

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

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



1 accounted for separately. The Director shall cause the Offenders'
2 Store Fund to be reimbursed from the offender's individual account
3 in the Prisoners' Personal Property Fund, as money becomes
4 available.

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

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

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

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

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

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

32 209.417 1. Except as otherwise provided in this section, the
33 warden or manager of an institution or facility shall ensure that no
34 offender in the institution or facility, or in a vehicle of the
35 Department, has access to a telecommunications device.

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

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

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



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

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

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

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

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

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

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

20 ~~(4)~~ 5. As used in this section, "telecommunications device"
21 means a device, or an apparatus associated with a device, that can
22 enable an offender to communicate with a person outside of the
23 institution or facility at which the offender is incarcerated. The term
24 includes, without limitation, a telephone, a cellular telephone, a
25 personal digital assistant, a transmitting radio or a computer that is
26 connected to a computer network, is capable of connecting to a
27 computer network through the use of wireless technology or is
28 otherwise capable of communicating with a person or device outside
29 of the institution or facility.

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

31 212.165 1. A person shall not, without lawful authorization,
32 knowingly furnish, attempt to furnish, or aid or assist in furnishing
33 or attempting to furnish to a prisoner confined in an institution or a
34 facility of the Department of Corrections, or any other place where
35 prisoners are authorized to be or are assigned by the Director of the
36 Department, a portable telecommunications device. A person who
37 violates this subsection is guilty of a category E felony and shall be
38 punished as provided in NRS 193.130.

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

44 3. A prisoner confined in an institution or a facility of the
45 Department, or any other place where prisoners are authorized to be



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1 or are assigned by the Director of the Department, shall not, without
2 lawful authorization, possess or have in his or her custody or control
3 a portable telecommunications device. A prisoner who violates this
4 subsection is guilty of a category D felony and shall be punished as
5 provided in NRS 193.130.

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

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

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

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

17 5. A sentence imposed upon a prisoner pursuant to subsection
18 3 or 4:

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

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

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

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

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

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

42 (a) Order that his or her original sentence pursuant to subsection
43 4 be reduced to a misdemeanor; and

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



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

7 9. As used in this section:

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

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

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

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

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

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

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



