

(Reprinted with amendments adopted on June 1, 2023)

FIRST REPRINT

S.B. 416

SENATE BILL No. 416—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 the Department of
Corrections. (BDR 16-322)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

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

AN ACT relating to the Department of Corrections; requiring the Director of the Department of Corrections to adopt regulations governing the operation of a commissary in an institution or facility; authorizing the Director to adopt regulations governing the possession of personal property by offenders; revising provisions relating to the deduction of certain costs from the individual account of an offender; revising provisions relating to the deduction of money from the wages earned by an offender; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes the Director of the Department of Corrections to make
- 2 deductions from the individual account of an offender to repay or defray certain
- 3 expenses accrued by the Department on behalf of the offender. (NRS 209.221,
- 4 209.246) Existing law authorizes the Director to establish by regulation criteria for
- 5 a reasonable deduction from money credited to the account of an offender to,
- 6 among other things, repay the cost of medical examinations and the diagnosis or
- 7 treatment for injuries inflicted by the offender upon himself or herself or other
- 8 offenders or which occur during voluntary recreational activities. With certain
- 9 exceptions, existing law additionally authorizes the Director to establish such
- 10 criteria to defray a portion of the costs paid by the Department for the medical care
- 11 of the offender, including without limitation, expenses for medical or dental care,
- 12 prosthetic devices, pharmaceutical items and prescribed medicine and supplies.
- 13 (NRS 209.246) **Section 6** of this bill limits the ability of the Director to deduct



* S B 4 1 6 R 1 *

money credited to the account of an offender by prohibiting the Director from adopting any regulations which authorize the imposition of a deduction of money for the payment of any copayment for any routine or emergency medical care provided to an offender.

Existing law authorizes the Director to make certain deductions, including, without limitation, deductions for the maintenance of an offender in an institution, from the wages earned by an offender from any source during the incarceration of the offender. (NRS 209.463) **Section 8** of this bill prohibits the Director from authorizing such a deduction for the cost for room and board if the hourly wage of the offender is less than the federal minimum wage.

Section 3 of this bill requires the Director, with the approval of the Board of State Prison Commissioners, to adopt regulations to be instituted in each institution or facility governing the operation of a commissary in the institution or facility and prohibits the Director from adopting regulations which: (1) place a monetary limitation on the ability of an offender to receive or purchase goods or services from the commissary; or (2) authorize the markup of the price of a personal hygiene product sold at the commissary.

Section 2.5 of this bill authorizes the Director, with the approval of the Board, to adopt regulations to be instituted in each institution or facility governing the possession of personal property by offenders. **Section 2.5** provides that any such regulations must be consistent with the provisions of **section 3**.

Section 11.5 of this bill makes an appropriation to the Department to offset reductions in revenue associated with the implementation of the provisions of this bill.

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 to 4, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. 1. *The Director may, with the approval of the Board, adopt regulations to be instituted in each institution or facility which govern the possession of personal property by offenders. Such regulations may place limitations on the amount of personal property an offender may, at any one time, possess.*

2. *Any regulations adopted by the Director pursuant to subsection 1 must be consistent with the provisions of subsection 2 of section 3 of this act.*

3. *As used in this section, "personal property" includes, without limitation, goods purchased from a commissary.*

Sec. 3. 1. *The Director shall, with the approval of the Board, adopt regulations to be instituted in each institution or facility which govern the operation of a commissary in the institution or facility.*

2. *The Director shall not adopt regulations which:*

(a) Place a monetary limitation on the ability of an offender to receive or purchase goods or services from the commissary.



(b) Authorize the markup of the price of a personal hygiene product sold at the commissary.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 209.246 is hereby amended to read as follows:

209.246 ~~[(The)]~~

1. Except as otherwise provided in this section, the Director shall, with the approval of the Board, establish by regulation criteria for a reasonable deduction from money credited to the account of an offender to:

~~[(1)]~~ *(a)* Repay the cost of:

~~[(a)]~~ *(1)* State property willfully damaged, destroyed or lost by the offender during his or her incarceration.

~~[(b)]~~ *(2)* Medical examination, diagnosis or treatment for injuries:

~~[(1)]~~ *(1)* Inflicted by the offender upon himself or herself or other offenders; or

~~[(2)]~~ *(1)* Which occur during voluntary recreational activities.

~~[(c)]~~

(3) Searching for and apprehending the offender when he or she escapes or attempts to escape.

~~[(d)]~~ *(4)* Quelling any riot or other disturbance in which the offender is unlawfully involved.

~~[(e)]~~ *(5)* Providing a funeral for an offender.

~~[(f)]~~ *(6)* Providing an offender with clothing, transportation and money upon his or her release from prison pursuant to NRS 209.511.

