

ASSEMBLY BILL NO. 510—SELECT COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

MARCH 23, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 2** revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, **section 2** provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) **Section 3** of this bill



eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, **section 5** increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. **Section 5** also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) **Section 6** of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) **Section 6.2** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) **Section 6.4** of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, **section 7** revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) **Section 7.5** of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. **Section 8** of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) **Section 8.6** of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require



the person to serve a term of residential confinement. **Section 8.8** of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of **sections 5 and 8.7** to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~Established~~ *Demonstrated a willingness and ability to establish* a position of employment in the community;

(b) ~~Enrolled~~ *Demonstrated a willingness and ability to enroll* in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➔ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the



1 Division of Parole and Probation pursuant to this subsection is
2 confidential.

3 3. The Director, after consulting with the Division of Parole
4 and Probation, shall adopt, by regulation, standards providing which
5 offenders are eligible for residential confinement. The standards
6 adopted by the Director must provide that an offender who:

7 ~~(a) [Is not eligible for parole or release from prison within a~~
8 ~~reasonable period;~~

9 ~~—(b)]~~ Has recently committed a serious infraction of the rules of
10 an institution or facility of the Department;

11 ~~[(e)]~~ (b) Has not performed the duties assigned to him in a
12 faithful and orderly manner;

13 ~~[(d)]~~ (c) Has ~~[ever]~~ been convicted of:

14 (1) Any crime *that is punishable as a felony* involving the
15 use or threatened use of force or violence against the victim ~~[- or]~~
16 *within the immediately preceding 3 years;*

17 (2) A sexual offense ~~[-~~
18 ~~—(e)]~~ *that is punishable as a felony; or*

19 ~~(3) A category A or B felony;~~

20 (d) Has more than one prior conviction for any felony in this
21 State or any offense in another state that would be a felony if
22 committed in this State, not including a violation of NRS 484.379,
23 484.3795 or 484.37955; *or*

24 ~~[(f)]~~ (e) Has escaped or attempted to escape from any jail or
25 correctional institution for adults, ~~[- or]~~

26 ~~—(g) Has not made an effort in good faith to participate in or to~~
27 ~~complete any educational or vocational program or any program of~~
28 ~~treatment, as ordered by the Director.]~~

29 ➔ is not eligible for assignment to the custody of the Division of
30 Parole and Probation to serve a term of residential confinement
31 pursuant to this section.

32 4. If an offender assigned to the custody of the Division of
33 Parole and Probation pursuant to this section escapes or violates any
34 of the terms or conditions of his residential confinement:

35 (a) The Division of Parole and Probation may, pursuant to the
36 procedure set forth in NRS 213.410, return the offender to the
37 custody of the Department.

38 (b) The offender forfeits all or part of the credits for good
39 behavior earned by him before the escape or violation, as
40 determined by the Director. The Director may provide for a
41 forfeiture of credits pursuant to this paragraph only after proof of the
42 offense and notice to the offender and may restore credits forfeited
43 for such reasons as he considers proper. The decision of the Director
44 regarding such a forfeiture is final.



5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~the~~:

~~(a) The~~ *the* offender has:

~~{(1)}~~ *(a) [Established] Demonstrated a willingness and ability to establish* a position of employment in the community;

~~{(2)}~~ *(b) [Enrolled] Demonstrated a willingness and ability to enroll* in a program for education or rehabilitation; or

~~{(3)}~~ *(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime .* ~~the~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~➤ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may~~



~~provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of



1 Parole and Probation to serve a term of residential confinement
2 unless the Director makes a finding that the offender is not likely to
3 pose a threat to the victim of the battery.

