

ASSEMBLY BILL NO. 35—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the access of offenders to telecommunications devices. (BDR 16-261)

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 corrections; requiring the warden or manager of an institution or facility to make certain determinations concerning use of telecommunications devices by offenders; requiring the Director of the Department of Corrections to adopt regulations authorizing an offender to possess, have in his or her custody or control and use an authorized telecommunications device for certain purposes; revising the definition of a telecommunications device to include certain tablets; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 With certain exceptions, existing law prohibits an offender from having access
- 2 to a telecommunications device. Existing law authorizes an offender to use a
- 3 telecommunications device to conduct certain visits and correspondence. Existing
- 4 law also authorizes certain offenders to use telecommunications devices: (1)
- 5 pursuant to an agreement with the Department of Corrections; or (2) in accordance
- 6 with any regulations governing the use of such devices adopted by the Department
- 7 of Corrections. Finally, existing law defines the term “telecommunications device”
- 8 to include a telephone, a cellular telephone, a personal digital assistant, a
- 9 transmitting radio or a computer with certain capabilities. (NRS 209.417)
- 10 This bill removes statutory provisions authorizing offenders to have access to a
- 11 telecommunications device and instead: (1) requires the warden or manager of an
- 12 institution or facility to determine which telecommunications devices, if any, are
- 13 authorized for use by an offender; and (2) requires the Director of the Department
- 14 to adopt regulations authorizing an offender to possess, have in his or her custody
- 15 or control and use an authorized telecommunications device for certain purposes.
- 16 This bill requires such regulations to authorize an offender to possess, have in his or



17 her custody or control and use an authorized telecommunications device for the
 18 purpose of: (1) conducting certain visits and correspondence; (2) appearing in
 19 court; (3) receiving medical care; (4) applying for or enrolling in a benefit from a
 20 governmental program; (5) performing legal research; (6) obtaining a diploma,
 21 degree, certificate or similar credential; and (7) taking a vocational assessment.
 22 This bill authorizes the Director of the Department, with the approval of the Board,
 23 to adopt regulations authorizing an offender to possess, have in his or her custody
 24 or control and use an authorized telecommunications device for any purpose other
 25 than these specified purposes. The bill requires such regulations to: (1) prescribe
 26 requirements for determining whether a telecommunications device will be
 27 authorized for use by an offender; (2) prescribe the criteria for eligibility for an
 28 offender to use an authorized telecommunications device; (3) set forth the
 29 circumstances under which an offender is authorized to use such a device to access
 30 the Internet; and (4) prescribe standards for the use of such a device by an offender.
 31 Finally, this bill revises the definition of "telecommunications device" to include a
 32 tablet with certain capabilities.

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

1 **Section 1.** NRS 209.417 is hereby amended to read as follows:
 2 209.417 1. ~~{Except as otherwise provided in this section, the}~~
 3 *The* warden or manager of an institution or facility shall ~~{ensure}~~ :
 4 (a) *Determine which telecommunications devices, if any, are*
 5 *authorized for use by an offender in accordance with the*
 6 *regulations adopted pursuant to this section; and*
 7 (b) *Ensure* that no offender in the institution or facility, or in a
 8 vehicle of the Department, has access to a telecommunications
 9 device ~~{.}~~ *that is not an authorized telecommunications device.*
 10 2. ~~{An offender may use a telephone or, for the purpose of~~
 11 ~~communicating with his or her child pursuant to NRS 209.42305,~~
 12 ~~any other approved telecommunications device subject to the~~
 13 ~~limitations set forth in NRS 209.419.~~
 14 —3. ~~An offender may use an approved telecommunications~~
 15 ~~device for the purpose of conducting a visit or correspondence~~
 16 ~~which is authorized pursuant to NRS 209.423, subject to the~~
 17 ~~limitations set forth in NRS 209.419.~~
 18 —4. ~~The Department may enter into an agreement with an~~
 19 ~~offender authorizing the offender to use a telecommunications~~
 20 ~~device to facilitate or participate in correctional activities or to~~
 21 ~~perform educational, vocational or legal research, subject to the~~
 22 ~~limitations set forth in NRS 209.419.~~
 23 —5.} The Director ~~{may,}~~ *shall*, with the approval of the Board,
 24 adopt regulations authorizing an offender ~~{who is assigned to~~
 25 ~~transitional housing, a center for the purpose of making restitution~~
 26 ~~pursuant to NRS 209.4827 to 209.4843, inclusive, or a specific~~
 27 ~~program of education or vocational training authorizing the~~



