

Amendment No. 675

Senate Amendment to Assembly Bill No. 452	(BDR 16-315)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: Yes 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.

KRO



Date: 5/24/2023

A.B. No. 452—Revises provisions relating to visitation with offenders in a correctional institution or facility. (BDR 16-315)





## 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 ~~visitation with~~ offenders ~~in a correctional institution or facility~~. (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 the Department to establish a panel to review certain decisions of a warden or manager to deny visitation;~~ requiring a warden or manager ~~who denies visitation~~ to provide certain ~~written~~ notice regarding ~~the denial;~~ 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; 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 ~~the~~ ~~requirements~~ relating to the ~~frequency of~~ 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) ~~criteria for the eligibility of an offender or prospective visitor to participate in visitation;~~ allow visitation by means of electronic communication, provided that such visitation is in addition to and not in lieu of in-person visitation; (3) ~~requirements~~ prescribe a procedure for ~~the approval or denial of~~ 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 ~~certain notice which must be provided concerning~~ 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 ~~that~~ a warden or manager ~~who denies a prospective visitor~~ to

provide ~~[written]~~ notice of ~~[the denial to the prospective visitor which: (1) states the reason for the denial; (2) notifies the prospective visitor of his or her right to appeal the decision; (3) notifies the prospective visitor of the date on which he or she will be eligible to reapply to visit an offender; and (4) complies with any other requirements prescribed by]~~ any cancelled visit in accordance with the regulations adopted pursuant to section 2.

~~[The Nevada Administrative Procedure Act requires agencies of the Executive Department of the State Government to provide certain notice and to hold certain public hearings related to temporary and permanent regulations. (Chapter 233B of NRS) Existing law exempts the Department of Corrections from the provisions of the Act, with certain exceptions. Section 5 of this bill makes a conforming change to require that the regulations required by section 2 be adopted pursuant to the Act.]~~

~~— Section 3 of this bill: (1) requires the Department to establish a review panel concerning the program for the visitation of offenders established pursuant to the regulations required by section 2; and (2) prescribes the membership of the panel. Section 3 authorizes a prospective visitor to appeal to the panel a denial of visitation and requires a prospective visitor who wishes to make such an appeal to submit certain information concerning the decision to the panel. Section 3 requires the panel to review each decision that is the subject of an appeal and overturn the decision if the prospective visitor: (1) meets the eligibility criteria prescribed by the regulations adopted pursuant to section 2; and (2) does not present a threat to the safety or security of an institution or facility.]~~

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.

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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.** ~~[[*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:*~~

~~[[*(a) 1. Requirements relating to the [frequency with which opportunities for] visitation [must be made available to eligible] of offenders, which must:*~~

~~[[*(1) (a) Allow [in-person visitation at least 2 days per week for eligible] offenders to receive visitors in person, regardless of whether visitation by means of electronic communication is made available; and [*~~

~~[[*(2) In]*~~  
~~[[*(b) Allow visitation by means of electronic communication, provided that such visitation is in addition to [any other] and not in lieu of in-person visitation . [to which an eligible offender may be entitled, allow:*~~

~~[[*(I) At least two in-person, contact visits per week for eligible offenders who gave birth at any time during the immediately preceding 6 weeks, regardless of whether the offender is entitled to additional visits pursuant to sub-paragraphs (II), (III) or (IV);*~~

~~[[*(II) At least two in-person, contact visits per week for eligible offenders who are hospitalized, regardless of whether the offender is entitled to additional visits pursuant to sub-paragraphs (I), (II) or (IV);*~~

~~(III) At least 5 consecutive days of in-person, contact visits per week for eligible offenders who are receiving hospice care, regardless of whether the offender is entitled to additional visits pursuant to sub-subparagraphs (I), (II) or (IV); and~~

~~(IV) At least 5 consecutive days of in-person, contact visits per week for eligible offenders who are parents of children who are less than 1 year of age, regardless of whether the offender is entitled to additional visits pursuant to sub-subparagraphs (I), (II) or (III);~~

~~(b) Criteria for the eligibility of:~~

~~(1) An offender to receive visitors; and~~

~~(2) A prospective visitor;~~

~~(c) Requirements relating to the approval or denial of a prospective visitor which must include, without limitation:~~

~~(1) Requirements relating to the notice which must be provided by a warden or manager pursuant to NRS 209.422;~~

~~(2) An opportunity to appeal a decision made by the warden or manager; and~~

~~(3) A procedure for such an appeal; and~~

~~(d) Requirements.]~~

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 . . . , which must include, without limitation, a requirement that such notice be:

(1) Provided at least 72 hours in advance of the cancelled visit for institution wide or facility wide cancellations; and

(2) Made publicly available on the Internet website of the Department or the institution or facility.

2. The regulations adopted pursuant to this section must be adopted in accordance with the provisions of chapter 233B of NRS.

