

CHAPTER.....

AN ACT relating to offenders; establishing a credit against the sentence of certain offenders incarcerated during a state of emergency declared due to a communicable or infectious disease; requiring the Director of the Department of Corrections to submit a report containing a list of the offenders who have received such a credit; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law permits an offender to earn certain credits to reduce his or her sentence of imprisonment. (NRS 209.433-209.449) **Section 1** of this bill allows for an additional credit of 5 days for each month served by an offender who is incarcerated in an institution or facility of the Department of Corrections during a period in which a state of emergency due to a communicable or infectious disease has been declared by the Governor and remains in effect. **Section 1** also: (1) limits such credits an offender may earn to not more than 60 days of credit for any state of emergency; (2) requires such credits to apply to eligibility for parole and to be deducted from the minimum term or the minimum aggregate term imposed by the sentence, as applicable, until the offender becomes eligible 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; (3) requires such credits to be deducted from the maximum term or maximum aggregate term imposed by the sentence, as applicable; and (4) requires the Director of the Department, not later than 60 days after a state of emergency due to a communicable or infectious disease has been declared by the Governor, to submit a report containing a list of the offenders who have received such credits to the Chief Justice of the Nevada Supreme Court, the State Public Defender, the Attorney General, the Executive Director of the Department of Sentencing Policy and the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Advisory Commission on the Administration of Justice. **Section 2** of this bill makes a conforming change to indicate the appropriate placement of **section 1** in the Nevada Revised Statutes.

Section 2.5 of this bill: (1) requires the credits authorized by **section 1** to be applied retroactively to the sentence of an offender who was incarcerated in an institution or facility of the Department of Corrections during the period in which the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020, was in effect; and (2) specifies that the credits applied retroactively are an act of grace of the State, that no person has a right to parole and that the application of such credits is not intended to create any right or interest in liberty or property or establish a basis for any cause of action against the State or its political subdivisions, agencies, boards, commissions, departments, officers or employees. **Section 2.5** also requires the Director of the Department, not later than 60 days after the effective date of this bill, to submit a report containing a list of the offenders who have received credits pursuant to the provisions of this bill for the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020, to the Chief Justice of the Nevada Supreme Court, the State Public Defender, the Attorney General, the Executive Director of the Department of Sentencing Policy and the Director of the Legislative Counsel Bureau for



transmittal to the Legislature or, if the Legislature is not in session, to the Advisory Commission on the Administration of Justice.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An offender who is actually incarcerated in an institution or facility of the Department pursuant to his or her sentence during a period in which a state of emergency due to a communicable or infectious disease has been declared by the Governor and remains in effect must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of 5 days from his or her sentence for each month the offender serves during the state of emergency. An offender shall not be allowed more than 60 days of credit pursuant to this section.

2. Credits earned pursuant to this section:

(a) Apply to eligibility for parole and must be deducted from the minimum term or the minimum aggregate term imposed by the sentence, as applicable, until the offender becomes eligible 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; and

(b) Must be deducted from the maximum term or the maximum aggregate term imposed by the sentence, as applicable.

3. Not later than 60 days after a state of emergency due to a communicable or infectious disease has been declared by the Governor, the Director shall submit a report containing a list of the offenders who have received credits pursuant to this section to the Chief Justice of the Nevada Supreme Court, the State Public Defender, the Attorney General, the Executive Director of the Department of Sentencing Policy and the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Advisory Commission on the Administration of Justice.

4. As used in this section:

(a) "Communicable disease" means an infectious disease that can be transmitted from person to person, animal to person or insect to person.



(b) “Infectious disease” means a disease caused by a living organism or other pathogen, including a fungus, bacillus, parasite, protozoan or virus. An infectious disease may or may not be transmissible from person to person, animal to person or insect to person.

Sec. 2. NRS 209.432 is hereby amended to read as follows:

209.432 As used in NRS 209.432 to 209.453, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. “Offender” includes:

(a) A person who is convicted of a felony under the laws of this State and sentenced, ordered or otherwise assigned to serve a term of residential confinement.

(b) A person who is convicted of a felony under the laws of this State and assigned to the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888.

2. “Residential confinement” means the confinement of a person convicted of a felony to his or her place of residence under the terms and conditions established pursuant to specific statute. The term does not include any confinement ordered pursuant to NRS 176A.530 to 176A.560, inclusive, 176A.660 to 176A.690, inclusive, 213.15105, 213.15193 or 213.152 to 213.1528, inclusive.

Sec. 2.5. 1. Subject to the provisions of subsection 2, the credits provided in section 1 of this act must be applied retroactively to reduce the term of imprisonment of an offender who was actually incarcerated in an institution or facility of the Department of Corrections during the period in which the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020, was in effect.

2. The credits provided in section 1 of this act and applied retroactively pursuant to subsection 1 are an act of grace of the State. No person has a right to parole and the application of these credits is not intended to create any right or interest in liberty or property or establish a basis for any cause of action against the State or its political subdivisions, agencies, boards, commissions, departments, officers or employees.

3. Not later than 60 days after the effective date of this act, the Director of the Department of Corrections shall submit a report containing a list of the offenders who have received credits pursuant to the provisions of subsection 1 and section 1 of this act for the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020, to the Chief Justice of the Nevada Supreme Court, the State Public Defender, the Attorney General, the



Executive Director of the Department of Sentencing Policy and the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Advisory Commission on the Administration of Justice.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

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

