
ASSEMBLY BILL NO. 303—COMMITTEE ON JUDICIARY

(ON BEHALF OF WASHOE COUNTY)

MARCH 13, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to local facilities for detention. (BDR 16-578)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 incarceration; authorizing the sheriff to declare a state of emergency because of the overcrowding of prisoners in a county jail; providing that certain persons, courts and agencies may take certain actions to reduce overcrowding in a county jail; revising the provisions governing the requirement of prisoners in local facilities for detention to perform labor; revising certain provisions pertaining to the release of prisoners from local facilities for detention; 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.** Chapter 211 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 22, inclusive, of this
3 act.
4 **Sec. 2.** *As used in sections 2 to 22, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 10, inclusive, have the meanings ascribed to them*
7 *in those sections.*
8 **Sec. 3.** *“County jail” means a facility operated by a county*
9 *for the physical detention and correction of prisoners.*



1 **Sec. 4.** *“Maximum operational capacity” means the number*
2 *of prisoners that may be managed in a county jail in a safe and*
3 *secure manner as provided in section 12 of this act.*

4 **Sec. 5. 1.** *“Offense that poses a threat to the public safety”*
5 *means an offense that is designated pursuant to section 21 of this*
6 *act, whether the offense is committed in this state or another*
7 *jurisdiction.*

8 **2.** *The term includes, without limitation, an offense*
9 *prosecuted in:*

10 *(a) A tribal court.*

11 *(b) A court of the United States or the Armed Forces of the*
12 *United States.*

13 **Sec. 6.** *“Overcrowded county jail” means a county jail whose*
14 *prisoner population exceeds the maximum operational capacity of*
15 *the county jail pursuant to section 12 of this act.*

16 **Sec. 7.** *“Prisoner” means a person who is physically detained*
17 *in a county jail.*

18 **Sec. 8.** *“Prisoner population” means the number of*
19 *prisoners physically detained in a county jail on a given date.*

20 **Sec. 9.** *“Sheriff” means the sheriff of the county in which*
21 *the overcrowded county jail is located.*

22 **Sec. 10.** *“State of emergency” means a state of emergency*
23 *declared by the sheriff pursuant to section 13 of this act.*

24 **Sec. 11.** *The provisions of sections 2 to 22, inclusive, of this*
25 *act:*

26 **1.** *Are applicable to all persons who are sentenced to a county*
27 *jail, including, without limitation, those who are sentenced to the*
28 *county jail as a condition of probation.*

29 **2.** *Must not be applied to reduce or otherwise affect the total*
30 *period of probation imposed by the court.*

31 **3.** *Are not applicable if the prisoner population of a county*
32 *jail exceeds the maximum operational capacity as the direct result*
33 *of a natural disaster or deliberate destruction of property.*

34 **Sec. 12. 1.** *To determine the prisoner population, the*
35 *prisoners:*

36 *(a) Must be counted between the hours of 12:01 a.m. and*
37 *4:00 a.m.; and*

38 *(b) May be counted on any day.*

39 **2.** *The maximum operational capacity of a county jail may be*
40 *determined:*

41 *(a) By considering the classification of prisoners and the*
42 *number of permanent beds available to the prisoner population in*
43 *the county jail; or*