3. As used in this section, "eligible offender" means an offender who meets the criteria for eligibility to receive visitors prescribed by the regulations adopted pursuant to this section.]

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:

(I) 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. ~~(1. The Department shall establish a review panel concerning the program for the visitation of offenders established pursuant to section 2 of this act. The Director shall appoint to the review panel:~~

~~(a) One member who is a mental health professional;~~

~~(b) One member who is an administrator of the Department; and~~

~~(c) One member who is a case manager.~~  
~~2. A prospective visitor whose application is denied may appeal that determination to the review panel established pursuant to subsection 1.~~  
~~3. An appeal filed pursuant to subsection 2 must be submitted in writing and include:~~  
~~(a) The name of the prospective visitor;~~  
~~(b) The name of the institution or facility to which an application was denied;~~  
~~(c) The reasons for the appeal; and~~  
~~(d) Any additional documentation or evidence supporting the appeal.~~  
~~4. The review panel established pursuant to subsection 1 shall review a decision that is the subject of an appeal and issue a decision in writing concerning the appeal. The review panel shall overturn a decision that is the subject of an appeal if the prospective visitor:~~  
~~(a) Meets the criteria for eligibility prescribed by the regulations adopted pursuant to section 2 of this act; and~~  
~~(b) Does not present a threat to the safety or security of an institution or facility.~~  
~~5. As used in this section:~~  
~~(a) "Administrator" means a deputy director, superintendent or other employee of the Department to whom the Director has delegated authority.~~  
~~(b) "Case manager" means an employee of the Department whose duties include, without limitation, providing rehabilitation and support services to offenders.] (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 prospective visitors' in accordance with the regulations adopted [by the Director and approved by the Board.] pursuant to section 2 of this act.  
[2.] 3. A warden or manager [who denies a prospective visitor] must provide [written] notice of [the denial to the prospective visitor. Such notice must:  
~~(a) State the reason for the denial;~~  
~~(b) Notify the prospective visitor of:~~  
~~(1) His or her right to appeal the decision; and~~  
~~(2) The date on which he or she will be eligible to reapply to visit an offender; and~~  
~~(c) Comply with any other requirements prescribed by]~~ any cancelled visit in accordance with the regulations adopted pursuant to section 2 of this act.  
[3. Wardens and managers may authorize correspondence between offenders and appropriate friends, relatives and others under regulations adopted by the Director and approved by the Board.]

Sec. 5. [NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:  
~~(a) The Governor.~~  
~~(b) Except as otherwise provided in NRS 209.221 and 209.247, and section 2 of this act, the Department of Corrections.~~  
~~(c) The Nevada System of Higher Education.~~  
~~(d) The Office of the Military.~~  
~~(e) The Nevada Gaming Control Board.~~

~~1. (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission;~~

~~2. (g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services;~~

~~3. (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services;~~

~~4. (i) Except as otherwise provided in NRS 533.365, the Office of the State Engineer;~~

~~5. (j) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375;~~

~~6. (k) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260;~~

~~7. (l) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310;~~

~~8. (m) The Silver State Health Insurance Exchange;~~

~~9. (n) The Cannabis Compliance Board;~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~

~~3. The special provisions of:~~

~~(a) Chapter 612 of NRS for the adoption of an emergency regulation or the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~(d) NRS 90.800 for the use of summary orders in contested cases;~~

~~prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;~~

~~(d) The judicial review of decisions of the Public Utilities Commission of Nevada;~~

~~(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178;~~



~~—(f) The adoption or amendment of a rule or regulation to be included in the State Plan for Services for Victims of Crime by the Department of Health and Human Services pursuant to NRS 217.130;~~

~~—(g) The adoption, amendment or repeal of rules governing the conduct of contests and exhibitions of unarmed combat by the Nevada Athletic Commission pursuant to NRS 467.075;~~

~~—(h) The adoption, amendment or repeal of regulations by the Director of the Department of Health and Human Services pursuant to NRS 447.335 to 447.350, inclusive;~~

~~—(i) The adoption, amendment or repeal of standards of content and performance for courses of study in public schools by the Council to Establish Academic Standards for Public Schools and the State Board of Education pursuant to NRS 389.520;~~

~~—(j) The adoption, amendment or repeal of the statewide plan to allocate money from the Fund for a Resilient Nevada created by NRS 433.732 established by the Department of Health and Human Services pursuant to paragraph (b) of subsection 1 of NRS 433.734; or~~

~~—(k) The adoption or amendment of a data request by the Commissioner of Insurance pursuant to NRS 687B.404.~~

~~—6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.} (Deleted by amendment.)~~

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

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

2. Sections 1 to ~~{5.}~~ **5.5.**, inclusive, of this act become effective. ~~{}~~

~~—(a) Upon~~ **upon** passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, ~~{}~~ and

~~{(b) On}~~ **on** January 1, 2024, for all other purposes.