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SECOND REPRINT

A.B. 121

ASSEMBLY BILL NO. 121—ASSEMBLYWOMEN CONSIDINE,
ANDERSON, BILBRAY-AXELROD, GONZÁLEZ AND
SUMMERS-ARMSTRONG

FEBRUARY 9, 2023

JOINT SPONSOR: SENATOR NGUYEN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to incarcerated persons.
(BDR 16-138)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 incarcerated persons; requiring institutions and facilities of the Department of Corrections to provide incarcerated persons with original, physical copies of mail under certain circumstances; authorizing the Director of the Department to adopt regulations exempting the Department from the requirement to provide incarcerated persons with original, physical copies of mail under certain circumstances; requiring such institutions and facilities and city or county jails and detention facilities to provide notification to certain persons of a critical medical condition of an incarcerated person; requiring such institutions, facilities and jails to provide an opportunity for an incarcerated person to call a friend, relative or other person to provide notification of a critical medical condition of the incarcerated person under certain circumstances; requiring such institutions, facilities and jails to ensure the timely filling of prescriptions; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

1 Existing law requires the Director of the Department of Corrections to establish
2 regulations with the approval of the Board of State Prison Commissioners,
3 including regulations relating to the custody, care, training, health and safety of
4 offenders. (NRS 209.131) **Section 2** of this bill requires the Department to provide
5 to an offender the original, physical copy of any physical mail addressed to the
6 offender that the offender is entitled and allowed to receive. **Section 2** authorizes
7 the Director, with the approval of the Board, to adopt regulations exempting the
8 Department from this requirement if the Department conducts a study and
9 determines, using evidence-based methods, that complying with the requirement
10 presents a danger to the health and safety of the staff or offenders in institutions or
11 facilities of the Department. **Section 2** also provides that any such regulations must
12 be adopted in accordance with the provisions of the Nevada Administrative
13 Procedure Act. (Chapter 233B of NRS) If the Director adopts regulations
14 exempting the Department from the requirement to provide offenders with original,
15 physical copies of mail, **section 2** requires the Director to submit the study and any
16 evidence or data that supports the determination of the Department to: (1) the
17 Legislative Counsel when the adopted regulation is submitted; and (2) the Director
18 of the Legislative Counsel Bureau after the regulation is adopted for transmittal to
19 the Joint Interim Standing Committee on the Judiciary.

20 **Section 3** of this bill requires the Department to ensure that an offender
21 completes a medical release of information form at the time of intake and has the
22 ability to update the completed form as necessary. If an offender in the custody of
23 the Department is hospitalized for or diagnosed with a critical medical condition
24 which requires the offender to stay in a medical facility overnight, **section 3**
25 requires the Department, within 24 hours after such hospitalization or diagnosis, to
26 attempt to inform all persons authorized by the current medical release of
27 information form about the health status of the offender. If an offender in the
28 custody of the Department is hospitalized for or diagnosed with a critical medical
29 condition which does not require the offender to stay in a medical facility
30 overnight, **section 3** requires the Department, within 4 hours after the return of the
31 offender to the institution or facility at which the offender is incarcerated, to
32 provide the offender with the opportunity to make a telephone call to a friend,
33 relative or other person to inform the person about the health status of the offender.

34 **Section 4** of this bill requires the Department to ensure that if an offender
35 requires prescription medication, the prescription will be filled in a timely manner.

36 **Sections 7 and 8** of this bill impose upon county and city jails and detention
37 facilities requirements similar to those contained in **sections 3 and 4**.

38 **Section 9** of this bill requires the Department to revise its regulations to
39 conform with the provisions of **sections 2-4**.

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 the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2. 1.** *Except as otherwise provided in subsection 2, an*
4 *institution or facility shall provide an offender with the original,*
5 *physical copy of any mail addressed to the offender that the*
6 *offender is entitled and allowed to receive.*



1 2. *The Director may, with the approval of the Board, adopt*
2 *regulations exempting the Department from the requirements*
3 *prescribed by subsection 1 if the Department conducts a study and*
4 *determines, using evidence-based methods, that complying with*
5 *the requirements prescribed by subsection 1 presents a danger to*
6 *the health and safety of the staff or offenders in institutions or*
7 *facilities. Any regulations adopted pursuant to this subsection*
8 *must be adopted in accordance with the provisions of chapter*
9 *233B of NRS.*

10 3. *Any regulation adopted pursuant to subsection 2 which is*
11 *submitted to the Legislative Counsel pursuant to NRS 233B.067*
12 *must be accompanied by the study and any evidence or data that*
13 *supports the determination of the Department that complying with*
14 *the requirements prescribed by subsection 1 presents a danger to*
15 *the health and safety of the staff or offenders in institutions or*
16 *facilities.*

17 4. *As soon as reasonably practicable after adopting a*
18 *regulation pursuant to subsection 2, the Director shall submit the*
19 *study and any evidence or data that supports the determination of*
20 *the Department that complying with the requirements prescribed*
21 *by subsection 1 presents a danger to the health and safety of the*
22 *staff or offenders in institutions or facilities to the Director of the*
23 *Legislative Counsel Bureau for transmittal to the Joint Interim*
24 *Standing Committee on the Judiciary.*