44 *(b) By a court, if before July 1, 2003:*



* A B 3 0 3 *

1 (1) *The court prescribes a maximum operational capacity*
2 *that is less than the maximum operational capacity prescribed in*
3 *paragraph (a); and*
4 (2) *The prisoner population exceeds that maximum*
5 *operational capacity for 7 consecutive days or a shorter period if a*
6 *shorter period is prescribed by the court before July 1, 2003.*
7 **Sec. 13.** *1. If the prisoner population in a county jail*
8 *exceeds the maximum operational capacity prescribed in section*
9 *12 of this act, the sheriff shall:*
10 (a) *Certify in writing that the population has exceeded the*
11 *maximum operational capacity; and*
12 (b) *Provide notice of the written certification by first class mail*
13 *or personal delivery to the following persons:*
14 (1) *The chief judge of the district court;*
15 (2) *The chief judicial officer of each municipal court and*
16 *each justices' court in the county in which the overcrowded county*
17 *jail is located;*
18 (3) *The chief judicial officer of each justices' court in the*
19 *county in which the overcrowded county jail is located;*
20 (4) *The chairman of the board of county commissioners;*
21 *and*
22 (5) *The county manager.*
23 2. *The sheriff shall declare a state of emergency if, not later*
24 *than 3 business days after the receipt of the notice of certification,*
25 *a majority of the persons who are notified do not find that the*
26 *sheriff acted in error.*
27 3. *If the sheriff declares a state of emergency, the sheriff*
28 *shall provide written notice of the state of emergency by first class*
29 *mail or personal delivery to the following persons:*
30 (a) *The persons who are notified pursuant to subsection 1;*
31 (b) *The district attorney of the county in which the*
32 *overcrowded county jail is located; and*
33 (c) *The chief law enforcement officer of each state, county and*
34 *municipal law enforcement agency that is located in the county in*
35 *which the overcrowded county jail is located.*
36 **Sec. 14.** *A person, court, agency or governmental entity may*
37 *take any lawful action to reduce the prisoner population of the*
38 *overcrowded county jail if the action is within the scope of*
39 *authority of the person, court, agency or governmental entity,*
40 *including, without limitation, any lawful action taken pursuant to*
41 *this section. To reduce the prisoner population of an overcrowded*
42 *county jail:*
43 1. *A court may:*
44 (a) *Reduce bail to expedite the release of prisoners from the*
45 *overcrowded county jail.*



- 1 ***(b) Accelerate pending court proceedings for prisoners who***
- 2 ***are subject to the jurisdiction of the Department of Corrections***
- 3 ***and who will be returned to the Department of Corrections***
- 4 ***regardless of the outcome of the pending proceedings.***
- 5 ***(c) Order probation, fines, community service or restitution as***
- 6 ***alternatives to commitment to the overcrowded county jail.***
- 7 ***(d) Accept credit cards for payments of bonds, fines and court***
- 8 ***costs.***
- 9 ***(e) Delay sentencing as an alternative to commitment to the***
- 10 ***overcrowded county jail.***
- 11 ***(f) Release prisoners from the overcrowded county jail on their***
- 12 ***own recognizance.***
- 13 ***(g) Release prisoners on a conditional basis from the***
- 14 ***overcrowded county jail.***
- 15 ***2. The prosecuting attorney may utilize appropriate methods***
- 16 ***of pre-trial diversion.***
- 17 ***3. The sheriff may:***
- 18 ***(a) Place prisoners in work programs.***
- 19 ***(b) Place prisoners in alternative housing arrangements.***
- 20 ***(c) Refuse to commit persons to the overcrowded county jail***
- 21 ***who are not required by law to be committed to the overcrowded***
- 22 ***county jail.***
- 23 ***4. The appropriate persons, courts, agencies or governmental***
- 24 ***entities may:***
- 25 ***(a) Use alternative methods to process and book persons,***
- 26 ***including issuing citations in lieu of booking persons into the***
- 27 ***overcrowded county jail.***
- 28 ***(b) Use alternative arrangements for commitment in lieu of***
- 29 ***committing persons into the overcrowded county jail.***
- 30 ***(c) Accelerate the transfer of prisoners to the Department of***
- 31 ***Corrections if the prisoners are sentenced to the state prison***
- 32 ***system or otherwise subject to the jurisdiction of the Department***
- 33 ***of Corrections.***
- 34 ***(d) Use community mental health and private mental health***
- 35 ***resources in the county as alternatives to committing persons to or***
- 36 ***retaining prisoners in the overcrowded county jail if:***
- 37 ***(1) The person or prisoner qualifies for placement in a***
- 38 ***mental health program; and***
- 39 ***(2) Placement in a mental health program is appropriate***
- 40 ***for that person or prisoner.***
- 41 ***(e) Use community and private substance abuse programs and***
- 42 ***other therapeutic programs as alternatives to committing persons***
- 43 ***to or retaining prisoners in the overcrowded county jail if:***
- 44 ***(1) The person or prisoner qualifies for placement in a***
- 45 ***substance abuse program; and***



