

Assembly Bill No. 93–Assemblyman Segerblom

Joint Sponsors: Senators Horsford and Parks

CHAPTER.....

AN ACT relating to criminal offenders; requiring the Department of Corrections to establish a pilot diversion program for certain probation violators to receive treatment for alcohol or drug abuse or mental illness; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a person who violates the conditions of his or her probation must be brought before the court to determine the actions to be taken, which may include causing the sentence imposed to be executed. (NRS 176A.630) Existing law also authorizes the establishment of programs of treatment for alcohol and drug abuse by the district courts for the treatment of certain offenders. (NRS 453.580) A person who elects to participate in such a treatment program may have his or her sentence set aside upon successful completion of the treatment program. (NRS 458.330) **Section 1** of this bill requires the Department of Corrections to establish a pilot diversion program within the facilities maintained by the Department. The pilot diversion program must be used to provide treatment to certain probation violators if a court has reasonable cause to believe that the probation violators are alcoholics or drug addicts or in need of treatment for a mental illness and if the probation violators are ordered to the custody of the Department to receive such treatment. The Department of Corrections is required to provide food and housing as well as emergency medical services, but is not responsible for providing treatment to the persons placed in the facilities. **Section 1** also requires probationers to release in writing the Department of Corrections from liability as a condition of participation in the pilot diversion program.

Section 3 of this bill identifies the probation violators who are eligible to elect placement in the pilot diversion program. **Section 6** of this bill provides that a person placed in the pilot diversion program is required to pay for the cost of his or her treatment and supervision to the extent of his or her financial resources and authorizes a court to require such a person to perform community service upon completion of treatment to contribute toward the cost of his or her treatment and supervision.

Section 7.5 of this bill provides that upon satisfaction of the terms and conditions imposed upon a probation violator for participation in the pilot diversion program, the court shall release the probationer from supervision and order the probationer to complete any period of probation. If a probation violator violates the rules of the program or does not satisfy the terms and conditions of participation or successfully complete treatment, the court may revoke probation. **Section 8** of this bill requires the Department of Corrections and the Division of Parole and Probation of the Department of Public Safety to jointly provide a report which provides certain data for the Interim Finance Committee. This bill is established as a pilot program, and **section 11** of this bill makes it expire by limitation on July 1, 2015.



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

Section 1. 1. The Department of Corrections shall establish a pilot diversion program within the correctional institutions or other facilities maintained by the Department.

2. The Department of Corrections shall ensure that facilities of adequate capacity for the pilot diversion program are available in one or more suitable locations within the State. The Department shall not be required to provide housing for more than 50 probation violators at one time.

3. The Department of Corrections shall provide a healthful diet and appropriate, secure and sanitary housing and necessary emergency medical services for the probation violators who are placed in the pilot diversion program, but the Department is not responsible for providing treatment to the probation violators remanded to the pilot diversion program pursuant to section 3 of this act.

4. As a condition of participation in the program, a probationer must release in writing the Department from liability and agree to abide by the applicable rules and regulations of the Department.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. A district court may remand a probationer who is returned to the district court for a violation of his or her probation to the pilot diversion program established pursuant to section 1 of this act for supervision, subject to such terms and conditions as established by the court. The court may allow the probationer who is remanded to the pilot diversion program to:

(a) Leave the facilities of the Department of Corrections during the day for education, treatment or employment; or

(b) Reside outside the facilities of the Department.

2. The court may require the probationer to receive treatment for alcohol or drug abuse or a mental illness if the court has reason to believe that the probationer is an alcoholic or drug addict or in need of treatment for a mental illness and the court finds that the probationer:

(a) Agrees to participate in the pilot diversion program;

(b) Was not returned to the court for committing an act involving violence, the use of force, or the threat of violence or the use of force;



(c) Meets the requirements for assignment to an institution or facility of minimum security as set forth in NRS 209.481; and

(d) Is not rejected for participation in the pilot diversion program by the Department of Corrections as posing a threat to the health, safety and welfare of:

(1) Other probationers remanded to the program; or

(2) Employees of the Department of Corrections and its agents.

Secs. 4 and 5. (Deleted by amendment.)

Sec. 6. 1. A probation violator who is placed in the pilot diversion program for supervision and, if appropriate, to receive treatment for alcohol or drug abuse or a mental illness shall pay the cost of his or her treatment and supervision to the extent of his or her financial resources.

2. A court shall not refuse to place a probation violator in the pilot diversion program if the probation violator does not have the financial resources to pay any or all of the related costs.

3. The court may order a probation violator who is placed in the pilot diversion program to perform a specified amount of community service upon release from the program to contribute toward the cost of his or her treatment and supervision. Any such community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

4. The court may issue a judgment against a probation violator and in favor of the State for the costs of treatment and supervision which remain unpaid when the probationer is released from the pilot diversion program but in no event may the amount of the judgment include any amount of debt which was extinguished by the successful completion of community service pursuant to subsection 3.

Sec. 7. (Deleted by amendment.)

Sec. 7.5. 1. When the court determines that a probation violator who was remanded to the pilot diversion program has satisfied the applicable terms and conditions established pursuant to section 3 of this act, the court shall release the probationer from supervision and order the probationer to complete any remaining or additional period of probation as determined by the court.

2. If the court determines that a probation violator who was remanded to the pilot diversion program is violating the rules of participation in the program, has not satisfied the terms or conditions of participation in the program or has not successfully



completed the treatment for alcohol or drug abuse or a mental illness, the court may revoke probation.

Sec. 8. The Department of Corrections and the Division of Parole and Probation of the Department of Public Safety shall jointly submit a report at least twice annually to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. The report must include:

1. The number of probationers participating in the pilot diversion program;
2. The reasons the probationers entered the program;
3. The number of probationers who satisfied the terms and conditions of their participation in the program; and
4. The status of the probationers who are in the program at the time the report is prepared.

Secs. 9 and 10. (Deleted by amendment.)

Sec. 11. This act becomes effective upon passage and approval and expires by limitation on July 1, 2015.

