

ASSEMBLY BILL NO. 93—ASSEMBLYMAN SEGERBLOM

PREFILED JANUARY 13, 2011

JOINT SPONSORS: SENATORS HORSFORD AND PARKS

Referred to Committee on Judiciary

SUMMARY—Provides for the establishment of a pilot diversion program within the Department of Corrections to provide treatment for alcohol or drug abuse or mental illness to certain probation violators. (BDR S-509)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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 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; requiring the Department of Health and Human Services to provide such treatment; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a person who violates the conditions of his or her
2 probation must be brought before the court to determine the actions to be taken,
3 which may include causing the sentence imposed to be executed. (NRS 176A.630)
4 Existing law also authorizes the establishment of programs of treatment for alcohol
5 and drug abuse by the district courts for the treatment of certain offenders. (NRS
6 453.580) A person who elects to participate in such a treatment program may have
7 his or her sentence set aside upon successful completion of the treatment program.
8 (NRS 458.330) **Section 1** of this bill requires the Department of Corrections to
9 establish a pilot diversion program within the facilities maintained by the
10 Department. The pilot diversion program must be used to provide intensive
11 treatment to certain probation violators who are determined to be alcoholics or drug
12 addicts or in need of treatment for a mental illness and are ordered to the custody of
13 the Department to receive such treatment. The Department of Corrections is



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14 required to provide food and housing as well as emergency medical services, but is
15 not responsible for providing treatment to the persons placed in the facilities, which
16 instead is to be provided by the Department of Health and Human Services. **Section**
17 **1** also requires probationers to release in writing the Department of Corrections
18 from liability as a condition of participation in the pilot diversion program. **Section**
19 **2** of this bill requires the Director of the Department of Health and Human Services
20 to provide for the evaluation of probation violators referred to the Department of
21 Health and Human Services by the court and authorizes the Director to enter into
22 contracts with qualified persons or entities to provide such evaluations and
23 treatment.

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

31 **Section 7.5** of this bill provides that upon satisfaction of the terms and
32 conditions imposed upon a probation violator for participation in the pilot diversion
33 program, the court shall release the probationer from supervision and order the
34 probationer to complete any period of probation. If a probation violator violates the
35 rules of the program or does not satisfy the terms and conditions of participation or
36 successfully complete treatment, the court may revoke probation. **Section 8** of this
37 bill requires the Department of Corrections, the Department of Health and Human
38 Services and the Division of Parole and Probation of the Department of Public
39 Safety to jointly provide a report which provides certain data for the Interim
40 Finance Committee. **Section 10** of this bill makes an appropriation to the
41 Department of Health and Human Services to pay for the evaluation and treatment
42 of probation violators. This bill is established as a pilot program, and **section 11** of
43 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:

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

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

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



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

4 **Sec. 2.** 1. To the extent practicable within the appropriation
5 provided in section 10 of this act, the Director of the Department of
6 Health and Human Services shall provide for the evaluation of each
7 probation violator who is ordered to be evaluated by a court
8 pursuant to section 5 of this act to determine if the probation
9 violator is an abuser of alcohol or drugs or in need of treatment for a
10 mental illness, and shall provide treatment to any such probation
11 violator who is remanded to the pilot diversion program pursuant to
12 section 5 of this act. The Director may:

13 (a) Enter into contracts with persons or private entities that are
14 qualified to evaluate and provide such treatment to probation
15 violators who are alcohol or drug abusers or in need of treatment for
16 a mental illness; and

17 (b) Accept donations, gifts or grants of money or services to
18 supplement the appropriation in section 10 of this act.

19 2. When a person has completed treatment for the term for
20 which the person was assigned to the pilot diversion program, the
21 Director of the Department or a designee of the Director shall
22 submit a report certifying to the court:

23 (a) Whether the person successfully completed the treatment;

24 (b) Whether the person is believed to be rehabilitated; and

25 (c) Any recommendations for actions to ensure that the person
26 does not begin to abuse alcohol or drugs upon release.

27 3. The Director of the Department may adopt any regulations
28 necessary to carry out the provisions of this section.

29 **Sec. 3.** 1. A district court may remand a probationer who is
30 returned to the district court for a violation of his or her probation to
31 the pilot diversion program established pursuant to section 1 of this
32 act for supervision. The court may allow the probationer who is
33 remanded to the pilot diversion program to:

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

36 (b) Reside outside the facilities of the Department.

