

ASSEMBLY BILL NO. 420—ASSEMBLYMAN OHRENSCHALL

MARCH 27, 2017

Referred to Committee on Corrections,  
Parole, and Probation

SUMMARY—Revises provisions governing the use of electronic devices by offenders. (BDR 16-1073)

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 corrections; authorizing the Director of the Department of Corrections to establish by regulation a charge on the use of videoconference equipment by offenders to conduct certain visits; revising provisions governing the use of electronic devices by offenders for certain purposes; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires that money received for the benefit of offenders through  
2 contributions that is not required to be deposited elsewhere be placed in the  
3 Offenders’ Store Fund and expended for the welfare and benefit of all offenders  
4 sentenced to imprisonment in the state prison. (NRS 209.221) **Section 1** of this bill  
5 authorizes the Director of the Department of Corrections, with approval of the  
6 Board of State Prison Commissioners, to establish by regulation a charge on the use  
7 by offenders of videoconferencing equipment for conducting visits to defray the  
8 costs of operating and maintaining such equipment. **Section 1** requires the  
9 regulations to be adopted in accordance with the provisions of the Nevada  
10 Administrative Procedure Act.

11 Existing law prohibits offenders from having access to telecommunications  
12 devices except under certain circumstances. (NRS 209.417) **Section 2** of this bill  
13 authorizes an offender to use an approved telecommunications device to conduct  
14 certain visits and correspondence. **Section 2** also authorizes the Department to enter  
15 into an agreement with an offender allowing the offender to use a  
16 telecommunications device for certain purposes related to correctional activities  
17 and educational, vocational and legal research.



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

1       **Section 1.** NRS 209.221 is hereby amended to read as follows:

2       209.221 1. The Offenders' Store Fund is hereby created as a  
3 special revenue fund. All money received for the benefit of  
4 offenders through contributions, and from other sources not  
5 otherwise required to be deposited in another fund, must be  
6 deposited in the Offenders' Store Fund.

7       2. The Director shall:

8       (a) Keep, or cause to be kept, a full and accurate account of the  
9 Fund;

10       (b) Submit reports to the Board relative to money in the Fund as  
11 may be required from time to time; and

12       (c) Submit a monthly report to the offenders of the amount of  
13 money in the Fund by posting copies of the report at locations  
14 accessible to offenders generally or by delivery of copies to the  
15 appropriate representatives of the offenders if any are selected.

16       3. Except as otherwise provided in subsections 4 to ~~9~~ 10,  
17 inclusive, money in the Offenders' Store Fund, except interest  
18 earned upon it, must be expended for the welfare and benefit of all  
19 offenders.

20       4. If necessary to cover a shortfall of money in the Prisoners'  
21 Personal Property Fund, the Director may, after obtaining the  
22 approval of the Interim Finance Committee, authorize the State  
23 Controller to transfer money from the Offenders' Store Fund to the  
24 Prisoners' Personal Property Fund, and the State Controller shall  
25 make the transfer.

26       5. If an offender has insufficient money in his or her individual  
27 account in the Prisoners' Personal Property Fund to repay or defray  
28 costs assessed to the offender pursuant to NRS 209.246, the Director  
29 shall authorize the State Controller to transfer sufficient money from  
30 the Offenders' Store Fund to the appropriate account in the State  
31 General Fund to pay costs remaining unpaid, and the State  
32 Controller shall make the transfer. Any money so transferred must  
33 be accounted for separately. The Director shall cause the Offenders'  
34 Store Fund to be reimbursed from the offender's individual account  
35 in the Prisoners' Personal Property Fund, as money becomes  
36 available.

37       6. If the Department incurs costs related to state property that  
38 has been willfully damaged, destroyed or lost or incurs costs related  
39 to medical examination, diagnosis or treatment for an injury to an  
40 offender, the Director may authorize the State Controller to transfer  
41 money from the Offenders' Store Fund to the appropriate account in  
42 the State General Fund to repay or defray those costs if:



1 (a) The Director has reason to believe that an offender caused  
2 the damage, destruction, loss or injury; and

3 (b) The identity of the offender is unknown or cannot be  
4 determined by the Director with reasonable certainty.

5 ➔ The State Controller shall make the transfer if authorized by the  
6 Director. Any money transferred must be accounted for separately.  
7 If the identity of the offender is determined after money has been  
8 transferred, the Director shall cause the Offenders' Store Fund to be  
9 reimbursed from the offender's individual account in the Prisoners'  
10 Personal Property Fund, as money becomes available.

11 7. The Director may, with approval of the Board, establish by  
12 regulation criteria for a reasonable deduction from money credited  
13 to the Offenders' Store Fund to repay or defray the costs relating to  
14 the operation and maintenance of the offenders' store, coffee shop,  
15 gymnasium and correctional officers' salaries for visitation posts  
16 where they exist in each facility. Any regulations adopted pursuant  
17 to this subsection must be adopted in accordance with the provisions  
18 of chapter 233B of NRS.