4 **Sec. 4.** NRS 209.446 is hereby amended to read as follows:

5 209.446 1. Every offender who is sentenced to prison for a
6 crime committed on or after July 1, 1985, but before July 17, 1997,
7 who has no serious infraction of the regulations of the Department,
8 the terms and conditions of his residential confinement, or the laws
9 of the State recorded against him, and who performs in a faithful,
10 orderly and peaceable manner the duties assigned to him, must be
11 allowed:

12 (a) For the period he is actually incarcerated under sentence;

13 (b) For the period he is in residential confinement; and

14 (c) For the period he is in the custody of the Division of Parole
15 and Probation of the Department of Public Safety pursuant to NRS
16 209.4886 or 209.4888,

17 ➔ a deduction of 10 days from his sentence for each month he
18 serves.

19 2. In addition to the credit provided for in subsection 1, the
20 Director may allow not more than 10 days of credit each month for
21 an offender whose diligence in labor and study merits such credits.
22 In addition to the credits allowed pursuant to this subsection, an
23 offender is entitled to the following credits for educational
24 achievement:

25 (a) For earning a general educational development certificate, 30
26 days.

27 (b) For earning a high school diploma, 60 days.

28 (c) For earning an associate degree, 90 days.

29 3. The Director may allow not more than 10 days of credit each
30 month for an offender who participates in a diligent and responsible
31 manner in a center for the purpose of making restitution, *program*
32 *for reentry of offenders and parolees into the community*,
33 conservation camp, program of work release or another program
34 conducted outside of the prison. An offender who earns credit
35 pursuant to this subsection is entitled to the entire 20 days of credit
36 each month which is authorized in subsections 1 and 2.

37 4. The Director may allow not more than 90 days of credit each
38 year for an offender who engages in exceptional meritorious service.

39 5. The Board shall adopt regulations governing the award,
40 forfeiture and restoration of credits pursuant to this section.

41 6. Credits earned pursuant to this section:

42 (a) Must be deducted from the maximum term imposed by the
43 sentence; and



(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

(a) For the period he is actually incarcerated pursuant to his sentence;

(b) For the period he is in residential confinement; and

(c) For the period he is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

→ a deduction of ~~140~~ 20 days from his sentence for each month he serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, ~~30~~ 60 days.

(b) For earning a high school diploma, ~~60~~ 90 days.

(c) For earning his first associate degree, ~~90~~ 120 days.

3. The Director may, in his discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, *program for reentry of offenders and parolees into the community*, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~20~~ 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~Credits~~ *Except as otherwise provided in subsection 8, credits* earned pursuant to this section:



(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or

(d) A category A or B felony,

↪ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~10~~ 20 days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.



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5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than ~~{30}~~ 60 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement, or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~{30}~~ 60 days from the maximum term of his sentence for the *successful* completion of:

(a) A program of vocational education and training; or

(b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~{30}~~ 60 days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has *ever* been convicted of a sexual offense ~~{+}~~ *that is punishable as a felony;*

(e) Has ~~{committed an act of serious violence during the previous year;}~~ *, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;* or



(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5-years.]~~ *year*, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[]~~ *that is punishable as a felony; or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[]~~ *or*

~~—(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.]~~



1 ➡ is not eligible for assignment to the custody of the Division
2 pursuant to this section to participate in a judicial program.

3 4. The Director shall adopt regulations requiring offenders who
4 are assigned to the custody of the Division pursuant to this section
5 to reimburse the reentry court, the Division and the Department for
6 the cost of their participation in a judicial program, to the extent of
7 their ability to pay.

8 5. The reentry court may return the offender to the custody of
9 the Department at any time for any violation of the terms and
10 conditions imposed by the reentry court.

11 6. If an offender assigned to the custody of the Division
12 pursuant to this section violates any of the terms or conditions
13 imposed by the reentry court and is returned to the custody of the
14 Department, the offender forfeits all or part of the credits for good
15 behavior earned by him before he was returned to the custody of the
16 Department, as determined by the Director. The Director may
17 provide for a forfeiture of credits pursuant to this subsection only
18 after proof of the violation and notice is given to the offender. The
19 Director may restore credits so forfeited for such reasons as he
20 considers proper. The decision of the Director regarding such a
21 forfeiture is final.