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

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

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



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

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

6 (1) Other probationers remanded to the program;

7 (2) Employees of the Department of Corrections and its
8 agents; or

9 (3) Employees of the Department of Health and Human
10 Services and its agents.

11 **Sec. 4.** (Deleted by amendment.)

12 **Sec. 5.** 1. Before a court remands a probation violator to the
13 pilot diversion program, the court may order the examination of the
14 probationer by the Department of Health and Human Services or by
15 a person or entity designated by the Director of the Department to
16 determine whether the probationer is an alcoholic or drug addict or
17 in need of treatment for a mental illness and is likely to be
18 rehabilitated through treatment.

19 2. If the court determines that the probation violator would
20 benefit from and is likely to be rehabilitated through treatment and
21 the court remands the probationer to the pilot diversion program, the
22 court shall establish the terms and conditions for successful
23 completion of the treatment, in addition to the terms and conditions
24 that the court establishes pursuant to section 3 of this act.

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

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

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

41 4. The court may issue a judgment against a probation violator
42 and in favor of the State for the costs of treatment and supervision
43 which remain unpaid when the probationer is released from the pilot
44 diversion program but in no event may the amount of the
45 judgment include any amount of debt which was extinguished by



1 the successful completion of community service pursuant to
2 subsection 3.

3 **Sec. 7.** (Deleted by amendment.)

4 **Sec. 7.5.** 1. When the court determines that a probation
5 violator who was remanded to the pilot diversion program has
6 satisfied the applicable terms and conditions established pursuant to
7 sections 3 and 5 of this act, the court shall release the probationer
8 from supervision and order the probationer to complete any
9 remaining or additional period of probation as determined by the
10 court.

11 2. If the court determines that a probation violator who was
12 remanded to the pilot diversion program is violating the rules of
13 participation in the program, has not satisfied the terms or
14 conditions of participation in the program or has not successfully
15 completed the treatment for alcohol or drug abuse or a mental
16 illness, the court may revoke probation.

17 **Sec. 8.** The Department of Corrections, the Department of
18 Health and Human Services and the Division of Parole and
19 Probation of the Department of Public Safety shall jointly submit a
20 report at least twice annually to the Director of the Legislative
21 Counsel Bureau for transmittal to the Interim Finance Committee.
22 The report must include:

23 1. The number of probationers participating in the pilot
24 diversion program;

25 2. The reasons the probationers entered the program;

26 3. The number of probationers who satisfied the terms and
27 conditions of their participation in the program; and

28 4. The status of the probationers who are in the program at the
29 time the report is prepared.

30 **Sec. 9.** (Deleted by amendment.)

31 **Sec. 10.** 1. There is hereby appropriated from the State
32 General Fund to the Department of Health and Human Services for
33 the evaluation of probation violators to determine whether they are
34 alcoholics or drug addicts or in need of treatment for mental illness
35 and to provide treatment to such probation violators who are
36 remanded to the pilot diversion program as required pursuant to
37 section 5 of this act:

38 For the Fiscal Year 2011-2012.....\$250,000

39 For the Fiscal Year 2012-2013.....\$250,000

40 2. The sums appropriated by subsection 1 are available for
41 either fiscal year. Any remaining balance of those sums must not be
42 committed for expenditure after June 30, 2013, by the entity to
43 which the appropriation is made or any entity to which money from
44 the appropriation is granted or otherwise transferred in any manner,
45 and any portion of the appropriated money remaining must not be



1 spent for any purpose after September 20, 2013, by either the entity
2 to which the money was appropriated or the entity to which the
3 money was subsequently granted or transferred, and must be
4 reverted to the State General Fund on or before September 20, 2013.

5 **Sec. 11.** 1. This section and sections 1 to 9, inclusive, of this
6 act:

7 (a) Become effective upon passage and approval for the
8 purposes of adopting regulations, entering into contracts for the
9 provision of services and taking any other preparatory actions to
10 carry out the provisions of this act and on January 1, 2012, for all
11 other purposes.

12 (b) Expire by limitation on July 1, 2015.

13 2. Section 10 of this act becomes effective on July 1, 2011.