19 8. The Director may, with approval of the Board, establish by  
20 regulation a charge on the purchase of electronic devices by  
21 offenders to defray the costs relating to the operation of the devices.  
22 The Director shall utilize the proceeds collected from the charge  
23 established for operation of the devices to offset the energy costs of  
24 the facilities within the Department. Any regulations adopted  
25 pursuant to this subsection must be adopted in accordance with the  
26 provisions of chapter 233B of NRS.

27 9. *The Director may, with approval of the Board, establish by*  
28 *regulation a charge on the use by offenders of videoconferencing*  
29 *equipment for conducting visits to defray the costs relating to the*  
30 *operation and maintenance of the equipment. The Director shall*  
31 *utilize the proceeds collected from the charge established for the*  
32 *operation and maintenance of the equipment to offset the costs of*  
33 *operating and maintaining the videoconferencing equipment and*  
34 *correctional officers' salaries for posts for conducting visits by*  
35 *videoconference where the posts exist in each facility. Any*  
36 *regulations adopted pursuant to this subsection must be adopted in*  
37 *accordance with the provisions of chapter 233B of NRS.*

38 10. If an offender who has been assigned to a center for the  
39 purpose of making restitution is returned to an institution for  
40 committing an infraction of the regulations of the Department and  
41 the center has not been fully compensated for the cost of providing  
42 the offender with housing, transportation, meals, or medical or  
43 dental services at the center, the Director may authorize the State  
44 Controller to transfer money from the Offenders' Store Fund to the  
45 appropriate account in the State General Fund to repay or defray



1 those costs. The State Controller shall make the transfer if  
2 authorized by the Director. Any money transferred must be  
3 accounted for separately. The Director shall cause the Offenders'  
4 Store Fund to be reimbursed from the offender's individual account  
5 in the Prisoners' Personal Property Fund, as money becomes  
6 available.

7 ~~H0~~ 11. If an offender has insufficient money in his or her  
8 individual account in the Prisoners' Personal Property Fund to repay  
9 or defray costs assessed to the offender pursuant to NRS 209.246,  
10 the offender shall sign a statement under penalty of perjury  
11 concerning his or her financial situation. Such a statement must  
12 include, but is not limited to, the following information:

- 13 (a) The value of any interest the offender has in real estate;
- 14 (b) The value of the personal property of the offender;
- 15 (c) The assets in any bank account of the offender; and
- 16 (d) The employment status of the offender.

17 ~~H1~~ 12. The statement required by subsection ~~H0~~ 11 must  
18 also authorize the Department to access any relevant document, for  
19 the purpose of verifying the accuracy of the information provided by  
20 the offender pursuant to this section, including, but not limited to,  
21 information regarding any bank account of the offender, information  
22 regarding any bank account held in trust for the offender and any  
23 federal income tax return, report or withholding form of the  
24 offender.

25 ~~H2~~ 13. An offender who conceals assets from the  
26 Department or provides false or misleading information on a  
27 statement prepared pursuant to this section is guilty of a gross  
28 misdemeanor.

29 ~~H3~~ 14. A person who aids or encourages an offender to  
30 conceal assets from the Department or to provide false or  
31 misleading information on a statement prepared pursuant to this  
32 section is guilty of a gross misdemeanor.

33 **Sec. 2.** NRS 209.417 is hereby amended to read as follows:

34 209.417 1. Except as otherwise provided in this section, the  
35 warden or manager of an institution or facility shall ensure that no  
36 offender in the institution or facility, or in a vehicle of the  
37 Department, has access to a telecommunications device.

38 2. An offender may use a telephone or, for the purpose of  
39 communicating with his or her child pursuant to NRS 209.42305,  
40 any other approved telecommunications device subject to the  
41 limitations set forth in NRS 209.419.

42 3. *An offender may use an approved telecommunications*  
43 *device for the purpose of conducting a visit or correspondence*  
44 *which is authorized pursuant to NRS 209.423, subject to the*  
45 *limitations set forth in NRS 209.419.*



1 4. The Department may enter into an agreement with ~~an~~ :

2 (a) *An offender authorizing the offender to use a*  
3 *telecommunications device to facilitate or participate in*  
4 *correctional activities or to perform educational, vocational or*  
5 *legal research, subject to the limitations set forth in NRS 209.419;*  
6 *or*

7 (b) *An offender who is assigned to transitional housing, a center*  
8 *for the purpose of making restitution pursuant to NRS 209.4827 to*  
9 *209.4843, inclusive, or a specific program of education or*  
10 *vocational training authorizing the offender to use a*  
11 *telecommunications device:*

12 ~~(a)~~ (I) To access a network, including, without limitation, the  
13 Internet, for the purpose of:

14 ~~(1)~~ (I) Obtaining educational or vocational training that is  
15 approved by the Department;

16 ~~(2)~~ (II) Searching for or applying for employment; or

17 ~~(3)~~ (III) Performing essential job functions.

18 ~~(b)~~ (2) For any other purpose if a telecommunications device  
19 is required by an employer of the offender to perform essential job  
20 functions.