- 1 (2) *Placement in a substance abuse program is appropriate*
- 2 *for that person or prisoner.*
- 3 (f) *Enter into agreements which allow the sheriff to commit*
- 4 *prisoners to facilities operated by other governmental entities.*
- 5 (g) *Review agreements which allow other governmental*
- 6 *entities to commit their prisoners to the overcrowded county jail to*
- 7 *determine whether the agreements may be terminated.*
- 8 (h) *Prepare a long-range plan for addressing the problem of*
- 9 *overcrowding in the county jails, including, without limitation,*
- 10 *recommendations to the county board of commissioners*
- 11 *regarding:*
 - 12 (1) *The construction of new county jails;*
 - 13 (2) *Funding for construction of new county jails; and*
 - 14 (3) *Other options designed to alleviate the problem of*
 - 15 *overcrowding in county jails.*
- 16 (i) *Review sentencing procedures, including, without*
- 17 *limitation:*
 - 18 (1) *Accelerating the preparation of presentence reports for*
 - 19 *prisoners awaiting sentence; and*
 - 20 (2) *Staggering the dates on which prisoners start serving*
 - 21 *county jail sentences to minimize fluctuating demands on the*
 - 22 *capacity of county jails.*
- 23 **Sec. 15.** *The actions taken to reduce the prisoner population*
- 24 *of the overcrowded county jail pursuant to sections 2 to 22,*
- 25 *inclusive, of this act must reduce the prisoner population to*
- 26 *whichever is the greater prisoner population of the following:*
 - 27 1. *Ninety percent of the maximum operational capacity of the*
 - 28 *county jail or, if a court prescribes a lower percentage before*
 - 29 *July 1, 2003, that percentage; or*
 - 30 2. *For a county jail with a maximum operational capacity:*
 - 31 (a) *Of less than 500 beds, the prisoner population which leaves*
 - 32 *at least 5 percent of the beds unoccupied.*
 - 33 (b) *Of 500 beds or more, the prisoner population which leaves*
 - 34 *at least 10 percent of the beds unoccupied.*
- 35 **Sec. 16.** *1. If the prisoner population is not reduced*
- 36 *pursuant to section 15 of this act within 14 days after the*
- 37 *declaration of a state of emergency, the sheriff shall provide to the*
- 38 *chief judge of the district court and the chief judicial officer of*
- 39 *each municipal court and justices' court in the county in which*
- 40 *the overcrowded county jail is located the following information*
- 41 *for each prisoner in the overcrowded county jail on that date:*
 - 42 (a) *The name of the prisoner;*
 - 43 (b) *The offense for which the prisoner was convicted;*
 - 44 (c) *The length of sentence imposed for the prisoner;*
 - 45 (d) *The name of the judge who imposed the sentence;*



1 (e) *The date on which the prisoner began serving the sentence;*
2 *and*

3 (f) *The date on which the prisoner is scheduled to be released*
4 *from the county jail according to the terms of the sentence,*
5 *including calculations concerning deductions of days from the*
6 *term of imprisonment pursuant to NRS 211.310 to 211.340,*
7 *inclusive.*

8 2. *The judges who receive the information listed in subsection*
9 *I shall:*

10 (a) *Review the information;*

11 (b) *Classify the prisoners into the following two groups:*

12 (1) *Prisoners who, if released, would present a high risk to*
13 *the public safety; and*

14 (2) *Prisoners who, if released, would not present a high risk*
15 *to the public safety; and*

16 (c) *Determine a minimum and a maximum percentage by*
17 *which the sentences may be reduced.*

18 **Sec. 17.** 1. *After the judges make their determinations*
19 *pursuant to subsection 2 of section 16 of this act, the sheriff shall*
20 *reduce the sentences of all prisoners:*

