

SENATE BILL NO. 294—SENATORS PARKS, FORD, KIHUEN;
DENIS, MANENDO AND WOODHOUSE (BY REQUEST)

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Expands authorization for certain offenders to have access to telecommunications devices under certain circumstances. (BDR 16-282)

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; expanding the authorization for offenders to have access to telecommunications devices under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits offenders from having access to telecommunications
2 devices except under certain circumstances. (NRS 209.417) This bill authorizes the
3 Department of Corrections to enter into an agreement with an offender allowing the
4 offender to use telecommunications devices for certain purposes related to
5 education and employment.

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

1 **Section 1.** NRS 209.417 is hereby amended to read as follows:
2 209.417 1. Except as otherwise provided in ~~subsection 2,~~
3 *this section*, the warden or manager of an institution or facility shall
4 ensure that no offender in the institution or facility, *or in a vehicle*
5 *of the Department*, has access to a telecommunications device.
6 2. An offender may use a telephone or, for the purpose of
7 communicating with his or her child pursuant to NRS 209.42305,
8 any other approved telecommunications device subject to the
9 limitations set forth in NRS 209.419.



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1 3. *The Department may enter into an agreement with an*
2 *offender who is assigned to transitional housing, a center for the*
3 *purpose of making restitution pursuant to NRS 209.4827 to*
4 *209.4843, inclusive, or a specific program of education or*
5 *vocational training authorizing the offender to use a*
6 *telecommunications device:*

7 (a) *To access a network, including, without limitation, the*
8 *Internet, for the purpose of:*

9 (1) *Obtaining educational or vocational training that is*
10 *approved by the Department;*

11 (2) *Searching for or applying for employment; or*

12 (3) *Performing essential job functions.*

13 (b) *For any other purpose if a telecommunications device is*
14 *required by an employer of the offender to perform essential job*
15 *functions.*

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

26 **Sec. 2.** NRS 212.165 is hereby amended to read as follows:

27 212.165 1. A person shall not, without lawful authorization,
28 knowingly furnish, attempt to furnish, or aid or assist in furnishing
29 or attempting to furnish to a prisoner confined in an institution or a
30 facility of the Department of Corrections, or any other place where
31 prisoners are authorized to be or are assigned by the Director of the
32 Department, a portable telecommunications device. A person who
33 violates this subsection is guilty of a category E felony and shall be
34 punished as provided in NRS 193.130.

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

40 3. A prisoner confined in an institution or a facility of the
41 Department, or any other place where prisoners are authorized to be
42 or are assigned by the Director of the Department, shall not, without
43 lawful authorization, possess or have in his or her custody or control
44 a portable telecommunications device. A prisoner who violates this



1 subsection is guilty of a category D felony and shall be punished as
2 provided in NRS 193.130.

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

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

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

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

14 5. A sentence imposed upon a prisoner pursuant to subsection
15 3 or 4:

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

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

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

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

31 (b) Resentence him or her in accordance with the penalties
32 prescribed for the underlying charge for which the person was
33 convicted.

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

39 (a) Order that his or her original sentence pursuant to subsection
40 4 be reduced to a misdemeanor; and

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

43 8. No person has a right to the modification of a sentence
44 pursuant to subsection 6 or 7, and the granting or denial of a petition
45 pursuant to subsection 6 or 7 does not establish a basis for any cause



- 1 of action against this State, any political subdivision of this State or
2 any agency, board, commission, department, officer, employee or
3 agent of this State or a political subdivision of this State.
4 9. As used in this section:
5 (a) "Facility" has the meaning ascribed to it in NRS 209.065.
6 (b) "Institution" has the meaning ascribed to it in NRS 209.071.
7 (c) "Jail" means a jail, branch county jail or other local detention
8 facility.
9 (d) "Telecommunications device" has the meaning ascribed to it
10 in subsection ~~3~~ 4 of NRS 209.417.
11 **Sec. 3.** This act becomes effective upon passage and approval.