21 ~~(4)~~ 5. As used in this section, "telecommunications device"  
22 means a device, or an apparatus associated with a device, that can  
23 enable an offender to communicate with a person outside of the  
24 institution or facility at which the offender is incarcerated. The term  
25 includes, without limitation, a telephone, a cellular telephone, a  
26 personal digital assistant, a transmitting radio or a computer that is  
27 connected to a computer network, is capable of connecting to a  
28 computer network through the use of wireless technology or is  
29 otherwise capable of communicating with a person or device outside  
30 of the institution or facility.

31 **Sec. 3.** NRS 212.165 is hereby amended to read as follows:

32 212.165 1. A person shall not, without lawful authorization,  
33 knowingly furnish, attempt to furnish, or aid or assist in furnishing  
34 or attempting to furnish to a prisoner confined in an institution or a  
35 facility of the Department of Corrections, or any other place where  
36 prisoners are authorized to be or are assigned by the Director of the  
37 Department, a portable telecommunications device. A person who  
38 violates this subsection is guilty of a category E felony and shall be  
39 punished as provided in NRS 193.130.

40 2. A person shall not, without lawful authorization, carry into  
41 an institution or a facility of the Department, or any other place  
42 where prisoners are authorized to be or are assigned by the Director  
43 of the Department, a portable telecommunications device. A person  
44 who violates this subsection is guilty of a misdemeanor.



1 3. A prisoner confined in an institution or a facility of the  
2 Department, or any other place where prisoners are authorized to be  
3 or are assigned by the Director of the Department, shall not, without  
4 lawful authorization, possess or have in his or her custody or control  
5 a portable telecommunications device. A prisoner who violates this  
6 subsection is guilty of a category D felony and shall be punished as  
7 provided in NRS 193.130.

8 4. A prisoner confined in a jail or any other place where such  
9 prisoners are authorized to be or are assigned by the sheriff, chief of  
10 police or other officer responsible for the operation of the jail, shall  
11 not, without lawful authorization, possess or have in his or her  
12 custody or control a portable telecommunications device. A prisoner  
13 who violates this subsection and who is in lawful custody or  
14 confinement for a charge, conviction or sentence for:

15 (a) A felony is guilty of a category D felony and shall be  
16 punished as provided in NRS 193.130.

17 (b) A gross misdemeanor is guilty of a gross misdemeanor.

18 (c) A misdemeanor is guilty of a misdemeanor.

19 5. A sentence imposed upon a prisoner pursuant to subsection  
20 3 or 4:

21 (a) Is not subject to suspension or the granting of probation; and

22 (b) Must run consecutively after the prisoner has served any  
23 sentences imposed upon the prisoner for the offense or offenses for  
24 which the prisoner was in lawful custody or confinement when the  
25 prisoner violated the provisions of subsection 3 or 4.

26 6. A person who was convicted and sentenced pursuant to  
27 subsection 4 may file a petition, if the underlying charge for which  
28 the person was in lawful custody or confinement has been reduced  
29 to a charge for which the penalty is less than the penalty which was  
30 imposed upon the person pursuant to subsection 4, with the court of  
31 original jurisdiction requesting that the court, for good cause shown:

32 (a) Order that his or her sentence imposed pursuant to  
33 subsection 4 be modified to a sentence equivalent to the penalty  
34 imposed for the underlying charge for which the person was  
35 convicted; and

36 (b) Resentence him or her in accordance with the penalties  
37 prescribed for the underlying charge for which the person was  
38 convicted.

39 7. A person who was convicted and sentenced pursuant to  
40 subsection 4 may file a petition, if the underlying charge for which  
41 the person was in lawful custody or confinement has been declined  
42 for prosecution or dismissed, with the court of original jurisdiction  
43 requesting that the court, for good cause shown:

44 (a) Order that his or her original sentence pursuant to subsection  
45 4 be reduced to a misdemeanor; and



1 (b) Resentence him or her in accordance with the penalties  
2 prescribed for a misdemeanor.

3 8. No person has a right to the modification of a sentence  
4 pursuant to subsection 6 or 7, and the granting or denial of a petition  
5 pursuant to subsection 6 or 7 does not establish a basis for any cause  
6 of action against this State, any political subdivision of this State or  
7 any agency, board, commission, department, officer, employee or  
8 agent of this State or a political subdivision of this State.

9 9. As used in this section:

10 (a) "Facility" has the meaning ascribed to it in NRS 209.065.

11 (b) "Institution" has the meaning ascribed to it in NRS 209.071.

12 (c) "Jail" means a jail, branch county jail or other local detention  
13 facility.

14 (d) "Telecommunications device" has the meaning ascribed to it  
15 in subsection ~~4~~ 5 of NRS 209.417.

16 **Sec. 4.** This act becomes effective:

17 1. Upon passage and approval for the purpose of adopting any  
18 regulations and performing any other preparatory administrative  
19 tasks that are necessary to carry out the provisions of this act; and

20 2. On January 1, 2018, for all other purposes.