22 7. The assignment of an offender to the custody of the Division
23 pursuant to this section shall be deemed:

24 (a) A continuation of his imprisonment and not a release on
25 parole; and

26 (b) For the purposes of NRS 209.341, an assignment to a facility
27 of the Department,

28 ➡ except that the offender is not entitled to obtain any benefits or to
29 participate in any programs provided to offenders in the custody of the
30 Department.

31 8. An offender does not have a right to be assigned to the
32 custody of the Division pursuant to this section, or to remain in that
33 custody after such an assignment. It is not intended that the
34 establishment or operation of a judicial program creates any right or
35 interest in liberty or property or establishes a basis for any cause of
36 action against the State of Nevada, its political subdivisions,
37 agencies, boards, commissions, departments, officers or employees.

38 **Sec. 8.** NRS 209.4888 is hereby amended to read as follows:

39 209.4888 1. Except as otherwise provided in this section, if a
40 correctional program has been established by the Director in the
41 county in which an offender was sentenced to imprisonment, the
42 Director may, after consulting with the Division, determine that an
43 offender is suitable to participate in the correctional program if:

44 (a) The Director believes that the offender would participate
45 successfully in and benefit from the correctional program;



(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5-years,]~~ *year*, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ *that is punishable as a felony; or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[; or~~

~~—(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.]~~

➔ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.



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6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ *Except as otherwise provided in NRS 209.4465, any* credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum



1 term of imprisonment imposed and must not reduce the minimum
2 term of imprisonment.

3 **Sec. 8.6.** NRS 213.152 is hereby amended to read as follows:

4 213.152 1. Except as otherwise provided in subsection 6, if a
5 parolee violates a condition of his parole, the Board may order him
6 to a term of residential confinement in lieu of suspending his parole
7 and returning him to confinement. In making this determination, the
8 Board shall consider the criminal record of the parolee and the
9 seriousness of the crime committed.

10 2. In ordering the parolee to a term of residential confinement,
11 the Board shall:

12 (a) Require ~~the~~ :

13 (1) *The* parolee to be confined to his residence during the
14 time he is away from his employment, community service or other
15 activity authorized by the Division; and

16 ~~[(b) Require intensive]~~

17 (2) *Intensive* supervision of the parolee, including, without
18 limitation, unannounced visits to his residence or other locations
19 where he is expected to be in order to determine whether he is
20 complying with the terms of his confinement ~~[(b) ; or~~

21 *(b) Require the parolee to be confined to a facility of the*
22 *Department of Corrections approved by the Board for a period not*
23 *to exceed 6 months.*

24 3. An electronic device approved by the Division may be used
25 to supervise a parolee ordered to a term of residential confinement.
26 The device must be minimally intrusive and limited in capability to
27 recording or transmitting information concerning the presence of
28 the parolee at his residence, including, but not limited to, the
29 transmission of still visual images which do not concern the
30 activities of the person while inside his residence. A device which is
31 capable of recording or transmitting:

32 (a) Oral or wire communications or any auditory sound; or

33 (b) Information concerning the activities of the parolee while
34 inside his residence,

35 ➔ must not be used.

36 4. The Board shall not order a parolee to a term of residential
37 confinement unless he agrees to the order.

38 5. A term of residential confinement may not be longer than
39 the unexpired maximum term of the original sentence of the parolee.

40 6. The Board shall not order a parolee who is serving a
41 sentence for committing a battery which constitutes domestic
42 violence pursuant to NRS 33.018 to a term of residential
43 confinement unless the Board makes a finding that the parolee is not
44 likely to pose a threat to the victim of the battery.



