number of those offenders who subsequently have been arrested for other offenses.

↪ The Central Repository for Nevada Records of Criminal History shall assist the Director in obtaining all data that is necessary to prepare the information required by subsections 2 and 3.

Sec. 15. NRS 209.463 is hereby amended to read as follows:

209.463 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order



of priority, from the wages earned by an offender from any source during the offender's incarceration:

1. If the hourly wage of the offender is equal to or greater than the federal minimum wage:

(a) An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

(b) An amount the Director considers reasonable to meet an existing obligation of the offender for the support of his or her family.

(c) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

(d) An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.

(e) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, *and sections 2 and 3 of this act* in a ~~therapeutic community~~ *program of treatment for offenders with substance use or co-occurring disorders* or a program of aftercare, or both.

(f) A deduction pursuant to NRS 209.246.

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release, or if the offender dies before his or her release, to defray expenses related to arrangements for his or her funeral.

(h) An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to any victim of his or her crime.

(i) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(j) An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is



incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

(k) An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which a fine or administrative assessment is owing, until the balance owing has been paid.

➤ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

2. If the hourly wage of the offender is less than the federal minimum wage:

(a) An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

(b) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.



(c) An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.

(d) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, *and sections 2 and 3 of this act* in a ~~therapeutic community~~ *program of treatment for offenders with substance use or co-occurring disorders* or a program of aftercare, or both.

(e) A deduction pursuant to NRS 209.246.

(f) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to the offender's release, or if the offender dies before the offender's release, to defray expenses related to arrangements for the offender's funeral.

➤ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

Sec. 16. NRS 209.4235 is hereby repealed.

Sec. 17. This act becomes effective upon passage and approval.

