

ASSEMBLY BILL NO. 241—ASSEMBLYWOMAN GONZÁLEZ

MARCH 11, 2021

Referred to Committee on Judiciary

SUMMARY—Establishes provisions governing credits on terms of imprisonment during certain declarations of emergency. (BDR 16-982)

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 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:

1 Existing law permits an offender to earn certain credits to reduce his or her
2 sentence of imprisonment. (NRS 209.433-209.449) **Section 1** of this bill allows for
3 an additional credit of 5 days for each month served by an offender who is
4 incarcerated in an institution or facility of the Department of Corrections during a
5 period in which a state of emergency due to a communicable or infectious disease
6 has been declared by the Governor and remains in effect. **Section 1** also: (1) limits
7 such credits an offender may earn to not more than 60 days of credit for any state of
8 emergency; (2) requires such credits to apply to eligibility for parole and to be
9 deducted from the minimum term or the minimum aggregate term imposed by the
10 sentence, as applicable, until the offender becomes eligible for parole, unless the
11 offender was sentenced pursuant to a statute which specifies a minimum sentence
12 which must be served before a person becomes eligible for parole; (3) requires such
13 credits to be deducted from the maximum term or maximum aggregate term
14 imposed by the sentence, as applicable; and (4) requires the Director of the
15 Department, not later than 60 days after a state of emergency due to a
16 communicable or infectious disease has been declared by the Governor, to submit a
17 report containing a list of the offenders who have received such credits to the Chief
18 Justice of the Nevada Supreme Court, the State Public Defender, the Attorney
19 General, the Executive Director of the Department of Sentencing Policy and the
20 Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if



21 the Legislature is not in session, to the Advisory Commission on the Administration
22 of Justice. **Section 2** of this bill makes a conforming change to indicate the
23 appropriate placement of **section 1** in the Nevada Revised Statutes.

24 **Section 2.5** of this bill: (1) requires the credits authorized by **section 1** to be
25 applied retroactively to the sentence of an offender who was incarcerated in an
26 institution or facility of the Department of Corrections during the period in which
27 the emergency described in the Declaration of Emergency for COVID-19 issued on
28 March 12, 2020, was in effect; and (2) specifies that the credits applied
29 retroactively are an act of grace of the State, that no person has a right to parole and
30 that the application of such credits is not intended to create any right or interest in
31 liberty or property or establish a basis for any cause of action against the State or its
32 political subdivisions, agencies, boards, commissions, departments, officers or
33 employees. **Section 2.5** also requires the Director of the Department, not later than
34 60 days after the effective date of this bill, to submit a report containing a list of the
35 offenders who have received credits pursuant to the provisions of this bill for the
36 emergency described in the Declaration of Emergency for COVID-19 issued on
37 March 12, 2020, to the Chief Justice of the Nevada Supreme Court, the State Public
38 Defender, the Attorney General, the Executive Director of the Department of
39 Sentencing Policy and the Director of the Legislative Counsel Bureau for
40 transmittal to the Legislature or, if the Legislature is not in session, to the Advisory
41 Commission on the Administration of Justice.

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

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

3 *1. An offender who is actually incarcerated in an institution*
4 *or facility of the Department pursuant to his or her sentence*
5 *during a period in which a state of emergency due to a*
6 *communicable or infectious disease has been declared by the*
7 *Governor and remains in effect must be allowed, in addition to the*
8 *credits provided pursuant to NRS 209.433, 209.443, 209.446 or*
9 *209.4465, a deduction of 5 days from his or her sentence for each*
10 *month the offender serves during the state of emergency. An*
11 *offender shall not be allowed more than 60 days of credit pursuant*
12 *to this section.*

13 *2. Credits earned pursuant to this section:*

14 *(a) Apply to eligibility for parole and must be deducted from*
15 *the minimum term or the minimum aggregate term imposed by the*
16 *sentence, as applicable, until the offender becomes eligible for*
17 *parole, unless the offender was sentenced pursuant to a statute*
18 *which specifies a minimum sentence which must be served before*
19 *a person becomes eligible for parole; and*

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

22 *3. Not later than 60 days after a state of emergency due to a*
23 *communicable or infectious disease has been declared by the*



1 *Governor, the Director shall submit a report containing a list of*
2 *the offenders who have received credits pursuant to this section to*
3 *the Chief Justice of the Nevada Supreme Court, the State Public*
4 *Defender, the Attorney General, the Executive Director of the*
5 *Department of Sentencing Policy and the Director of the*
6 *Legislative Counsel Bureau for transmittal to the Legislature or, if*
7 *the Legislature is not in session, to the Advisory Commission on*
8 *the Administration of Justice.*

9 **4. As used in this section:**

10 (a) *“Communicable disease” means an infectious disease that*
11 *can be transmitted from person to person, animal to person or*
12 *insect to person.*

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

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

19 209.432 As used in NRS 209.432 to 209.453, inclusive, *and*
20 *section 1 of this act*, unless the context otherwise requires:

21 1. “Offender” includes:

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

25 (b) A person who is convicted of a felony under the laws of this
26 State and assigned to the custody of the Division of Parole and
27 Probation of the Department of Public Safety pursuant to NRS
28 209.4886 or 209.4888.

29 2. “Residential confinement” means the confinement of a
30 person convicted of a felony to his or her place of residence under
31 the terms and conditions established pursuant to specific statute. The
32 term does not include any confinement ordered pursuant to NRS
33 176A.530 to 176A.560, inclusive, 176A.660 to 176A.690, inclusive,
34 213.15105, 213.15193 or 213.152 to 213.1528, inclusive.

35 **Sec. 2.5.** 1. Subject to the provisions of subsection 2, the
36 credits provided in section 1 of this act must be applied retroactively
37 to reduce the term of imprisonment of an offender who was actually
38 incarcerated in an institution or facility of the Department of
39 Corrections during the period in which the emergency described in
40 the Declaration of Emergency for COVID-19 issued on March 12,
41 2020, was in effect.

42 2. The credits provided in section 1 of this act and applied
43 retroactively pursuant to subsection 1 are an act of grace of the
44 State. No person has a right to parole and the application of these
45 credits is not intended to create any right or interest in liberty or



1 property or establish a basis for any cause of action against the State
2 or its political subdivisions, agencies, boards, commissions,
3 departments, officers or employees.

4 3. Not later than 60 days after the effective date of this act, the
5 Director of the Department of Corrections shall submit a report
6 containing a list of the offenders who have received credits pursuant
7 to the provisions of subsection 1 and section 1 of this act for the
8 emergency described in the Declaration of Emergency for COVID-
9 19 issued on March 12, 2020, to the Chief Justice of the Nevada
10 Supreme Court, the State Public Defender, the Attorney General, the
11 Executive Director of the Department of Sentencing Policy and
12 the Director of the Legislative Counsel Bureau for transmittal to the
13 Legislature or, if the Legislature is not in session, to the Advisory
14 Commission on the Administration of Justice.

15 **Sec. 3.** (Deleted by amendment.)

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

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

