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SECOND REPRINT

A.B. 452

ASSEMBLY BILL NO. 452—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON JUDICIARY)

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to offenders.
(BDR 16-315)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 offenders; requiring the Director of the Department of Corrections to adopt regulations establishing and governing a program for the visitation of offenders; requiring a warden or manager to provide certain notice regarding the cancellation of visitation; establishing the Office of the Ombudsperson for Offenders; establishing the powers and duties of the Ombudsperson; providing that an offender has the right to receive visitors in person; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the warden or manager of a correctional institution or facility to allow visits and correspondence between offenders and appropriate friends, relatives and others. (NRS 209.423) **Section 2** of this bill requires the Director of the Department of Corrections, with the approval of the Board of State Prison Commissioners, to adopt regulations establishing and governing a program for the visitation of offenders. **Section 2** requires such regulations to prescribe requirements relating to the visitation of offenders, which must: (1) allow offenders to receive visitors in person, regardless of whether visitation by means of electronic communication is made available; (2) allow visitation by means of electronic communication, provided that such visitation is in addition to and not in lieu of in-person visitation; (3) prescribe a procedure for a prospective visitor or visitor to appeal a decision of a warden or manager to deny or suspend visiting privileges; and (4) prescribe requirements relating to cancelled visits. **Section 4** of this bill provides that an offender has the right to receive visitors in person in accordance



with the regulations adopted pursuant to **section 2**. **Section 4** also requires a warden or manager to provide notice of any cancelled visit in accordance with the regulations adopted pursuant to **section 2**.

Section 2.5 of this bill establishes the Office of the Ombudsperson for Offenders within the Department to promote and protect the health, safety and welfare of offenders and prepare offenders for successful reentry into communities upon release. **Section 2.5** requires the Office to be impartial and operationally independent of the Department. **Section 2.5** also: (1) requires the Board to appoint the Ombudsperson; and (2) authorizes the Board to enter into a contract with a person to serve as Ombudsperson. Finally, **section 2.5** sets forth the powers and duties of the Ombudsperson.

Section 5.3 of this bill makes an appropriation to the Department for the cost of contract services for the Office of the Ombudsperson for Offenders.

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, 2.5 and 3 of this act.

Sec. 2. *The Director shall adopt, with the approval of the Board, regulations establishing and governing a program, to be carried out within each facility and institution, for the visitation of offenders. The regulations must prescribe:*

1. Requirements relating to the visitation of offenders, which must:

(a) Allow offenders to receive visitors in person, regardless of whether visitation by means of electronic communication is made available; and

(b) Allow visitation by means of electronic communication, provided that such visitation is in addition to and not in lieu of in-person visitation.

2. Requirements relating to the cancellation of visitation, which must, without limitation, prescribe:

(a) The frequency with which an institution or facility may cancel visitation for all offenders in the institution or facility; and

(b) Requirements relating to the notice which must be provided to a visitor concerning a cancelled visit.

3. A procedure for a prospective visitor or visitor to appeal a decision of a warden or manager to deny or suspend the visiting privileges of the prospective visitor or visitor.

Sec. 2.5. *1. The Office of the Ombudsperson for Offenders is hereby established within the Department to promote and protect the health, safety and welfare of offenders and prepare offenders for successful reentry into communities upon release. The Office must be impartial and operationally independent of the Department.*



2. The Board shall appoint the Ombudsperson and may enter into a contract with a person to serve as Ombudsperson. The Ombudsperson serves at the pleasure of the Board.

3. Except as otherwise provided in subsection 6, the Ombudsperson may:

(a) Investigate and attempt to resolve grievances arising out of, or relating to, issues within the authority and control of the Department, including, without limitation, grievances relating to:

(1) Alleged abuse or neglect;

(2) Conditions of confinement;

(3) Alleged violations of any law of this State; and

(4) Actions that may be inconsistent with any policy, procedure, regulation or rule of the Department; and

(b) Propose policy or procedural changes to the Department relating to any systemic issue identified by the Ombudsperson.

