

ASSEMBLY BILL NO. 69—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DIVISION OF PAROLE AND PROBATION OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing residential confinement of violators of parole. (BDR 16-347)

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 criminal offenders; revising provisions relating to the residential confinement of violators of parole; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a parole or probation officer or certain peace officers to arrest a parolee: (1) upon the written order for the parolee’s arrest from the State Board of Parole Commissioners; or (2) without a warrant when there is probable cause to believe that the parolee violated his or her parole. (NRS 213.151) Under existing law, upon such an arrest, and once it is determined at an inquiry that there is probable cause to believe that such a violation occurred, a hearing will be scheduled before the Board. At such a hearing, the Board is authorized to order a parolee to a term of residential confinement instead of suspending his or her parole and returning the parolee to confinement. (NRS 213.1511, 213.1517, 213.152) Section 3 of this bill alternatively requires the Board to order such a parolee to a term of residential confinement once the Board receives from the Division of Parole and Probation of the Department of Public Safety: (1) the parolee’s voluntary waiver of his or her hearing before the Board; (2) the parolee’s agreement to a term of residential confinement; and (3) the Division’s request for the parolee’s residential confinement.

Existing law authorizes the Chief Parole and Probation Officer of the Division of Parole and Probation to order any parolee, who is arrested for any act that would constitute a violation of his or her parole, to be placed in residential confinement pending an inquiry to determine whether there is probable cause for such a violation. (NRS 213.15105) Section 2 of this bill authorizes the Chief Parole and Probation Officer, in lieu of arresting a parolee for a violation of his or her parole, to order such a parolee to a term of residential confinement if the Chief receives the parolee’s: (1) voluntary waiver of his or her right to an inquiry and hearing to



24 contest the alleged violation of parole; and (2) agreement to a term of residential  
25 confinement. **Section 2** also authorizes the Board to review such an order for  
26 residential confinement.

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

1 **Section 1.** NRS 213.151 is hereby amended to read as follows:

2 213.151 1. The Board's written order, certified to by the  
3 Chief Parole and Probation Officer, is sufficient warrant for any  
4 parole and probation officer or other peace officer to arrest any  
5 conditionally released or paroled prisoner.

6 2. Every sheriff, constable, chief of police, prison officer or  
7 other peace officer shall execute any such order in like manner as  
8 ordinary criminal process.

9 3. Any parole and probation officer or any peace officer with  
10 power to arrest may arrest a parolee without a warrant if there is  
11 probable cause to believe that the parolee has committed acts that  
12 would constitute a violation of his or her parole.

13 4. Except as otherwise provided in subsection 5, after arresting  
14 a paroled prisoner for violation of a condition of his or her parole  
15 and placing the parolee in detention or, pursuant to *paragraph (a) of*  
16 *subsection 1 of* NRS 213.15105, in residential confinement, the  
17 arresting officer shall:

18 (a) Present to the detaining authorities, if any, a statement of the  
19 charges against the parolee; and

20 (b) Notify the Board of the arrest and detention or residential  
21 confinement of the parolee and submit a written report showing in  
22 what manner the parolee violated a condition of his or her parole.

23 5. A parole and probation officer or a peace officer may  
24 immediately release from custody without any further proceedings  
25 any person he or she arrests without a warrant for violating a  
26 condition of parole if the parole and probation officer or peace  
27 officer determines that there is no probable cause to believe that the  
28 person violated the condition of parole.

29 **Sec. 2.** NRS 213.15105 is hereby amended to read as follows:

30 213.15105 1. The Chief Parole and Probation Officer may, in  
31 accordance with the provisions of NRS 213.15193, 213.15195 and  
32 213.15198 ~~[, order]~~ :

33 (a) *Order* any parolee who is arrested pursuant to NRS 213.151  
34 to be placed in residential confinement in lieu of detention in a  
35 county jail pending an inquiry to determine whether there is  
36 probable cause to believe that the parolee has committed any act  
37 which would constitute a violation of his or her parole.



