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Informational Statement LCB File No. R097-24

The following statement is submitted for adopted permanent regulation to Nevada Administrative Code (NAC) Chapter 209.

1. A clear and concise explanation of the need for the adopted regulation.

The proposed regulation is necessary to ensure that the Nevada Department of Corrections (NDOC) can defray costs associated with operations of electronic devices and other fees, and to ensure that deductions from offender accounts are reasonable. The regulation is necessary to comply with NRS 209.221(7),(8), NRS 209.2473, and NRS 233B.039(7) as the fees and deductions impact fiscal policy, and the electronic devices may impact correspondence and visitation with inmates, as electronic devices being considered for implementation will have digital and video capabilities that may be used to communicate with offender family members.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notice of workshop and notice of intent to act upon the regulation were sent by U.S. Mail and/or email to persons who were known to have an interest in regulations adopted by the Board of State Prison Commissioners, as well as any persons who had specifically requested such notice. These documents were also made available to the public by posting at notice.nv.gov and by physically posting at the following locations:

State Capitol, 101 North Carson Street, Carson City, Nevada 89701
Las Vegas State Office Building, 1 Harras Court; Las Vegas, Nevada 89119
Nevada State Legislative Building, 401 South Carson Street, Carson City, Nevada 89701
Nevada State Library, 100 North Stewart Street, Carson City, Nevada 89701
Nevada Secretary of State Website (www.nvsos.gov)
State of Nevada Website (www.nv.gov)
Department of Corrections Website (www.doc.nv.gov)
Nevada Public Notice Website (<https://notice.nv.gov>)

A regulation workshop on LCB File No. R097-24 was held on May 29, 2024, at 10:00am, at the Grant Sawyer Building located at 555 East Washington Ave., Suite Number 4412, Las Vegas, NV, 89101. This public workshop was video conferenced to the Nevada State Legislature building located at 401 N. Carson Street, Room 2135, Carson City, NV 89701. During the public workshop, offender advocacy groups

requested that item g (items related to offenders' work, including, without limitation, clothing and tools) be removed from the NAC; however, the agency has done an analysis and is unable to remove these charges from the NAC due to the fiscal impact it would have on the department. This change would need to go through Legislative session and possible consideration during a future 233b process.

The advocacy groups expressed concerns about the cost of placing funds on the offender accounts for phone calls and other charges stating that it was challenging for offenders, or indigent offenders to afford the fees associated with the calls. We have worked with our proposed awarded vendor and although we are unable to make any changes to this fee schedule, the Department's plan is to allow each offender a free 15-minute phone call per day under the new contract which we plan on implementing after the Legislative Commission process and Board of Examiner approval of the new contract.

A public hearing on LCB File No. R097-24 was held on June 27, 2024, at 1:00 p.m. This hearing was video conferenced between the Nevada State Business Center, Nevada Room, 3300 W. Sahara Ave., Las Vegas, NV, 89102 and The Old Assembly Chambers, State Capital Building, 101 N. Carson St., Carson City, NV 89701. Five members of the public attended the public hearing on June 27, 2024, for LCB File No. R097-24.

A summary of the public comment received regarding LCB File No. R097-24 is available upon request by contacting Danyele Madsen, Executive Assistant to NDOC Director James Dzurenda at bopc@doc.nv.gov or by telephone at 725.216.6012. In addition, the public hearing can be viewed at https://www.youtube.com/watch?v=YLc_KEBriRo.

3. The number persons who:

- a) Attended each hearing:**
 - May 29, 2024 (Regulation Workshop): 7
 - June 27, 2024 (Public Hearing): 5

- b) Testified at each hearing:**
 - May 29, 2024 (Regulation Workshop): 5
 - June 27, 2024 (Public Hearing): 2

- c) Submitted to the agency written comments:**
 - May 29, 2024 (Regulation Workshop): 0
 - June 27, 2024 (Public Hearing): 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.

