

SENATE BILL NO. 49—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Judiciary

SUMMARY—Requires the Director of the Department of Corrections to establish a program of treatment for offenders with substance use, mental health or other addictive disorders. (BDR 16-201)

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; defining certain terms; requiring the Director of the Department of Corrections to establish a program of treatment for offenders with substance use, mental health or other addictive disorders; revising provisions related to programs of aftercare; repealing provisions relating to therapeutic communities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Director of the Department of Corrections, in
2 conjunction with the Division of Public and Behavioral Health of the Department
3 of Health and Human Services and with the approval of the Board of State Prison
4 Commissioners, to establish therapeutic communities to provide treatment to
5 certain offenders who are substance abusers. (NRS 209.4236) **Section 7** of this bill
6 requires the Director, in conjunction with the Division and with the approval of the
7 Board, to establish programs of treatment for offenders with substance use, mental
8 health or other addictive disorders rather than establishing therapeutic communities
9 for offenders who are substance abusers. **Section 15** of this bill repeals the
10 provisions which define “substance abuser” and “therapeutic community.” **Section**
11 **2** of this bill defines the term “program of treatment for offenders with substance
12 use, mental health or other addictive disorders,” and **section 3** of this bill defines
13 the term “substance use, mental health or other addictive disorder” for the purposes
14 of **section 7**.

15 Existing law requires that, to the extent practicable, offenders assigned to a
16 therapeutic community be housed in areas of a facility or institution that are
17 segregated from offenders who are not assigned to the therapeutic community.



18 (NRS 209.4236) **Section 7** authorizes, rather than requires, the Director to
19 segregate certain offenders assigned to a program of treatment for offenders with
20 substance use, mental health or other addictive disorders. **Section 7** also: (1)
21 authorizes an offender assigned to a program of treatment for offenders with
22 substance use, mental health or other addictive disorders to be taken outside an
23 institution or facility, under appropriate precautions to prevent the offender's
24 escape, to participate in a program of treatment for offenders with substance use,
25 mental health or other addictive disorders; and (2) requires an offender to
26 participate in such a program of treatment for not less than 3 months.

27 Existing law requires the Director, in conjunction with the Division of Public
28 and Behavioral Health of the Department of Health and Human Services and with
29 the approval of the Board of State Prison Commissioners, to establish programs of
30 aftercare to provide continuing treatment to offenders who successfully complete
31 treatment in a therapeutic community. (NRS 209.4238) **Section 9** of this bill
32 instead requires the Director to establish such programs of aftercare for those
33 offenders who successfully complete a program of treatment for offenders with
34 substance use, mental health or other addictive disorders established pursuant to
35 **section 7**.

36 **Sections 4-14** of this bill make conforming changes by replacing the term
37 "therapeutic community" with the term "program of treatment for offenders with
38 substance use, mental health or other addictive disorders," as applicable.

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

1 **Section 1.** Chapter 209 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *"Program of treatment for offenders with substance*
4 *use, mental health or other addictive disorders" means a program:*

5 *1. Established pursuant to NRS 209.4236 to treat offenders*
6 *with substance use, mental health or other addictive disorders;*
7 *and*

8 *2. Which is evidence-based or based on best practices*
9 *supported by research.*

10 **Sec. 3.** *"Substance use, mental health or other addictive*
11 *disorder" means a behavioral or mental disorder associated with*
12 *the use of or withdrawal from drugs or alcohol.*

13 **Sec. 4.** NRS 209.247 is hereby amended to read as follows:

14 209.247 Except as otherwise provided in NRS 209.2475, the
15 Director may make the following deductions, in the following order
16 of priority, from any money deposited in the individual account of
17 an offender from any source other than the offender's wages:

18 1. An amount the Director deems reasonable for deposit with
19 the State Treasurer for credit to the Fund for the Compensation of
20 Victims of Crime created pursuant to NRS 217.260.

21 2. An amount the Director considers reasonable to meet an
22 existing obligation of the offender for the support of the offender's
23 family.