~~[(g)]~~ *(7)* Transportation of an offender pursuant to a court order in cases other than a criminal prosecution, a proceeding for postconviction relief involving the offender or a proceeding in which the offender has challenged the conditions of his or her confinement.

~~[(h)]~~ *(8)* Monetary sanctions imposed under the code of penal discipline adopted by the Department.

~~[(2)]~~ *(b)* Defray, as determined by the Director, a portion of the costs paid by the Department for medical care for the offender, including, but not limited to:

~~[(a)]~~ *(1)* Except as otherwise provided in *subparagraph (2) of paragraph [(b) of subsection 1,] (a) and subsection 2,* expenses for medical or dental care, prosthetic devices and pharmaceutical items; and

~~[(b)]~~ *(2)* Expenses for prescribed medicine and supplies.

~~[(3)]~~ *(c)* Repay the costs incurred by the Department on behalf of the offender for:



~~[(a)]~~ (1) Postage for personal items and items related to litigation;

~~[(b)]~~ (2) Photocopying of personal documents and legal documents, for which the offender must be charged a reasonable fee not to exceed the actual costs incurred by the Department;

~~[(c)]~~ (3) Legal supplies;

~~[(d)]~~ (4) Telephone calls charged to the Department;

~~[(e)]~~ (5) Charges relating to checks returned for insufficient funds and checks for which an order to stop payment has been made;

~~[(f)]~~ (6) Items related to the offender's work, including, but not limited to, clothing, shoes, boots, tools, a driver's license or identification card issued by the Department of Motor Vehicles, a work card issued by a law enforcement agency and a health card; and

~~[(g)]~~ (7) The replacement of an identification card or prepaid ticket for bus transportation issued to the offender by the Department.

~~[(4)]~~ (d) Repay any cost to the State of Nevada or any agency or political subdivision thereof that is incurred in defending the State against an action filed by an offender in federal court alleging a violation of his or her civil rights which is determined by the court to be frivolous.

~~[(4)]~~

2. The Director shall not adopt any regulations which authorize a deduction from money credited to the account of an offender for the payment of any copayment for any routine or emergency medical care provided to an offender.

3. All money collected pursuant to this section must be deposited in the appropriate account in the State General Fund for reimbursement of the related expenditure.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 209.463 is hereby amended to read as follows:

209.463 1. Except as otherwise provided in NRS 209.2475, and subject to the limitation set forth in subsection 2, the Director may make the deductions described in subsection 3 or 4, as applicable, from the wages earned by an offender from any source during the offender's incarceration.

2. The Director may not deduct more than 50 percent of the wages described in subsection 1 for each pay period of the offender.

3. If the hourly wage of the offender is equal to or greater than the federal minimum wage, the Director may deduct:

(a) In the following order of priority:



(1) An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime;

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

(3) 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;

(4) 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, and any amount deducted pursuant to this subparagraph 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, in a program of treatment for offenders with substance use or co-occurring disorders or a program of aftercare, or both;

(5) A deduction pursuant to NRS 209.246;

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

(7) 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;

(8) An amount the Director considers reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime;

(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;

(10) 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, and any amount deducted from the wages of the offender pursuant to this subparagraph must be submitted:

(I) 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; or

(II) 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; and

(11) 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, and any amount deducted from the wages of the offender pursuant to this subparagraph must be submitted:

(I) 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; or

(II) 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; and

(b) Any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration, the deduction of which must be made in an order of priority determined by the Director.

4. If the hourly wage of the offender is less than the federal minimum wage, the Director may deduct:

(a) In the following order of priority:

(1) An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime;

(2) 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;

(3) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, *other than the cost for room and board*, as reflected in the budget of the Department, and any amount deducted pursuant to this subparagraph 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, in a 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 the individual account of the offender in the Prisoners' Personal Property Fund;

(6) 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;

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

(8) 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; and

(b) Any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration, the deduction of which must be made in an order of priority determined by the Director.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. 1. There is hereby appropriated from the State General Fund to the Department of Corrections to offset reductions in revenue associated with the implementation of the provisions of this act the following sums:

For the Fiscal Year 2023-2024..... \$1,308,472

For the Fiscal Year 2024-2025..... \$1,308,472

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 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, 2024, and September 19, 2025, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2024, and September 19, 2025, respectively.



1 **Sec. 12.** 1. This section becomes effective upon passage and
2 approval.
3 2. Section 11.5 of this act becomes effective on July 1, 2023.
4 3. Sections 1 to 11, inclusive, of this act become effective upon
5 passage and approval for the purpose of adopting any regulations
6 and performing any other preparatory administrative tasks that are
7 necessary to carry out the provisions of this act, and on October 1,
8 2023, for all other purposes.