4. If the Ombudsperson has reason to believe that a violation of a state or federal law or a constitutional provision has occurred or is occurring, the Ombudsperson shall notify the Director.

5. Except as otherwise provided in subsection 6, the Ombudsperson shall:

(a) Review grievances entered into NOTIS;

(b) Provide such training as the Ombudsperson determines to be necessary or advisable to promote the purpose described in subsection 1 or suggest appropriate referrals for the provision of any such training; and

(c) Prepare an annual report, which must include, without limitation:

(1) Information concerning grievances entered into NOTIS for the immediately preceding year, which must include:

(I) The total number of grievances filed during the immediately preceding year;

(II) A summary of the claims included in grievances filed during the immediately preceding year;

(III) The total number of investigations conducted by the Department during the immediately preceding year; and

(IV) The outcome of each investigation conducted by the Department during the immediately preceding year;

(2) A summary of the activities of the Office during the immediately preceding year, including, without limitation, information regarding any training provided by the Ombudsperson or referrals made by the Ombudsperson;

(3) Any recommendations for proposed legislation; and

(4) Any other information the Ombudsperson determines is appropriate to include in the report.

6. The Ombudsperson shall not:



(a) Review, investigate or attempt to resolve any grievance relating to a judgment of conviction; or

(b) Interfere with any ongoing investigation of the Department, including, without limitation, any ongoing investigation being conducted by the Inspector General of the Department.

7. The Department shall provide any funds necessary to carry out the provisions of this section.

8. Notwithstanding any other provision of law, the Department shall grant the Ombudsperson access to any information concerning grievances entered into NOTIS or stored at an institution or facility.

9. On or before December 1 of each year, the Ombudsperson shall submit the report required by subsection 5 to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Joint Interim Standing Committee on the Judiciary, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year.

10. As used in this section, "NOTIS" means the Nevada Offender Tracking Information System or its successor.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 209.423 is hereby amended to read as follows:

209.423 1. An offender shall have the right to receive visitors in person in accordance with the regulations adopted pursuant to section 2 of this act.

2. Wardens and managers may authorize visits and correspondence between offenders and appropriate friends, relatives, and others ~~under~~ in accordance with the regulations adopted ~~by the Director and approved by the Board.~~ pursuant to section 2 of this act.

3. A warden or manager must provide notice of any cancelled visit in accordance with the regulations adopted pursuant to section 2 of this act.

Sec. 5. (Deleted by amendment.)

Sec. 5.3. 1. There is hereby appropriated from the State General Fund to the Department of Corrections for the cost of contract services for the Office of the Ombudsperson for Offenders established by section 2.5 of this act the following sums:

For the Fiscal Year 2023-2024..... \$175,000

For the Fiscal Year 2024-2025..... \$350,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity



1 to which money from the appropriation is granted or otherwise
2 transferred in any manner, and any portion of the appropriated
3 money remaining must not be spent for any purpose after
4 September 20, 2024, and September 19, 2025, respectively, by
5 either the entity to which the money was appropriated or the entity
6 to which the money was subsequently granted or transferred, and
7 must be reverted to the State General Fund on or before
8 September 20, 2024, and September 19, 2025, respectively.

9 **Sec. 5.5.** The provisions of subsection 1 of NRS 218D.380 do
10 not apply to any provision of this act which adds or revises a
11 requirement to submit a report to the Legislature.

12 **Sec. 6.** 1. This section becomes effective upon passage and
13 approval.

14 2. Section 5.3 of this act becomes effective on July 1, 2023.

15 3. Sections 1 to 5, inclusive, and section 5.5 of this act become
16 effective upon passage and approval for the purpose of adopting any
17 regulations and performing any other preparatory administrative
18 tasks that are necessary to carry out the provisions of this act, and on
19 January 1, 2024, for all other purposes.