1 ~~offender]~~ to possess, have in his or her custody or control and use
2 ~~[a] an authorized~~ telecommunications device ~~[-~~
3 ~~—(a) To access a network, including, without limitation, the~~
4 ~~Internet,]~~ for the purpose of:

5 ~~[(1)]~~ (a) *Communicating with his or her child pursuant to*
6 *NRS 209.42305;*

7 (b) *Conducting a visit or correspondence which is authorized*
8 *pursuant to NRS 209.423;*

9 (c) *Appearing in court;*

10 (d) *Receiving medical care;*

11 (e) *Applying for or enrolling in a benefit from a governmental*
12 *program;*

13 (f) *Performing legal research;*

14 (g) Obtaining ~~educational]~~ :

15 (1) *Educational* or vocational training that is approved by
16 the Department;

17 (2) *A diploma, degree, certificate or similar credential,*
18 *including, without limitation, a high school diploma, a general*
19 *educational development certificate or an equivalent document, an*
20 *associate degree or a baccalaureate degree;*

21 (h) *Taking a vocational assessment;*

22 (i) Searching for or applying for employment; ~~[-~~

23 ~~—(3)] and~~

24 (j) Performing essential job functions.

25 ~~[(b) For any other purpose if a telecommunications device is~~
26 ~~required by an employer of the offender to perform essential job~~
27 ~~functions.]~~

28 3. *The Director may, with the approval of the Board, adopt*
29 *regulations authorizing an offender to use an authorized*
30 *telecommunications device for any purpose other than a purpose*
31 *listed in subsection 2.*

32 4. *An offender may possess, have in his or her custody or*
33 *control and use an authorized telecommunications device in*
34 *accordance with any regulations adopted by the Director pursuant*
35 *to subsection 2 or 3. Any communication made by an offender*
36 *using an authorized telecommunications device pursuant to this*
37 *section is subject to the limitations set forth in NRS 209.419.*

38 5. *The regulations adopted by the Director pursuant to*
39 *subsections 2 and 3 must:*

40 (a) *Prescribe the criteria for eligibility for an offender to use*
41 *an authorized telecommunications device;*

42 (b) *Prescribe requirements for determining whether a*
43 *telecommunications device will be authorized for use by an*
44 *offender;*



1 (c) *Set forth the circumstances under which an offender may*
2 *use an authorized telecommunications device to access a network,*
3 *including, without limitation, the Internet; and*

4 (d) *Prescribe standards for the use of an authorized*
5 *telecommunications device by an offender.*

6 6. As used in this section ~~[, “telecommunications”]~~ :

7 (a) *“Authorized telecommunications device” means a device*
8 *authorized for use by an offender in accordance with the*
9 *regulations adopted pursuant to this section.*

10 (b) *“Benefits from a governmental program” means any*
11 *benefit, program or assistance provided by a governmental entity*
12 *pursuant to statute or regulation, including, without limitation,*
13 *Social Security, Medicare and Medicaid.*

14 (c) *“Medicaid” has the meaning ascribed to it in*
15 *NRS 439B.120.*

16 (d) *“Medicare” has the meaning ascribed to it in*
17 *NRS 439B.130.*

18 (e) *“Telecommunications device” means a device, or an*
19 *apparatus associated with a device, that can enable an offender to*
20 *communicate with a person outside of the institution or facility at*
21 *which the offender is incarcerated. The term includes, without*
22 *limitation, a telephone, a cellular telephone, a personal digital*
23 *assistant, a transmitting radio or a computer *or tablet* that is*
24 *connected to a computer network, is capable of connecting to a*
25 *computer network through the use of wireless technology or is*
26 *otherwise capable of communicating with a person or device outside*
27 *of the institution or facility.*

28 **Sec. 2.** 1. This section becomes effective upon passage and
29 approval.

30 2. Section 1 of this act becomes effective:

31 (a) Upon passage and approval for the purpose of adopting
32 regulations and performing any other preparatory administrative
33 tasks that are necessary to carry out the provisions of this act; and

34 (b) On January 1, 2024, for all other purposes.