1 3. An amount determined by the Director, with the approval of
2 the Board, to offset the cost of maintaining the offender in the
3 institution, as reflected in the budget of the Department. An amount
4 deducted pursuant to this subsection may include, but is not limited
5 to, an amount to offset the cost of participation by the offender
6 pursuant to NRS 209.4231 to 209.4244, inclusive, *and sections 2*
7 *and 3 of this act* in a ~~therapeutic community~~ *program of*
8 *treatment for offenders with substance use, mental health or other*
9 *addictive disorders* or a program of aftercare, or both.

10 4. A deduction pursuant to NRS 209.246.

11 5. An amount determined by the Director for deposit in a
12 savings account for the offender, in which interest on the money
13 deposited does not accrue, to be used for the payment of the
14 expenses of the offender related to his or her release or, if the
15 offender dies before his or her release, to defray expenses related to
16 arrangements for the offender's funeral.

17 6. An amount the Director considers reasonable to meet an
18 existing obligation of the offender for restitution to a victim of his or
19 her crime.

20 7. An amount the Director considers reasonable to pay the
21 balance of an administrative assessment included in the judgment
22 entered against the offender for each crime for which the offender is
23 incarcerated and the balance of an unpaid administrative assessment
24 included in a judgment entered against the offender for a crime
25 committed in this state for which the offender was previously
26 convicted. An amount deducted from a source other than the wages
27 earned by the offender during his or her incarceration, pursuant to
28 this subsection, must be submitted:

29 (a) If the offender does not have an administrative assessment
30 owing from a judgment entered for a crime previously committed in
31 this state, to the court that entered the judgment against the offender
32 for which he or she is incarcerated.

33 (b) If the offender has an administrative assessment owing from
34 a judgment entered for a crime previously committed in this state, to
35 the court that first entered a judgment for which an administrative
36 assessment is owing, until the balance owing has been paid.

37 8. An amount the Director considers reasonable to pay the
38 balance of a fine included in the judgment entered against the
39 offender for each crime for which the offender is incarcerated and
40 the balance of an unpaid fine included in a judgment entered against
41 the offender for a crime committed in this state for which the
42 offender was previously convicted. An amount deducted from any
43 source other than the wages earned by the offender during his or her
44 incarceration, pursuant to this subsection, must be submitted:



1 (a) If the offender does not have a fine owing from a judgment
2 entered for a crime previously committed in this state, to the court
3 that entered the judgment against the offender for which he or she is
4 incarcerated.

5 (b) If the offender has a fine owing from a judgment entered for
6 a crime previously committed in this state, to the court that first
7 entered a judgment for which any fine or administrative assessment
8 is owing, until the balance owing has been paid.

9 9. An amount the Director considers reasonable to pay the
10 balance of any fee imposed upon the offender for genetic marker
11 analysis and included in the judgment entered against the offender
12 pursuant to NRS 176.0915.

13 ↪ The Director shall determine the priority of any other deduction
14 authorized by law from any source other than the wages earned by
15 the offender during his or her incarceration.

16 **Sec. 5.** NRS 209.4231 is hereby amended to read as follows:

17 209.4231 As used in NRS 209.4231 to 209.4244, inclusive,
18 *and sections 2 and 3 of this act*, unless the context otherwise
19 requires, the words and terms defined in NRS 209.4232 ~~to~~
20 ~~209.4235, inclusive,~~ *and 209.4233 and sections 2 and 3 of this act*
21 have the meanings ascribed to them in those sections.

22 **Sec. 6.** NRS 209.4233 is hereby amended to read as follows:

23 209.4233 “Program of aftercare” means a program that is
24 established pursuant to NRS 209.4238 to provide continuing
25 treatment to those offenders who successfully complete treatment in
26 a ~~{therapeutic community}~~ *program of treatment for offenders*
27 *with substance use, mental health or other addictive disorders.*

28 **Sec. 7.** NRS 209.4236 is hereby amended to read as follows:

29 209.4236 1. The Director shall, in conjunction with the
30 Division and with the approval of the Board, establish one or more
31 ~~{therapeutic communities to provide}~~ *programs of* treatment ~~{to~~
32 ~~certain}~~ *for* offenders ~~{who are}~~ *with* substance ~~{abusers.}~~ *use,*
33 *mental health or other addictive disorders.* A ~~{therapeutic~~
34 ~~community}~~ *program of treatment for offenders with substance*
35 *use, mental health or other addictive disorders* must include, but is
36 not limited to, the requirements set forth in this section.

