

---

SENATE BILL NO. 30—COMMITTEE ON JUDICIARY  
(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises the penalties for certain unlawful acts committed by prisoners relating to human excrement or bodily fluid. (BDR 16-351)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

AN ACT relating to crimes; increasing the penalties for certain unlawful acts committed by prisoners relating to human excrement or bodily fluid; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that a prisoner who is under lawful arrest or lawful  
2 custody and who commits certain acts relating to human excrement or bodily fluid  
3 is guilty: (1) of a gross misdemeanor for a first offense, which is punishable by  
4 imprisonment in the county jail for not more than 364 days, or by a maximum fine  
5 of \$2,000, or by both fine and imprisonment; and (2) a category D felony for a  
6 second or subsequent offense, which is punishable by a minimum term of  
7 imprisonment of 1 year in the state prison and a maximum term of 4 years and a  
8 possible maximum fine of \$5,000. (NRS 193.130, 193.140, 212.189) This bill  
9 increases the penalties for such unlawful acts to: (1) a category D felony for a first  
10 offense; and (2) a category C felony for a second or subsequent offense, which is  
11 punishable by a minimum term of imprisonment of 1 year in the state prison and a  
12 maximum term of 5 years and a possible maximum fine of \$10,000. (NRS 193.130)



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

1       **Section 1.** NRS 212.189 is hereby amended to read as follows:

2       212.189 1. Except as otherwise provided in subsection 10, a  
3 prisoner who is under lawful arrest, in lawful custody or in lawful  
4 confinement shall not knowingly:

5       (a) Store or stockpile any human excrement or bodily fluid;

6       (b) Sell, supply or provide any human excrement or bodily fluid  
7 to any other person;

8       (c) Buy, receive or acquire any human excrement or bodily fluid  
9 from any other person; or

10       (d) Use, propel, discharge, spread or conceal, or cause to be  
11 used, propelled, discharged, spread or concealed, any human  
12 excrement or bodily fluid:

13       (1) With the intent to have the excrement or bodily fluid  
14 come into physical contact with any portion of the body of another  
15 person, including, without limitation, an officer or employee of a  
16 prison or law enforcement agency, whether or not such physical  
17 contact actually occurs; or

18       (2) Under circumstances in which the excrement or bodily  
19 fluid is reasonably likely to come into physical contact with any  
20 portion of the body of another person, including, without limitation,  
21 an officer or employee of a prison or law enforcement agency,  
22 whether or not such physical contact actually occurs.

23       2. Except as otherwise provided in subsection 4, if a prisoner  
24 who is under lawful arrest or in lawful custody violates any  
25 provision of subsection 1, the prisoner is guilty of:

26       (a) For a first offense, a ~~gross misdemeanor~~ *category D felony*  
27 *and shall be punished as provided in NRS 193.130.*

28       (b) For a second offense or any subsequent offense, a category  
29 ~~D~~ *C* felony and shall be punished as provided in NRS 193.130.

30       3. Except as otherwise provided in subsection 4, if a prisoner  
31 who is in lawful confinement, other than residential confinement,  
32 violates any provision of subsection 1, the prisoner is guilty of a  
33 category B felony and shall be punished by imprisonment in the  
34 state prison for a minimum term of not less than 2 years and a  
35 maximum term of not more than 10 years, and may be further  
36 punished by a fine of not more than \$10,000.

37       4. If a prisoner who is under lawful arrest, in lawful custody or  
38 in lawful confinement violates any provision of paragraph (d) of  
39 subsection 1 and, at the time of the offense, the prisoner knew that  
40 any portion of the excrement or bodily fluid involved in the offense  
41 contained a communicable disease that causes or is reasonably  
42 likely to cause substantial bodily harm, whether or not the



1 communicable disease was transmitted to a victim as a result of the  
2 offense, the prisoner is guilty of a category A felony and shall be  
3 punished by imprisonment in the state prison:

4 (a) For life with the possibility of parole, with eligibility for  
5 parole beginning when a minimum of 10 years has been served; or

6 (b) For a definite term of 25 years, with eligibility for parole  
7 beginning when a minimum of 10 years has been served,

8 and may be further punished by a fine of not more than \$50,000.