21 (a) *Who, if released, would not present a high risk to the*
22 *public safety.*

23 (b) *By a percentage which is within the minimum and*
24 *maximum percentages pursuant to subsection 2 of section 16 of*
25 *this act.*

26 2. *The sheriff may continue to reduce the sentences of*
27 *prisoners pursuant to this section if the problem of overcrowding*
28 *continues.*

29 **Sec. 18.** *If the actions taken to reduce the prisoner*
30 *population in an overcrowded county jail pursuant to sections 2 to*
31 *22, inclusive, of this act do not reduce the prisoner population to*
32 *the level prescribed in section 15 of this act within 28 days of the*
33 *declaration of the state of emergency, the sheriff shall reduce the*
34 *original sentence of each prisoner in the overcrowded county jail*
35 *on that date by the least possible percentage, not to exceed 30*
36 *percent, which is necessary to reduce the prisoner population to*
37 *the level prescribed in section 15 of this act.*

38 **Sec. 19.** 1. *The sheriff shall not reduce the sentences of*
39 *prisoners after the state of emergency ends or after the sheriff*
40 *orders a reduction of sentence pursuant to section 18 of this act,*
41 *whichever occurs first.*

42 2. *If the sentence of a prisoner is reduced more than once*
43 *pursuant to the provisions of sections 2 to 22, inclusive, of this act,*
44 *the sentence must not be reduced in total by more than 35 percent*
45 *of the original sentence.*



1 3. *The provisions of sections 2 to 22, inclusive, of this act do*
2 *not limit the authority of a sheriff to deduct days from a prisoner's*
3 *term of imprisonment pursuant to NRS 211.310 to 211.340,*
4 *inclusive.*

5 **Sec. 20.** *1. Except as otherwise provided in this section, if*
6 *the actions taken to reduce the prisoner population in an*
7 *overcrowded county jail pursuant to sections 2 to 22, inclusive, of*
8 *this act do not reduce the prisoner population to the level*
9 *prescribed in section 15 of this act within 42 days after the*
10 *declaration of the state of emergency, the sheriff shall defer*
11 *the acceptance of persons sentenced or otherwise committed to the*
12 *overcrowded county jail until the state of emergency ends*
13 *pursuant to section 22 of this act.*

14 2. *The sheriff shall not defer the acceptance of persons who*
15 *are sentenced or otherwise committed to the overcrowded county*
16 *jail if:*

17 (a) *The person is sentenced or otherwise committed to the*
18 *overcrowded county jail for an offense that poses a threat to the*
19 *public safety as designated pursuant to section 21 of this act; or*

20 (b) *The sheriff or the judge who sentenced or otherwise*
21 *committed the person to the overcrowded county jail provides to*
22 *the chief judge of the district court and the chief judicial officer of*
23 *each municipal court and justices' court in the county in which*
24 *the overcrowded county jail is located information which shows*
25 *that deferring the acceptance of the prisoner into the county jail*
26 *would constitute a threat to the public safety and, based upon the*
27 *information, the chief judge of the district court approves of the*
28 *acceptance of the person into the overcrowded county jail.*

29 **Sec. 21.** *1. The Attorney General shall establish guidelines*
30 *to designate which offenses constitute offenses that pose a threat*
31 *to the public safety. In making this determination, the Attorney*
32 *General shall consider the following categories of offenses:*

33 (a) *Sexual offenses;*

34 (b) *Offenses involving deadly weapons, explosives or firearms;*

35 (c) *Offenses involving assault;*

36 (d) *Offenses involving the use or threatened use of force or*
37 *violence;*

38 (e) *Offenses involving controlled substances;*

39 (f) *Offenses involving escape from prison or jail; or*

40 (g) *Any other offense that poses a threat to the public safety.*

41 2. *In developing the guidelines pursuant to this section, the*
42 *Attorney General shall consult with state and local law*
43 *enforcement agencies.*