37 2. A ~~{therapeutic community}~~ *program of treatment for*
38 *offenders with substance use, mental health or other addictive*
39 *disorders* must provide an offender with:

40 (a) Intensive treatment for substance ~~{abuse.}~~ *use, mental health*
41 *or other addictive disorders;*

42 (b) A clearly defined set of goals;

43 (c) A clearly defined structure of authority; and



1 (d) A highly structured schedule that includes, but is not limited
2 to, the treatment listed in paragraph (a) and, if practicable, programs
3 of employment, general education or vocational training.

4 3. Except as otherwise provided in NRS 209.4231 to 209.4244,
5 inclusive, *and sections 2 and 3 of this act*, offenders who are
6 assigned to a ~~therapeutic community~~ *program of treatment for*
7 *offenders with substance use, mental health or other addictive*
8 *disorders*, to the extent practicable as determined by the Director or
9 a person designated by the Director:

10 (a) ~~Must~~ *May* be housed in areas of a facility or institution that
11 are segregated from other areas of the facility or institution in which
12 offenders who are not assigned to the ~~therapeutic community~~
13 *program of treatment for offenders with substance use, mental*
14 *health or other addictive disorders* are housed; ~~and~~

15 (b) *May be taken outside an institution or facility, under*
16 *appropriate precautions to prevent the offender's escape, to*
17 *participate in a program of treatment for offenders with substance*
18 *use, mental health or other addictive disorders; and*

19 (c) Must participate in the ~~therapeutic community~~ *program of*
20 *treatment for offenders with substance use, mental health or other*
21 *addictive disorders* for a period of ~~1 year and a program of~~
22 ~~aftercare for a period of 1 year if a program of aftercare is required~~
23 ~~pursuant to NRS 209.4238.~~ *not less than 3 months as deemed*
24 *appropriate for the level of care being offered.*

25 **Sec. 8.** NRS 209.4237 is hereby amended to read as follows:

26 209.4237 1. The Director shall, in conjunction with the
27 Division and with the approval of the Board, establish a program to
28 evaluate an offender in the custody of the Department to determine
29 whether the offender ~~is~~ *has* a substance ~~abuser~~ *use disorder* and
30 whether the offender may benefit from participation in a
31 ~~therapeutic community~~ *program of treatment for offenders with*
32 *substance use, mental health or other addictive disorders.*

33 2. An evaluation of an offender must be conducted pursuant to
34 subsection 1 if the offender is eligible to be assigned to a
35 ~~therapeutic community~~ *program of treatment for offenders with*
36 *substance use, mental health or other addictive disorders.*

37 3. After an evaluation is conducted pursuant to subsection 1,
38 the Director or a person designated by the Director shall determine
39 whether the offender ~~is~~ *has* a substance ~~abuser~~ *use disorder* and
40 whether the offender may benefit from participation in a
41 ~~therapeutic community~~ *program of treatment for offenders with*
42 *substance use, mental health or other addictive disorders.*

43 4. If a determination is made that the offender ~~is~~ *has* a
44 substance ~~abuser~~ *use disorder* and that the offender may benefit
45 from participation in a ~~therapeutic community~~ *program of*



1 *treatment for offenders with substance use, mental health or other*
2 *addictive disorders*, the Director or a person designated by the
3 Director shall determine whether to assign the offender to
4 participate in a ~~therapeutic community~~ *program of treatment for*
5 *offenders with substance use, mental health or other addictive*
6 *disorders*. In determining whether to assign an offender to
7 participate in a ~~therapeutic community~~ *program of treatment for*
8 *offenders with substance use, mental health or other addictive*
9 *disorders*, the Director or a person designated by the Director shall:

10 (a) Consider the severity of the ~~problem of~~ substance ~~abuse~~
11 ~~by~~ *use, mental health or other addictive disorders* of the offender
12 and the availability of space in each ~~therapeutic community~~;
13 *program of treatment for offenders with substance use, mental*
14 *health or other addictive disorders*; and

15 (b) Give preference, to the extent practicable, to those offenders
16 who appear to be most capable of successfully participating in and
17 completing treatment in a ~~therapeutic community~~ *program of*
18 *treatment for offenders with substance use, mental health or other*
19 *addictive disorders*.

