

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; 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 treatment to
11 certain probation violators if a court has reasonable cause to believe that the
12 probation violators are alcoholics or drug addicts or in need of treatment for a
13 mental illness and if the probation violators are ordered to the custody of the
14 Department to receive such treatment. The Department of Corrections is required to
15 provide food and housing as well as emergency medical services, but is not
16 responsible for providing treatment to the persons placed in the facilities. **Section 1**



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17 also requires probationers to release in writing the Department of Corrections from
18 liability as a condition of participation in the pilot diversion program.

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

26 **Section 7.5** of this bill provides that upon satisfaction of the terms and
27 conditions imposed upon a probation violator for participation in the pilot diversion
28 program, the court shall release the probationer from supervision and order the
29 probationer to complete any period of probation. If a probation violator violates the
30 rules of the program or does not satisfy the terms and conditions of participation or
31 successfully complete treatment, the court may revoke probation. **Section 8** of this
32 bill requires the Department of Corrections and the Division of Parole and
33 Probation of the Department of Public Safety to jointly provide a report which
34 provides certain data for the Interim Finance Committee. This bill is established as
35 a pilot program, and **section 11** of this bill makes it expire by limitation on July 1,
36 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.

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

19 **Sec. 2.** (Deleted by amendment.)

20 **Sec. 3.** 1. A district court may remand a probationer who is
21 returned to the district court for a violation of his or her probation to
22 the pilot diversion program established pursuant to section 1 of this
23 act for supervision, subject to such terms and conditions as



1 established by the court. The court may allow the probationer who is
2 remanded to the pilot diversion program to:

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

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

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

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

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

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

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

20 (1) Other probationers remanded to the program; or

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

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

24 **Sec. 5.** (Deleted by amendment.)

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 section 3 of this act, the court shall release the probationer from
8 supervision and order the probationer to complete any remaining or
9 additional period of probation as determined by the court.

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

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

21 1. The number of probationers participating in the pilot
22 diversion program;

23 2. The reasons the probationers entered the program;

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

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

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

29 **Sec. 10.** (Deleted by amendment.)

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