25 5. *As used in this section, "original, physical copy" means a*
26 *letter, card or other document received by the institution or facility*
27 *from the United States Postal Service or other delivery service.*
28 *The term does not include mail that is scanned, photocopied or*
29 *otherwise duplicated by the institution or facility or any entity*
30 *contracted by the institution or facility to provide such a service.*

31 **Sec. 3. 1. The Department shall ensure that each offender:**

32 (a) *Completes a medical release of information form at the*
33 *time of intake; and*

34 (b) *Has the ability to update a completed medical release of*
35 *information form as necessary.*

36 2. *If an offender in the custody of the Department is*
37 *hospitalized for or diagnosed with a critical medical condition*
38 *which requires the offender to stay in a medical facility overnight,*
39 *the Department shall, within 24 hours after such hospitalization or*
40 *diagnosis, attempt to inform all persons authorized by the current*
41 *medical release of information form about the health status of the*
42 *offender.*

43 3. *If an offender in the custody of the Department is*
44 *hospitalized for or diagnosed with a critical medical condition*
45 *which does not require the offender to stay in a medical facility*



1 *overnight, the Department shall, within 4 hours after the return of*
2 *the offender to the institution or facility at which the offender is*
3 *incarcerated, provide the offender with the opportunity to make a*
4 *telephone call to a friend, relative or other person to inform the*
5 *person about the health status of the offender.*

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

7 (a) *“Critical medical condition” means a condition diagnosed*
8 *by a provider of health care that:*

9 (1) *Is terminal;*

10 (2) *Requires life-sustaining medical treatment;*

11 (3) *Involves a significant risk of death; or*

12 (4) *Involves extreme physical illness, including, without*
13 *limitation, an extreme physical illness resulting from a drug or*
14 *alcohol overdose.*

15 (b) *“Drug or alcohol overdose” has the meaning ascribed to it*
16 *in NRS 453C.150.*

17 (c) *“Medical facility” has the meaning ascribed to it in*
18 *NRS 449.0151.*

19 **Sec. 4. If an offender in the custody of the Department**
20 **requires prescription medication for any physical or mental**
21 **illness, the Department shall ensure that:**

22 1. *If the prescription is new, the prescription is transmitted to*
23 *a licensed pharmacy and filled as soon as possible; or*

24 2. *If the prescription is a refill, the prescription is refilled on*
25 *or before the date on which the current supply of the prescription*
26 *medication is exhausted.*

27 **Sec. 5. Chapter 211 of NRS is hereby amended by adding**
28 **thereto the provisions set forth as sections 6, 7 and 8 of this act.**

29 **Sec. 6. (Deleted by amendment.)**

30 **Sec. 7. 1. Each county or city jail or detention facility shall**
31 **ensure that each prisoner:**

32 (a) *Completes a medical release of information form at the*
33 *time of intake; and*

34 (b) *Has the ability to update a completed medical release of*
35 *information form as necessary.*

36 2. *If a prisoner in the custody of a jail or detention facility is*
37 *hospitalized for or diagnosed with a critical medical condition*
38 *which requires the prisoner to stay in a medical facility overnight,*
39 *the jail or detention facility shall, within 24 hours after such*
40 *hospitalization or diagnosis, attempt to inform all persons listed on*
41 *the current medical release of information form about the health*
42 *status of the prisoner.*

43 3. *If a prisoner in the custody of a jail or detention facility is*
44 *hospitalized for or diagnosed with a critical medical condition*
45 *which does not require the prisoner to stay in a medical facility*



1 *overnight, the jail or detention facility shall, within 4 hours after*
2 *the return of the prisoner to the jail or detention facility at which*
3 *the prisoner is imprisoned, provide the prisoner with the*
4 *opportunity to make a telephone call to a friend, relative or other*
5 *person to inform the person about the health status of the*
6 *prisoner.*

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

8 (a) *“Critical medical condition” means a condition diagnosed*
9 *by a provider of health care that:*

10 (1) *Is terminal;*

11 (2) *Requires life-sustaining medical treatment;*

12 (3) *Involves a significant risk of death; or*

13 (4) *Involves extreme physical illness, including, without*
14 *limitation, a drug or alcohol overdose.*

15 (b) *“Drug or alcohol overdose” has the meaning ascribed to it*
16 *in NRS 453C.150.*

17 (c) *“Medical facility” has the meaning ascribed to it in*
18 *NRS 449.0151.*

19 **Sec. 8.** *If a prisoner in the custody of a county or city jail or*
20 *detention facility requires prescription medication for any physical*
21 *or mental illness, the jail or detention facility shall ensure that:*

22 1. *If the prescription is new, the prescription is transmitted to*
23 *a licensed pharmacy and filled as soon as possible; or*

24 2. *If the prescription is a refill, the prescription is refilled on*
25 *or before the date on which the current supply of the prescription*
26 *medication is exhausted.*

27 **Sec. 9.** The Department of Corrections shall, as soon as
28 practicable, amend or repeal any existing regulations that conflict or
29 are inconsistent with the provisions of sections 2, 3 and 4 of this act.