20 5. To be eligible to be assigned to participate in a ~~therapeutic~~
21 ~~community~~ *program of treatment for offenders with substance*
22 *use, mental health or other addictive disorders*, an offender must
23 be within 2 years of the date on which the offender is reasonably
24 expected to be released, as determined by the Director.

25 **Sec. 9.** NRS 209.4238 is hereby amended to read as follows:

26 209.4238 1. The Director shall, in conjunction with the
27 Division and with the approval of the Board, establish one or more
28 programs of aftercare to provide continuing treatment to those
29 offenders who successfully complete treatment in a ~~therapeutic~~
30 ~~community~~ *program of treatment for offenders with substance*
31 *use, mental health or other addictive disorders*.

32 2. Except as otherwise provided in NRS 209.4231 to 209.4244,
33 inclusive ~~it~~, *and sections 2 and 3 of this act*:

34 (a) An offender who successfully completes treatment in a
35 ~~therapeutic community~~ *program of treatment for offenders with*
36 *substance use, mental health or other addictive disorders* must be
37 assigned, to the extent practicable as determined by the Director or a
38 person designated by the Director, to a program of aftercare upon
39 completion of treatment in a ~~therapeutic community~~ *program of*
40 *treatment for offenders with substance use, mental health or other*
41 *addictive disorders*.

42 (b) An offender shall participate, to the extent practicable as
43 determined by the Director or a person designated by the Director,
44 in a program of aftercare for a period of 1 year.



1 (c) If an offender is assigned to a program of aftercare and,
2 before or during participation in such a program, the offender is
3 released on parole:

4 (1) The offender shall continue to participate in a program of
5 aftercare, to the extent practicable as determined by the Director or a
6 person designated by the Director and by the State Board of Parole
7 Commissioners; and

8 (2) That participation, if any, must be made a condition of
9 parole pursuant to NRS 213.1235.

10 (d) If an offender is assigned to a program of aftercare and,
11 before or during participation in such a program, the offender is
12 assigned to serve a term of residential confinement pursuant to NRS
13 209.392, the offender shall continue to participate in a program of
14 aftercare to the extent practicable as determined by the Director or a
15 person designated by the Director.

16 **Sec. 10.** NRS 209.4239 is hereby amended to read as follows:

17 209.4239 1. The Director or a person designated by the
18 Director may remove an offender from a ~~{therapeutic community}~~
19 *program of treatment for offenders with substance use, mental*
20 *health or other addictive disorders* or a program of aftercare,
21 temporarily or permanently, for any lawful reason or purpose.

22 2. The Director may impose conditions on the participation of
23 an offender in a ~~{therapeutic community}~~ *program of treatment for*
24 *offenders with substance use, mental health or other addictive*
25 *disorders* or a program of aftercare and may establish sanctions and
26 incentives relating to participation in a ~~{therapeutic community}~~
27 *program of treatment for offenders with substance use, mental*
28 *health or other addictive disorders* or a program of aftercare.

29 3. The provisions of NRS 209.4231 to 209.4244, inclusive, *and*
30 *sections 2 and 3 of this act* do not create a right on behalf of an
31 offender to participate in a ~~{therapeutic community}~~ *program of*
32 *treatment for offenders with substance use, mental health or other*
33 *addictive disorders* or a program of aftercare and do not establish a
34 basis for any cause of action against the State or its officers or
35 employees for denial of the ability to participate in or for removal
36 from a ~~{therapeutic community}~~ *program of treatment for offenders*
37 *with substance use, mental health or other addictive disorders* or a
38 program of aftercare.