1 *7. As used in this section, "facility" has the meaning ascribed*
2 *to it in NRS 209.065.*

3 **Sec. 8.7.** NRS 176A.500 is hereby amended to read as
4 follows:

5 176A.500 1. The period of probation or suspension of
6 sentence may be indeterminate or may be fixed by the court and
7 may at any time be extended or terminated by the court, but the
8 period, including any extensions thereof, must not be more than:

9 (a) Three years for a:

10 (1) Gross misdemeanor; or

11 (2) Suspension of sentence pursuant to NRS 176A.260 or
12 453.3363; or

13 (b) Five years for a felony.

14 2. At any time during probation or suspension of sentence, the
15 court may issue a warrant for violating any of the conditions of
16 probation or suspension of sentence and cause the defendant to be
17 arrested. Except for the purpose of giving a dishonorable discharge
18 from probation, and except as otherwise provided in this subsection,
19 the time during which a warrant for violating any of the conditions
20 of probation is in effect is not part of the period of probation. If the
21 warrant is cancelled or probation is reinstated, the court may include
22 any amount of that time as part of the period of probation.

23 3. Any parole and probation officer or any peace officer with
24 power to arrest may arrest a probationer without a warrant, or may
25 deputize any other officer with power to arrest to do so by giving
26 him a written statement setting forth that the probationer has, in the
27 judgment of the parole and probation officer, violated the conditions
28 of probation. Except as otherwise provided in subsection 4, the
29 parole and probation officer, or the peace officer, after making an
30 arrest shall present to the detaining authorities, if any, a statement of
31 the charges against the probationer. The parole and probation officer
32 shall at once notify the court which granted probation of the arrest
33 and detention or residential confinement of the probationer and shall
34 submit a report in writing showing in what manner the probationer
35 has violated the conditions of probation.

36 4. A parole and probation officer or a peace officer may
37 immediately release from custody without any further proceedings
38 any person he arrests without a warrant for violating a condition of
39 probation if the parole and probation officer or peace officer
40 determines that there is no probable cause to believe that the person
41 violated the condition of probation.

42 *5. An offender who is sentenced to serve a period of*
43 *probation for a felony who has no serious infraction of the*
44 *regulations of the Division, the terms and conditions of his*
45 *probation or the laws of the State recorded against him, and who*



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performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division ~~};~~

~~—(b) Require the} and require:~~

(1) *The* person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~{(c) Require intensive}~~

(2) *Intensive* supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~{}~~; *or*

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,
➤ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.



1 **6. As used in this section, "facility" has the meaning ascribed**
2 **to it in NRS 209.065.**

3 **Sec. 9.** (Deleted by amendment.)

4 **Sec. 10.** 1. For the purpose of calculating the credits earned
5 by an offender pursuant to NRS 209.4465, the amendatory
6 provisions of section 5 of this act must be applied:

7 (a) Retroactively to July 1, 2000, to reduce the minimum term of
8 imprisonment of an offender described in subsection 8 of NRS
9 209.4465 who was placed in the custody of the Department of
10 Corrections before July 1, 2007, and who remains in such custody
11 on July 1, 2007.

12 (b) Retroactively to July 1, 2006, to reduce the maximum term
13 of imprisonment of an offender who was placed on parole before
14 July 1, 2007.

15 (c) In the manner set forth in NRS 209.4465 for all offenders in
16 the custody of the Department of Corrections commencing on
17 July 1, 2007, and for all offenders who are on parole commencing
18 on July 1, 2007.

19 2. For the purpose of calculating credits earned by an offender
20 pursuant to NRS 209.448 and 209.449, the amendatory provisions
21 of sections 6.2 and 6.4 of this act apply only to credits earned by an
22 offender on or after July 1, 2007.

23 3. For the purpose of calculating credits earned by an offender
24 pursuant to NRS 176A.500, the amendatory provisions of section
25 8.7 of this act must be applied retroactively to reduce the period of
26 probation of such an offender commencing on July 1, 2006.

27 **Sec. 11.** This act becomes effective on July 1, 2007.



