

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.

~

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 authorizes 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 certain requirements are met and the Chief receives the parolee’s: (1) voluntary waiver of his or her right



24 to an inquiry and hearing to contest the alleged violation of parole; and (2)
25 agreement to a term of residential confinement. **Section 2** requires the Division to
26 advise a parolee in writing of his or her right to consult with counsel before the
27 parolee signs such documents or a form used by the Division as a waiver of a
28 hearing to modify the conditions of parole. **Section 2** also provides that if a parolee
29 exercises such a right, the parolee must be given a period of not less than 3 business
30 days and not more than 6 calendar days to consult with his or her counsel, but
31 authorizes the Division to extend such a period for good cause shown. **Section 2**
32 additionally: (1) authorizes the Board to review an order for residential
33 confinement; and (2) provides that if the Board discovers during such a review that
34 a parolee was not given the requisite period to consult with his or her counsel, the
35 Board must consider any admission to a parole violation by the parolee to be null
36 and void and must proceed with a hearing allowing the parolee to contest the
37 alleged violation of parole.

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.



1 **Sec. 2.** NRS 213.15105 is hereby amended to read as follows:
2 213.15105 **1.** The Chief Parole and Probation Officer may, in
3 accordance with the provisions of NRS 213.15193, 213.15195 and
4 213.15198 ~~[, order]~~:

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

10 **(b) Order any parolee, who the Chief has probable cause to**
11 **believe has committed any act that would constitute a violation of**
12 **his or her parole, to be placed in residential confinement in lieu of**
13 **arrest and detention in a county jail if the requirements set forth**
14 **in subsections 2 and 3 have been met and the parolee submits the**
15 **following documents to the Division:**

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

19 **(2) The agreement of the parolee to a term of residential**
20 **confinement.**

21 **2. The Division shall advise a parolee in writing of his or her**
22 **right to consult with counsel before the parolee signs any:**

23 **(a) Voluntary waiver of his or her right to an inquiry and**
24 **hearing to contest an alleged violation of parole;**

25 **(b) Agreement to a term of residential confinement for an**
26 **alleged violation of parole; or**

27 **(c) Form used by the Division as a waiver of a hearing to**
28 **modify the conditions of parole.**

29 **3. Except as otherwise provided in this subsection, if a**
30 **parolee exercises his or her right to consult with counsel pursuant**
31 **to subsection 2, the parolee must be given a period of not less than**
32 **3 business days and not more than 6 calendar days to consult with**
33 **his or her counsel. The Division may extend such a period for**
34 **good cause shown, including, without limitation, a medical reason**
35 **or another reason beyond the control of the parolee.**

36 **4. The Board may review any action taken pursuant to**
37 **paragraph (b) of subsection 1. If the Board discovers during a**
38 **review conducted pursuant to this subsection that a parolee was**
39 **not given the period required pursuant to subsection 3 to consult**
40 **with his or her counsel, the Board must consider any admission to**
41 **a parole violation by the parolee to be null and void and must**
42 **proceed with a hearing allowing the parolee to contest the alleged**
43 **violation of parole.**



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

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

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

(a) Require:

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

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

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

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

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

(b) Information concerning the activities of the parolee,

↪ must not be used.

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

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

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



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

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

5 7. *The Board may modify the conditions of parole to include*
6 *a term of residential confinement pursuant to paragraph (a) of*
7 *subsection 2, upon receipt of the following documents from the*
8 *Division:*

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

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

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

16 8. The Board shall not order a parolee who is serving a
17 sentence for committing a battery which constitutes domestic
18 violence pursuant to NRS 33.018 to a term of residential
19 confinement unless the Board makes a finding that the parolee is not
20 likely to pose a threat to the victim of the battery.

21 ~~8.1~~ 9. As used in this section:

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

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

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