(a) Attendees at the May 29, 2024, Regulation Workshop:

NAME	CONTACT INFORMATION	REPRESENTING	TESTIMONY
Nicholas Shepack	775-901-1725	FFJS	Yes
Kalae Casorso	702-556-4063	Return Strong	Yes
Jodi Hocking	725-324-2948	Return Strong	Yes
Crystal Voight	702-606-4917	Return Strong	Yes
Patricia Adkisson	702-505-2861	Self	Yes
Chris Franklin	725-216-6053	NDOC	No
Leisa M-Sayles	702-606-5533	FFJC	No

(b) Attendees at the June 27, 2024, Public Workshop:

NAME	CONTACT INFORMATION	REPRESENTING	TESTIMONY
Deb Conrad	None Provided	Western Nevada College	Yes
Randy Santiago	None Provided	Self	No
Jodi Hocking	725-324-2948	Return Strong	Yes
Leslie Turner	None Provided	Self	No
Tina Turentine	None Provided	Self	No

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

There is no summary copy to be obtained as the Department of Corrections and Board of State Prison Commissioners did not make any specific solicitations to small businesses. After making a concerted effort to determine any economic impact that this regulation may have on small businesses, or businesses in general, it was concluded that this regulation is not likely to impose a direct or significant economic burden upon small businesses or businesses in general or directly restrict the formation, operation or expansion of small business or businesses in general.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

This regulation was adopted by the Board of State Prison Commissioners at a public meeting held on June 27, 2024. It was adopted with changes considered following the regulation workshop held on May 29, 2024, but without any changes following the public hearing held on June 27, 2024, as there were no additional comments or suggested changes received at the public hearing.

A statement regarding the changes suggested at the regulation workshop, and why those changes were included or not included in the proposed and adopted regulation was read into the record by Director James Dzurenda during the June 27, 2024 public hearing, and can be viewed at https://www.youtube.com/watch?v=YLc_KEBriRo. A summary of these comments can also be obtained by contacting Danyele Madsen Executive Assistant to NDOC Director James Dzurenda at bopc@doc.nv.gov or by telephone at 725.216.6012. In addition, a copy of the minor revisions made to the regulation following the regulation workshop were presented to the Board and public at the public hearing and were subsequently adopted by the Board of State Prison Commissioners on June 27, 2024. The revised document is also available at doc.nv.gov

- 7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. these must be stated separately, and each case must include:**
- a) Both adverse and beneficial effects; and**
 - b) Both immediate and long-term effects.**

- a) Both adverse and beneficial effects.**

The Nevada Department of Corrections does not believe that the proposed regulation will have an adverse or beneficial direct economic effect on the businesses, nor will it have a direct economic effect on the public. This is because the adopted regulation has been reasonably adopted and drafted to defray the costs associated with the use of electronic devices by offenders within NDOC institutions, as well as to provide for reasonable deductions from offender accounts to assist in defraying those costs.

- b) Both immediate and long-term effects.**

The Board of State Prison Commissioners does not believe that the proposed regulation will have an immediate or long-term direct economic effect on businesses nor will it have a direct economic effect on the public, as it is limited to assist in the Nevada Department of Corrections to defray the costs associated with permitting offenders to use electronic devices, which will have a beneficial impact on the offender population and the public as it will increase the offenders abilities to make contact with family members and other members of the community, as well as have increased opportunities to engage in educational programming as well as other beneficial programming.

- 8. The estimated cost to the agency for enforcement of the adopted regulation.**

The enforcement of the proposed regulations will not necessarily result in an increased cost to the Nevada Department of Corrections; however, it will lower revenue received from commissary mark-ups from 66% to 35%, a reduction of approximately \$1.6 to \$2 million dollars per annum. However, it is anticipated this revenue loss will be offset in whole or in part with the ability of offenders being able to purchase more items through the commissary.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. if the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

To the knowledge of the Nevada Department of Corrections, the proposed regulation does not currently overlap or duplicate the regulations of other state or local governmental agencies. However, the Federal Communications Commission (FCC) has recently adopted the Martha Wright-Reed Act on July 18, 2024. If implemented on January 1, 2025, the FCC regulation would cause a portion of this proposed NAC to become obsolete, namely, commissions received by the Nevada Department of Corrections for phone and video communications. If implemented, the FCC will require all funds paid by offenders for phone and video communications to go to the vendor, nothing to the department. If the FCC regulation does not go into effect, there would be no overlap with any other regulation.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

As referenced in Section 9, some of the fees and rates charged are governed by the FCC. The fees in the proposed regulation will be impacted as noted in Section 9 should the newly passed rule go into effect following anticipated administrative and court challenges.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation does provide for new fees, as it involves new services that will be available to offenders as a result of being able to use electronic communication devices that were previously unavailable to offenders. However, these new fees are offset in whole or in part by the reduction in commission charged on commissary items from 66% to 35% as further discussed in section 8 above. We cannot predict an exact number as these are driven by offenders making purchases with their own funds at their own will.



James E. Dzurenda, Director
Nevada Department of Corrections

cc: Randall Gilmer, Chief Deputy Attorney General, Office of the Attorney General