9 5. A sentence imposed upon a prisoner pursuant to subsection  
10 2, 3 or 4:

11 (a) Is not subject to suspension or the granting of probation; and

12 (b) Must run consecutively after the prisoner has served any  
13 sentences imposed upon the prisoner for the offense or offenses for  
14 which the prisoner was under lawful arrest, in lawful custody or in  
15 lawful confinement when the prisoner violated the provisions of  
16 subsection 1.

17 6. In addition to any other penalty, the court shall order a  
18 prisoner who violates any provision of paragraph (d) of subsection 1  
19 to reimburse the appropriate person or governmental body for the  
20 cost of any examinations or testing:

21 (a) Conducted pursuant to paragraphs (a) and (b) of subsection  
22 8; or

23 (b) Paid for pursuant to subparagraph (2) of paragraph (c) of  
24 subsection 8.

25 7. The warden, sheriff, administrator or other person  
26 responsible for administering a prison shall immediately and fully  
27 investigate any act described in subsection 1 that is reported or  
28 suspected to have been committed in the prison.

29 8. If there is probable cause to believe that an act described in  
30 paragraph (d) of subsection 1 has been committed in a prison:

31 (a) Each prisoner believed to have committed the act or to have  
32 been the bodily source of any portion of the excrement or bodily  
33 fluid involved in the act shall submit to any appropriate  
34 examinations and testing to determine whether each such prisoner  
35 has any communicable disease.

36 (b) If possible, a sample of the excrement or bodily fluid  
37 involved in the act must be recovered and tested to determine  
38 whether any communicable disease is present in the excrement or  
39 bodily fluid.

40 (c) If the excrement or bodily fluid involved in the act came into  
41 physical contact with any portion of the body of an officer or  
42 employee of a prison or law enforcement agency:

43 (1) The results of any examinations or testing conducted  
44 pursuant to paragraphs (a) and (b) must be provided to each such  
45 officer, employee or other person; and



1 (2) For each such officer or employee:

2 (I) Of a prison, the person or governmental body  
3 operating the prison where the act was committed shall pay for any  
4 appropriate examinations and testing requested by the officer or  
5 employee to determine whether a communicable disease was  
6 transmitted to the officer or employee as a result of the act; and

7 (II) Of any law enforcement agency, the law enforcement  
8 agency that employs the officer or employee shall pay for any  
9 appropriate examinations and testing requested by the officer or  
10 employee to determine whether a communicable disease was  
11 transmitted to the officer or employee as a result of the act.

12 (d) The results of the investigation conducted pursuant to  
13 subsection 7 and the results of any examinations or testing  
14 conducted pursuant to paragraphs (a) and (b) must be submitted to  
15 the district attorney of the county in which the act was committed or  
16 to the Office of the Attorney General for possible prosecution of  
17 each prisoner who committed the act.

18 9. If a prisoner is charged with committing an act described in  
19 paragraph (d) of subsection 1 and a victim or an intended victim of  
20 the act was an officer or employee of a prison or law enforcement  
21 agency, the prosecuting attorney shall not dismiss the charge in  
22 exchange for a plea of guilty, guilty but mentally ill or nolo  
23 contendere to a lesser charge or for any other reason unless the  
24 prosecuting attorney knows or it is obvious that the charge is not  
25 supported by probable cause or cannot be proved at the time of trial.

26 10. The provisions of this section do not apply to a prisoner  
27 who is in residential confinement or to a prisoner who commits an  
28 act described in subsection 1 if the act:

29 (a) Is otherwise lawful and is authorized by the warden, sheriff,  
30 administrator or other person responsible for administering the  
31 prison, or his or her designee, and the prisoner performs the act in  
32 accordance with the directions or instructions given to the prisoner  
33 by that person;

34 (b) Involves the discharge of human excrement or bodily fluid  
35 directly from the body of the prisoner and the discharge is the direct  
36 result of a temporary or permanent injury, disease or medical  
37 condition afflicting the prisoner that prevents the prisoner from  
38 having physical control over the discharge of his or her own  
39 excrement or bodily fluid; or

40 (c) Constitutes voluntary sexual conduct with another person in  
41 violation of the provisions of NRS 212.187.

42 **Sec. 2.** This act becomes effective upon passage and approval.