1       ***(b) Order any parolee, who the Chief has probable cause to***  
2 ***believe has committed any act that would constitute a violation of***  
3 ***his or her parole, to be placed in residential confinement in lieu of***  
4 ***arrest and detention in a county jail if the parolee submits the***  
5 ***following documents to the Division:***

6           ***(1) The voluntary waiver of the parolee of his or her right***  
7 ***to an inquiry and hearing to contest the alleged violation of***  
8 ***parole; and***

9           ***(2) The agreement of the parolee to a term of residential***  
10 ***confinement.***

11       ***2. The Board may review any action taken pursuant to***  
12 ***paragraph (b) of subsection 1.***

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

14       213.152 1. Except as otherwise provided in **[subsection]**  
15 ***subsections 7 ~~H~~ and 8,*** if a parolee violates a condition of his or her  
16 parole, the Board may order the parolee to a term of residential  
17 confinement in lieu of suspending his or her parole and returning the  
18 parolee to confinement. In making this determination, the Board  
19 shall consider the criminal record of the parolee and the seriousness  
20 of the crime committed.

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

23       (a) Require:

24           (1) The parolee to be confined to his or her residence during  
25 the time the parolee is away from his or her employment,  
26 community service or other activity authorized by the Division; and

27           (2) Intensive supervision of the parolee, including, without  
28 limitation, unannounced visits to his or her residence or other  
29 locations where the parolee is expected to be in order to determine  
30 whether the parolee is complying with the terms of his or her  
31 confinement; or

32       (b) Require the parolee to be confined to a facility or institution  
33 of the Department of Corrections for a period not to exceed 6  
34 months. The Department may select the facility or institution in  
35 which to place the parolee.

36       3. An electronic device approved by the Division may be used  
37 to supervise a parolee ordered to a term of residential confinement.  
38 The device may be capable of using the Global Positioning System,  
39 but must be minimally intrusive and limited in capability to  
40 recording or transmitting information concerning the location of the  
41 parolee, including, but not limited to, the transmission of still visual  
42 images which do not concern the activities of the parolee, and  
43 producing, upon request, reports or records of the parolee's presence  
44 near or within a crime scene or prohibited area or his or her



1 departure from a specified geographic location. A device which is  
2 capable of recording or transmitting:

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

4 (b) Information concerning the activities of the parolee,

5 ↪ must not be used.

6 4. A parolee who is confined to a facility or institution of  
7 the Department of Corrections pursuant to paragraph (b) of  
8 subsection 2:

9 (a) May earn credits to reduce his or her sentence pursuant to  
10 chapter 209 of NRS; and

11 (b) Shall not be deemed to be released on parole for purposes of  
12 NRS 209.447 or 209.4475 during the period of that confinement.

13 5. The Board shall not order a parolee to a term of residential  
14 confinement unless the parolee agrees to the order.

15 6. A term of residential confinement may not be longer than  
16 the unexpired maximum term of the original sentence of the parolee.

17 7. *The Board shall modify the conditions of parole to include*  
18 *a term of residential confinement pursuant to paragraph (a) of*  
19 *subsection 2, upon receipt of the following documents from the*  
20 *Division:*

21 (a) *The voluntary waiver of a parolee of his or her hearing*  
22 *before the Board;*

23 (b) *The agreement of a parolee to a term of residential*  
24 *confinement pursuant to subsection 5; and*

25 (c) *The request of the Division for the modification of the*  
26 *conditions of parole to include a term of residential confinement*  
27 *pursuant to paragraph (a) of subsection 2.*

28 8. The Board shall not order a parolee who is serving a  
29 sentence for committing a battery which constitutes domestic  
30 violence pursuant to NRS 33.018 to a term of residential  
31 confinement unless the Board makes a finding that the parolee is not  
32 likely to pose a threat to the victim of the battery.

33 ~~8.1~~ 9. As used in this section:

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

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

36 **Sec. 4.** This act becomes effective upon passage and approval.