39 **Sec. 11.** NRS 209.424 is hereby amended to read as follows:

40 209.424 An offender may not participate in a ~~{therapeutic~~
41 ~~community}~~ *program of treatment for offenders with substance*
42 *use, mental health or other addictive disorders* if the offender:

43 1. Was sentenced to death or a term of imprisonment for life
44 without the possibility of parole; or



2. Is or was eligible to participate in the program of treatment established pursuant to NRS 209.425, whether or not the offender actually participated in or completed that program of treatment.

Sec. 12. NRS 209.4242 is hereby amended to read as follows:

209.4242 To carry out the provisions of NRS 209.4231 to 209.4244, inclusive, *and sections 2 and 3 of this act*, the Director may contract with persons or private entities that are qualified to evaluate offenders ~~[who are]~~ *with substance [abusers] use, mental health or other addictive disorders* or qualified to administer ~~[therapeutic communities]~~ *programs of treatment for offenders with substance use, mental health or other addictive disorders* or programs of aftercare.

Sec. 13. NRS 209.4244 is hereby amended to read as follows:

209.4244 The Director shall provide the following information to the Interim Finance Committee on or before January 31 of each even-numbered year and to the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means at the beginning of each regular session of the Legislature:

1. The number of offenders who are currently participating in ~~[therapeutic communities]~~ *programs of treatment for offenders with substance use, mental health or other addictive disorders* and programs of aftercare;

2. The number of offenders who have participated in ~~[therapeutic communities]~~ *programs of treatment for offenders with substance use, mental health or other addictive disorders* and programs of aftercare and the number of those offenders who subsequently have been arrested for other offenses; and

3. The number of offenders who have successfully completed treatment in ~~[therapeutic communities]~~ *programs of treatment for offenders with substance use, mental health or other addictive disorders* and programs of aftercare and the number of those offenders who subsequently have been arrested for other offenses.

↪ The Central Repository for Nevada Records of Criminal History shall assist the Director in obtaining all data that is necessary to prepare the information required by subsections 2 and 3.

Sec. 14. NRS 209.463 is hereby amended to read as follows:

209.463 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from the wages earned by an offender from any source during the offender's incarceration:

1. If the hourly wage of the offender is equal to or greater than the federal minimum wage:

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



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

4 (c) An amount determined by the Director, with the approval of
5 the Board, for deposit in the State Treasury for credit to the Fund for
6 New Construction of Facilities for Prison Industries, but only if the
7 offender is employed through a program for prison industries.

8 (d) An amount determined by the Director for deposit in the
9 individual account of the offender in the Prisoners' Personal
10 Property Fund.

11 (e) An amount determined by the Director, with the approval of
12 the Board, to offset the cost of maintaining the offender in the
13 institution, as reflected in the budget of the Department. An amount
14 deducted pursuant to this paragraph may include, but is not limited
15 to, an amount to offset the cost of participation by the offender
16 pursuant to NRS 209.4231 to 209.4244, inclusive, *and sections 2*
17 *and 3 of this act* in a ~~[therapeutic community]~~ *program of*
18 *treatment for offenders with substance use, mental health or other*
19 *addictive disorders* or a program of aftercare, or both.

20 (f) A deduction pursuant to NRS 209.246.

21 (g) An amount determined by the Director for deposit in a
22 savings account for the offender, in which interest on the money
23 deposited does not accrue, to be used for the payment of the
24 expenses of the offender related to his or her release, or if the
25 offender dies before his or her release, to defray expenses related to
26 arrangements for his or her funeral.

27 (h) An amount the Director considers reasonable to meet an
28 existing obligation of the offender for restitution to any victim of his
29 or her crime.

30 (i) An amount the Director considers reasonable to pay the
31 balance of any fee imposed upon the offender for genetic marker
32 analysis and included in the judgment entered against the offender
33 pursuant to NRS 176.0915.

