
ASSEMBLY BILL NO. 209—ASSEMBLYMEN GRIFFIN, CLABORN, GIBBONS, KNECHT, CHRISTENSEN, ANDONOV, ANGLE, ATKINSON, BEERS, BROWN, CARPENTER, COLLINS, CONKLIN, GEDDES, GOICOECHEA, GOLDWATER, GRADY, GUSTAVSON, HARDY, HETTRICK, KOIVISTO, MABEY, MANENDO, MARVEL, MCCLAIN, MCCLEARY, OCEGUERA, PARKS, PERKINS, PIERCE, SHERER AND WEBER

FEBRUARY 27, 2003

Referred to Committee on Judiciary

SUMMARY—Requires testing of prisoners to detect presence of controlled substance in their systems before consideration for and release on parole. (BDR 16-1069)

FISCAL NOTE: Effect on Local Government: No.
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 parole; requiring a prisoner to submit to a test to detect the presence of controlled substance in the system of the prisoner before a hearing is held to consider granting parole to the prisoner; requiring the State Board of Parole Commissioners to deny parole to the prisoner if the test detects the presence of a controlled substance in his system under certain circumstances; and providing other matters properly relating thereto.

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

1 **Section 1.** NRS 213.1099 is hereby amended to read as
2 follows:

3 213.1099 1. Except as otherwise provided in this section and
4 NRS 213.1214 and 213.1215, the Board may release on parole a
5 prisoner who is otherwise eligible for parole pursuant to NRS
6 213.107 to 213.157, inclusive.



* A B 2 0 9 *

- 1 2. In determining whether to release a prisoner on parole, the
2 Board shall consider:
- 3 (a) Whether there is a reasonable probability that the prisoner
4 will live and remain at liberty without violating the laws;
- 5 (b) Whether the release is incompatible with the welfare of
6 society;
- 7 (c) The seriousness of the offense and the history of criminal
8 conduct of the prisoner;
- 9 (d) The standards adopted pursuant to NRS 213.10885 and the
10 recommendation, if any, of the Chief; and
- 11 (e) Any documents or testimony submitted by a victim notified
12 pursuant to NRS 213.130.
- 13 3. *If the results of a test performed pursuant to paragraph (c)
14 of subsection 1 of NRS 213.130 indicate the presence of a
15 controlled substance in the system of the prisoner, the Board must
16 not release the prisoner on parole, unless the controlled substance
17 that was detected was the result of medication that was prescribed
18 or furnished by a practitioner. As used in this subsection,
19 "practitioner" has the meaning ascribed to it in NRS 453.126.*
- 20 4. When a person is convicted of a felony and is punished by a
21 sentence of imprisonment, he remains subject to the jurisdiction of
22 the Board from the time he is released on parole under the
23 provisions of this chapter until the expiration of the maximum term
24 of imprisonment imposed by the court less any credits earned to
25 reduce his sentence pursuant to chapter 209 of NRS.
- 26 ~~[4.]~~ 5. Except as otherwise provided in NRS 213.1215, the
27 Board may not release on parole a prisoner whose sentence to death
28 or to life without possibility of parole has been commuted to a lesser
29 penalty unless it finds that the prisoner has served at least 20
30 consecutive years in the state prison, is not under an order to be
31 detained to answer for a crime or violation of parole or probation in
32 another jurisdiction, and that he does not have a history of:
- 33 (a) Recent misconduct in the institution, and that he has been
34 recommended for parole by the Director of the Department of
35 Corrections;
- 36 (b) Repetitive criminal conduct;
- 37 (c) Criminal conduct related to the use of alcohol or drugs;
- 38 (d) Repetitive sexual deviance, violence or aggression; or
- 39 (e) Failure in parole, probation, work release or similar
40 programs.
- 41 ~~[5.]~~ 6. In determining whether to release a prisoner on parole
42 pursuant to this section, the Board shall not consider whether the
43 prisoner will soon be eligible for release pursuant to NRS 213.1215.
- 44 ~~[6.]~~ 7. The Board shall not release on parole an offender
45 convicted of an offense listed in NRS 179D.410 until the law



1 enforcement agency in whose jurisdiction the offender will be
2 released on parole has been provided an opportunity to give the
3 notice required by the Attorney General pursuant to NRS 179D.600
4 to 179D.800, inclusive.

5 **Sec. 2.** NRS 213.130 is hereby amended to read as follows:

6 213.130 1. The Department of Corrections shall:

7 (a) Determine when a prisoner sentenced to imprisonment in the
8 state prison is eligible to be considered for parole;

9 (b) Notify the ~~[State Board of Parole Commissioners]~~ **Board** of
10 the eligibility of the prisoner to be considered for parole; ~~[and]~~

11 (c) ***Require the prisoner to submit to a test to detect the***
12 ***presence of a controlled substance in the system of the prisoner***
13 ***not more than 30 days before a parole hearing; and***

14 (d) Before a meeting to consider the prisoner for parole, compile
15 and provide to the Board ***the results of the test performed pursuant***
16 ***to paragraph (c) and any other*** data that will assist the Board in
17 determining whether parole should be granted.

18 2. If a prisoner is being considered for parole from a sentence
19 imposed for conviction of a crime which involved the use of force
20 or violence against a victim and which resulted in bodily harm to a
21 victim and if original or duplicate photographs that depict the
22 injuries of the victim or the scene of the crime were admitted at the
23 trial of the prisoner or were part of the report of the presentence
24 investigation and are reasonably available, a representative sample
25 of such photographs must be included with the information
26 submitted to the Board at the meeting. A prisoner may not bring a
27 cause of action against the State of Nevada, its political
28 subdivisions, agencies, boards, commissions, departments, officers
29 or employees for any action that is taken pursuant to this subsection,
30 or for failing to take any action pursuant to this subsection,
31 including, without limitation, failing to include photographs or
32 including only certain photographs. As used in this subsection,
33 "photograph" includes any video, digital or other photographic
34 image.


35 3. Meetings to consider prisoners for parole may be held
36 semiannually or more often, on such dates as may be fixed by the
37 Board. All meetings must be open to the public.

38 4. Not later than 5 days after the date on which the Board fixes
39 the date of the meeting to consider a prisoner for parole, the Board
40 shall notify the victim of the prisoner who is being considered for
41 parole of the date of the meeting and of his rights pursuant to this
42 subsection, if the victim has requested notification in writing and
43 has provided his current address or if the victim's current address is
44 otherwise known by the Board. The victim of a prisoner being
45 considered for parole may submit documents to the Board and may



1 testify at the meeting held to consider the prisoner for parole. A
2 prisoner must not be considered for parole until the Board has
3 notified any victim of his rights pursuant to this subsection and he is
4 given the opportunity to exercise those rights. If a current address is
5 not provided to or otherwise known by the Board, the Board must
6 not be held responsible if such notification is not received by the
7 victim.

8 5. The Board may deliberate in private after a public meeting
9 held to consider a prisoner for parole.

10 6. The Board of State Prison Commissioners shall provide
11 suitable and convenient rooms or space for use of the *State Board* 
12 *of Parole Commissioners*.

13 7. If a victim is notified of a meeting to consider a prisoner for
14 parole pursuant to subsection 4, the Board shall, upon making a final
15 decision concerning the parole of the prisoner, notify the victim of
16 its final decision.

17 8. All personal information, including, but not limited to, a
18 current or former address, which pertains to a victim and which is
19 received by the Board pursuant to this section is confidential.

20 9. For the purposes of this section, "victim" has the meaning
21 ascribed to it in NRS 213.005.