1 **Sec. 22. 1.** *Except as otherwise provided in this section, the*
2 *sheriff shall end the state of emergency:*
3 (a) *At any time during the state of emergency if the prisoner*
4 *population of the overcrowded county jail is reduced to the level*
5 *prescribed in section 15 of this act; or*
6 (b) *Not later than 70 days after the date of the declaration of*
7 *the state of emergency.*
8 2. *If the sheriff determines that the state of emergency must*
9 *end, the sheriff shall:*
10 (a) *Certify in writing that the state of emergency must end;*
11 *and*
12 (b) *Provide notice of the written certification by first class mail*
13 *or personal delivery to the following persons:*
14 (1) *The chief judge of the district court;*
15 (2) *The chief judicial officer of each municipal court in the*
16 *county in which the overcrowded county jail is located;*
17 (3) *The chief judicial officer of each justices' court in the*
18 *county in which the overcrowded county jail is located;*
19 (4) *The chairman of the board of county commissioners;*
20 *and*
21 (5) *The county manager.*
22 3. *The sheriff shall not end the state of emergency if, not later*
23 *than 3 business days after the receipt of the written certification, a*
24 *majority of the persons who are notified pursuant to subsection 2*
25 *find that the sheriff acted in error.*

26 **Sec. 23.** NRS 211.130 is hereby amended to read as follows:
27 211.130 1. Except as otherwise provided in subsection 2, all
28 prisoners sentenced by the judge of any district court, ~~for by~~ the
29 justice of the peace of any justice's court ~~or~~ *or the judge of any*
30 *municipal court* and sentenced to a term of imprisonment in any
31 county, city or town jail or detention facility shall be deemed to
32 have been also sentenced to labor during such term . ~~unless the~~
33 ~~judge or justice of the peace sentencing the prisoner, for good cause,~~
34 ~~orders otherwise.~~
35 2. A board of county commissioners or the governing body of a
36 city may authorize the sheriff or chief of police of the municipality
37 to establish a program pursuant to NRS 211.171 to 211.200,
38 inclusive, for the voluntary exchange by a prisoner sentenced to
39 confinement in a jail or detention facility of 10 hours of labor on
40 public works for 1 day of physical confinement, unless the
41 sentencing court has otherwise ordered in a particular case or has
42 restricted the prisoner's eligibility.

43 **Sec. 24.** NRS 211.240 is hereby amended to read as follows:
44 211.240 1. ~~The sheriff with~~ *With* respect to a county jail,
45 ~~for the officer in charge with respect to a city jail, may apply to the~~



1 ~~presiding judge, or to the judges jointly if there is no presiding~~
2 ~~judge.] *the sheriff may apply to the chief judge of the judicial*~~
3 ~~*district* for authority to release prisoners pursuant to [the provisions~~
4 ~~of this section. The duration of this authority if granted must not~~
5 ~~exceed 30 days.~~
6 ~~—2.— At any time within the duration of an authority granted when~~
7 ~~the number of prisoners exceeds the number of beds available in the~~
8 ~~jail, the sheriff or other officer in charge may release the lesser of:~~
9 ~~—(a) The number of prisoners eligible under this section; or~~
10 ~~—(b) The difference between the number of prisoners and the~~
11 ~~number of beds.~~
12 ~~—3.— A prisoner is eligible for release only if:~~
13 ~~—(a) He is serving a sentence of fixed duration and has already~~
14 ~~served at least 90 percent of the sentence after deduction of any~~
15 ~~credit; and~~
16 ~~—(b) His sentence would expire or he would otherwise be released~~
17 ~~within 5 days.~~
18 ~~—4.— Among prisoners eligible, priority must be given to those~~
19 ~~whose expiration of sentence or other release is closest.] *an order*~~
20 ~~*entered by the chief judge.*~~
21 *2. With respect to a city jail, the officer in charge may apply*
22 *to the chief judicial officer of the municipal court for authority to*
23 *release prisoners pursuant to an order entered by the chief judicial*
24 *officer.*
25 **Sec. 25.** This act becomes effective on July 1, 2003.