34 (j) An amount the Director considers reasonable to pay the
35 balance of an administrative assessment included in the judgment
36 entered against the offender for each crime for which the offender is
37 incarcerated and the balance of an unpaid administrative assessment
38 included in a judgment entered against the offender for a crime
39 committed in this state for which the offender was previously
40 convicted. An amount deducted from the wages of the offender
41 pursuant to this paragraph must be submitted:

42 (1) If the offender does not have an administrative
43 assessment owing from a judgment entered for a crime previously
44 committed in this state, to the court that entered the judgment
45 against the offender for which the offender is incarcerated.



1 (2) If the offender has an administrative assessment owing
2 from a judgment entered for a crime previously committed in this
3 state, to the court that first entered a judgment for which an
4 administrative assessment is owing, until the balance owing has
5 been paid.

6 (k) An amount the Director considers reasonable to pay the
7 balance of a fine included in the judgment entered against the
8 offender for each crime for which the offender is incarcerated and
9 the balance of an unpaid fine included in a judgment entered against
10 the offender for a crime committed in this state for which the
11 offender was previously convicted. An amount deducted from the
12 wages of the offender pursuant to this paragraph must be submitted:

13 (1) If the offender does not have a fine owing from a
14 judgment entered for a crime previously committed in this state, to
15 the court that entered the judgment against the offender for which
16 the offender is incarcerated.

17 (2) If the offender has a fine owing from a judgment entered
18 for a crime previously committed in this state, to the court that first
19 entered a judgment for which a fine or administrative assessment is
20 owing, until the balance owing has been paid.

21 ➤ The Director shall determine the priority of any other deduction
22 authorized by law from the wages earned by the offender from any
23 source during the offender's incarceration.

24 2. If the hourly wage of the offender is less than the federal
25 minimum wage:

26 (a) An amount the Director deems reasonable for deposit with
27 the State Treasurer for credit to the Fund for the Compensation of
28 Victims of Crime.

29 (b) An amount determined by the Director, with the approval of
30 the Board, for deposit in the State Treasury for credit to the Fund for
31 New Construction of Facilities for Prison Industries, but only if the
32 offender is employed through a program for prison industries.

33 (c) An amount determined by the Director for deposit in the
34 individual account of the offender in the Prisoners' Personal
35 Property Fund.

36 (d) An amount determined by the Director, with the approval of
37 the Board, to offset the cost of maintaining the offender in the
38 institution, as reflected in the budget of the Department. An amount
39 deducted pursuant to this paragraph may include, but is not limited
40 to, an amount to offset the cost of participation by the offender
41 pursuant to NRS 209.4231 to 209.4244, inclusive, *and sections 2*
42 *and 3 of this act* in a ~~[therapeutic community]~~ *program of*
43 *treatment for offenders with substance use, mental health or other*
44 *addictive disorders* or a program of aftercare, or both.

45 (e) A deduction pursuant to NRS 209.246.



1 (f) An amount the Director considers reasonable to pay the
2 balance of any fee imposed upon the offender for genetic marker
3 analysis and included in the judgment entered against the offender
4 pursuant to NRS 176.0915.

5 (g) An amount determined by the Director for deposit in a
6 savings account for the offender, in which interest on the money
7 deposited does not accrue, to be used for the payment of the
8 expenses of the offender related to the offender's release, or if the
9 offender dies before the offender's release, to defray expenses
10 related to arrangements for the offender's funeral.

11 ➤ The Director shall determine the priority of any other deduction
12 authorized by law from the wages earned by the offender from any
13 source during the offender's incarceration.

14 **Sec. 15.** NRS 209.4234 and 209.4235 are hereby repealed.

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

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

19 2. On July 1, 2019, for all other purposes.

TEXT OF REPEALED SECTIONS

209.4234 "Substance abuser" defined. "Substance abuser"
means a person who abuses, is addicted to or is psychologically or
physically dependent on:

1. Alcohol;
2. A controlled substance; or
3. A drug, poison, solvent or toxic inhalant. This subsection
does not include tobacco or products made from tobacco.

209.4235 "Therapeutic community" defined. "Therapeutic
community" means a program that is established pursuant to NRS
209.4236 to provide treatment to certain offenders who are
substance abusers.



