

Amendment No. 548

Senate Amendment to Assembly Bill No. 35 First Reprint	(BDR 16-261)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KMD/KRO



Date: 5/15/2023

A.B. No. 35—Revises provisions governing the access of offenders to telecommunications devices. (BDR 16-261)



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 to a
2 telecommunications device. Existing law authorizes an offender to use a telecommunications
3 device to conduct certain visits and correspondence. Existing law also authorizes certain
4 offenders to use telecommunications devices: (1) pursuant to an agreement with the
5 Department of Corrections; or (2) in accordance with any regulations governing the use of
6 such devices adopted by the Department of Corrections. Finally, existing law defines the term
7 “telecommunications device” to include a telephone, a cellular telephone, a personal digital
8 assistant, a transmitting radio or a computer with certain capabilities. (NRS 209.417)

9 This bill removes statutory provisions authorizing offenders to have access to a
10 telecommunications device and instead: (1) requires the warden or manager of an institution
11 or facility to determine which telecommunications devices, if any, are authorized for use by an
12 offender; and (2) requires the Director of the Department to adopt regulations authorizing an
13 offender to possess, have in his or her custody or control and use an authorized
14 telecommunications device for certain purposes. This bill requires such regulations to
15 authorize an offender to possess, have in his or her custody or control and use an authorized
16 telecommunications device for the purpose of: (1) conducting certain visits and
17 correspondence; (2) appearing in court; (3) receiving medical care; (4) applying for or
18 enrolling in a benefit from a governmental program; (5) performing legal research; (6)
19 obtaining a diploma, degree, certificate or similar credential; ~~and~~ (7) taking a vocational
20 assessment ~~+~~; **and (8) communicating with an attorney.** This bill authorizes the Director
21 of the Department, with the approval of the Board, to adopt regulations authorizing an
22 offender to possess, have in his or her custody or control and use an authorized

23 telecommunications device for any purpose other than these specified purposes. The bill
 24 requires such regulations to: (1) prescribe requirements for determining whether a
 25 telecommunications device will be authorized for use by an offender; (2) prescribe the criteria
 26 for eligibility for an offender to use an authorized telecommunications device; (3) set forth the
 27 circumstances under which an offender is authorized to use such a device to access the
 28 Internet; and (4) prescribe standards for the use of such a device by an offender. Finally, this
 29 bill revises the definition of "telecommunications device" to include a tablet with certain
 30 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~~ *The* warden
 3 or manager of an institution or facility shall ~~ensure~~ :

4 *(a) Determine which telecommunications devices, if any, are authorized for*
 5 *use by an offender in accordance with the regulations adopted pursuant to this*
 6 *section; and*

7 *(b) Ensure* that no offender in the institution or facility, or in a vehicle of the
 8 Department, has access to a telecommunications device ~~that is not an~~
 9 *authorized telecommunications device.*

10 2. ~~An offender may use a telephone or, for the purpose of communicating~~
 11 ~~with his or her child pursuant to NRS 209.42305, any other approved~~
 12 ~~telecommunications device subject to the limitations set forth in NRS 209.419.~~

13 ~~3. An offender may use an approved telecommunications device for the~~
 14 ~~purpose of conducting a visit or correspondence which is authorized pursuant to~~
 15 ~~NRS 209.423, subject to the limitations set forth in NRS 209.419.~~

16 ~~4. The Department may enter into an agreement with an offender authorizing~~
 17 ~~the offender to use a telecommunications device to facilitate or participate in~~
 18 ~~correctional activities or to perform educational, vocational or legal research,~~
 19 ~~subject to the limitations set forth in NRS 209.419.~~

20 ~~5.] The Director [may.] shall, with the approval of the Board, adopt~~
 21 ~~regulations authorizing an offender [who is assigned to transitional housing, a~~
 22 ~~center for the purpose of making restitution pursuant to NRS 209.4827 to 209.4843,~~
 23 ~~inclusive, or a specific program of education or vocational training authorizing the~~
 24 ~~offender] to possess, have in his or her custody or control and use [a] an~~
 25 *authorized* telecommunications device ~~;~~

26 ~~(a) To access a network, including, without limitation, the Internet,] for the~~
 27 ~~purpose of:~~

28 ~~[(1)] (a) Communicating with his or her child pursuant to NRS~~
 29 ~~209.42305;~~

30 ~~(b) Conducting a visit or correspondence which is authorized pursuant to~~
 31 ~~NRS 209.423;~~

32 *(c) Appearing in court;*

33 *(d) Receiving medical care;*

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

35 *(f) Performing legal research;*

36 *(g) Obtaining [educational] :*

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

38 *(2) A diploma, degree, certificate or similar credential, including, without*
 39 *limitation, a high school diploma, a general educational development certificate*
 40 *or an equivalent document, an associate degree or a baccalaureate degree;*

1 (h) Taking a vocational assessment;

2 (i) Searching for or applying for employment; ~~for~~

3 ~~(3) and~~

4 (j) Performing essential job functions. ~~f~~

5 ~~(b) For any other purpose if a telecommunications device is required by an~~
 6 ~~employer of the offender to perform essential job functions.; and~~

7 (k) Communicating with an attorney who represents him or her in a criminal
 8 or civil action.

9 3. The Director may, with the approval of the Board, adopt regulations
 10 authorizing an offender to use an authorized telecommunications device for any
 11 purpose other than a purpose listed in subsection 2.

12 4. An offender may possess, have in his or her custody or control and use
 13 an authorized telecommunications device in accordance with any regulations
 14 adopted by the Director pursuant to subsection 2 or 3. Any communication made
 15 by an offender using an authorized telecommunications device pursuant to this
 16 section is subject to the limitations set forth in NRS 209.419.

17 5. The regulations adopted by the Director pursuant to subsections 2 and 3
 18 must:

19 (a) Prescribe the criteria for eligibility for an offender to use an authorized
 20 telecommunications device;

21 (b) Prescribe requirements for determining whether a telecommunications
 22 device will be authorized for use by an offender;

23 (c) Set forth the circumstances under which an offender may use an
 24 authorized telecommunications device to access a network, including, without
 25 limitation, the Internet; and

26 (d) Prescribe standards for the use of an authorized telecommunications
 27 device by an offender.

28 6. As used in this section ~~f~~, “telecommunications”:

29 (a) “Authorized telecommunications device” means a device authorized for
 30 use by an offender in accordance with the regulations adopted pursuant to this
 31 section.

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

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

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

37 (e) “Telecommunications device” means a device, or an apparatus associated
 38 with a device, that can enable an offender to communicate with a person outside of
 39 the institution or facility at which the offender is incarcerated. The term includes,
 40 without limitation, a telephone, a cellular telephone, a personal digital assistant,
 41 a transmitting radio or a computer *or tablet* that is connected to a computer network,
 42 is capable of connecting to a computer network through the use of wireless
 43 technology or is otherwise capable of communicating with a person or device
 44 outside of the institution or facility.

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

46 2. Section 1 of this act becomes effective ~~f~~

47 ~~(a) Upon~~ upon passage and approval for the purpose of adopting regulations
 48 and performing any other preparatory administrative tasks that are necessary to
 49 carry out the provisions of this act ~~f~~, and ~~f~~

50 ~~(b) On~~ on January 1, 2024, for all other purposes.