

ASSEMBLY BILL NO. 34—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED DECEMBER 5, 2008

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Authorizes prisoners in certain state correctional institutions or facilities to use certain electronic communication devices under certain circumstances. (BDR 16-307)

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 prisons; authorizing a prisoner in an institution or facility of the Department of Corrections to use certain electronic communication devices under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill revises the prohibition against prisoners having access to
2 certain computers to instead authorize a prisoner to use a computer if: (1) the
3 computer meets the definition of “electronic communication device” set forth in
4 the bill; (2) certain communications made from the computer may be intercepted by
5 the Department of Corrections; and (3) the computer is used only for purposes
6 authorized by the Director of the Department. (NRS 209.417) **Section 2** of this bill
7 expands the circumstances under which communications may be intercepted by the
8 Department to include the interception of communications made by a prisoner who
9 uses an electronic communication device. (NRS 209.419)

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 **subsections 2 and 3**, the warden or manager of an institution or



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1 facility shall ensure that no offender in the institution or facility has
2 access to a telecommunications device.

3 2. An offender may use a telephone subject to the limitations
4 set forth in NRS 209.419.

5 3. *An offender may use an electronic communication device*
6 *subject to the limitations set forth in NRS 209.419 if the use of the*
7 *electronic communication device is authorized by the Director or*
8 *his designee. The Director or his designee may authorize a*
9 *prisoner to use an electronic communication device for any lawful*
10 *purpose deemed appropriate by the Director, including, without*
11 *limitation, for:*

12 (a) *The transmission of electronic mail between the offender*
13 *and certain authorized persons, including, without limitation, the*
14 *staff of the institution or facility;*

15 (b) *Visitation by videoconference;*

16 (c) *Participation in hearings of the State Board of Parole*
17 *Commissioners by videoconference;*

18 (d) *Arraignments by videoconference;*

19 (e) *Telemedicine;*

20 (f) *Access to a law library;*

21 (g) *Participation in programs of distance education;*

22 (h) *Purchasing certain items; and*

23 (i) *The transfer of files on which information is digitally*
24 *stored.*

25 4. As used in this section ~~["telecommunications"]~~ :

26 (a) *"Electronic communication device" means a computer*
27 *that:*

28 (1) *Can enable an offender to communicate with a person,*
29 *other than another offender or other unauthorized person, who is*
30 *inside of or outside of the institution or facility at which the*
31 *offender is incarcerated;*

32 (2) *Is connected to a secure computer network or is capable*
33 *of connecting to a secure computer network through the use of*
34 *wireless technology; and*

35 (3) *Has no access or restricted access to the Internet.*

36 (b) *"Telecommunications device" means a device, or an*
37 *apparatus associated with a device, that can enable an offender to*
38 *communicate with a person outside of the institution or facility at*
39 *which the offender is incarcerated. The term includes, without*
40 *limitation, a telephone, a cellular telephone, a personal digital*
41 *assistant, a transmitting radio or a computer that is connected to a*
42 *computer network, is capable of connecting to a computer network*
43 *through the use of wireless technology or is otherwise capable of*
44 *communicating with a person or device outside of the institution or*
45 *facility.*



1 **Sec. 2.** NRS 209.419 is hereby amended to read as follows:

2 209.419 1. Communications made by an offender on any
3 telephone in an institution or facility to any person outside the
4 institution or facility *and communications made by an offender on*
5 *any electronic communication device in an institution or facility to*
6 *any person inside or outside the institution or facility* may be
7 intercepted if:

8 (a) The interception is made by an authorized employee of the
9 Department; and

10 (b) Signs are posted near all telephones *and electronic*
11 *communication devices* in the institution or facility indicating that
12 communications may be intercepted.

13 2. The Director shall provide notice or cause notice to be
14 provided to both parties to a communication which is being
15 intercepted pursuant to subsection 1, indicating that the
16 communication is being intercepted. For the purposes of this
17 section, a periodic sound which is heard by both parties during the
18 communication shall be deemed notice to both parties that the
19 communication is being intercepted.

20 3. The Director shall adopt regulations providing for an
21 alternate method of communication for those communications by
22 offenders which are confidential.

23 4. Except as otherwise provided in NRS 239.0115, a
24 communication made by an offender is confidential if it is made to:

25 (a) A federal or state officer.

26 (b) A local governmental officer who is at some time
27 responsible for the custody of the offender.

28 (c) An officer of any court.

29 (d) An attorney who has been admitted to practice law in any
30 state or is employed by a recognized agency providing legal
31 assistance.

32 (e) A reporter or editorial employee of any organization that
33 reports general news, including, but not limited to, any wire service
34 or news service, newspaper, periodical, press association or radio or
35 television station.

36 (f) The Director.

37 (g) Any other employee of the Department whom the Director
38 may, by regulation, designate.

39 5. Reliance in good faith on a request or order from the
40 Director or his authorized representative constitutes a complete
41 defense to any action brought against any public utility *or other*
42 *person* intercepting or assisting in the interception of
43 communications made by offenders pursuant to subsection 1.



Sec. 3. NRS 212.165 is hereby amended to read as follows:

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

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

3. A prisoner confined in an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, shall not, without lawful authorization, possess or have in his custody or control a portable telecommunications device. A prisoner who violates this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. A sentence imposed upon a prisoner pursuant to subsection 3:

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

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

5. As used in this section:

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

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

(c) "Telecommunications device" has the meaning ascribed to it in subsection ~~3~~ 4 of NRS 209.417.

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

