
SENATE BILL NO. 105—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON JUDICIARY)

PREFILED FEBRUARY 2, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the Department of Corrections. (BDR 18-320)

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 the Department of Corrections; making the Department subject to the provisions of Nevada Administrative Procedure Act under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law enacts the Nevada Administrative Procedure Act, which
2 establishes procedural requirements for the adoption of regulations and adjudication
3 of contested cases by certain agencies of the Executive Department of the State
4 Government. (Chapter 233B of NRS) With certain exceptions, existing law
5 exempts the Department of Corrections from the requirements prescribed by the
6 Act. (NRS 233B.039) **Section 1** of this bill removes this exemption and makes the
7 Department of Corrections subject to the Act for the purpose of adopting
8 regulations but not with respect to contested cases. **Sections 2 and 3** of this bill
9 make conforming changes related to the removal of the exemption in **section 1**.
10 **Section 4** of this bill provides that the regulations currently adopted by the
11 Department remain in effect until replaced by new regulations adopted by the
12 Department in accordance with the Act.



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

1 **Section 1.** NRS 233B.039 is hereby amended to read as
2 follows:

3 233B.039 1. The following agencies are entirely exempted
4 from the requirements of this chapter:

5 (a) The Governor.

6 (b) ~~Except as otherwise provided in NRS 209.221 and~~
7 ~~209.2473, the Department of Corrections.~~

8 ~~(c)~~ The Nevada System of Higher Education.

9 ~~(d)~~ (c) The Office of the Military.

10 ~~(e)~~ (d) The Nevada Gaming Control Board.

11 ~~(f)~~ (e) Except as otherwise provided in NRS 368A.140 and
12 463.765, the Nevada Gaming Commission.

13 ~~(g)~~ (f) Except as otherwise provided in NRS 425.620, the
14 Division of Welfare and Supportive Services of the Department of
15 Health and Human Services.

16 ~~(h)~~ (g) Except as otherwise provided in NRS 422.390, the
17 Division of Health Care Financing and Policy of the Department of
18 Health and Human Services.

19 ~~(i)~~ (h) Except as otherwise provided in NRS 533.365, the
20 Office of the State Engineer.

21 ~~(j)~~ (i) The Division of Industrial Relations of the Department
22 of Business and Industry acting to enforce the provisions of
23 NRS 618.375.

24 ~~(k)~~ (j) The Administrator of the Division of Industrial
25 Relations of the Department of Business and Industry in
26 establishing and adjusting the schedule of fees and charges for
27 accident benefits pursuant to subsection 2 of NRS 616C.260.

28 ~~(l)~~ (k) The Board to Review Claims in adopting resolutions to
29 carry out its duties pursuant to NRS 445C.310.

30 ~~(m)~~ (l) The Silver State Health Insurance Exchange.

31 ~~(n)~~ (m) The Cannabis Compliance Board.

32 2. Except as otherwise provided in subsection 5 and NRS
33 391.323, the Department of Education, the Board of the Public
34 Employees' Benefits Program and the Commission on Professional
35 Standards in Education are subject to the provisions of this chapter
36 for the purpose of adopting regulations but not with respect to any
37 contested case.

38 3. The special provisions of:

39 (a) Chapter 612 of NRS for the adoption of an emergency
40 regulation or the distribution of regulations by and the judicial
41 review of decisions of the Employment Security Division of the
42 Department of Employment, Training and Rehabilitation;



1 (b) Chapters 616A to 617, inclusive, of NRS for the
2 determination of contested claims;

3 (c) Chapter 91 of NRS for the judicial review of decisions of the
4 Administrator of the Securities Division of the Office of the
5 Secretary of State; and

6 (d) NRS 90.800 for the use of summary orders in contested
7 cases,

8 ↪ prevail over the general provisions of this chapter.

9 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and
10 233B.126 do not apply to the Department of Health and Human
11 Services in the adjudication of contested cases involving the
12 issuance of letters of approval for health facilities and agencies.

13 5. The provisions of this chapter do not apply to:

14 (a) Any order for immediate action, including, but not limited
15 to, quarantine and the treatment or cleansing of infected or infested
16 animals, objects or premises, made under the authority of the State
17 Board of Agriculture, the State Board of Health, or any other agency
18 of this State in the discharge of a responsibility for the preservation
19 of human or animal health or for insect or pest control;

20 (b) An extraordinary regulation of the State Board of Pharmacy
21 adopted pursuant to NRS 453.2184;

22 (c) A regulation adopted by the State Board of Education
23 pursuant to NRS 388.255 or 394.1694;

24 (d) The judicial review of decisions of the Public Utilities
25 Commission of Nevada;

26 (e) The adoption, amendment or repeal of policies by the
27 Rehabilitation Division of the Department of Employment, Training
28 and Rehabilitation pursuant to NRS 426.561 or 615.178;

29 (f) The adoption or amendment of a rule or regulation to be
30 included in the State Plan for Services for Victims of Crime by the
31 Department of Health and Human Services pursuant to
32 NRS 217.130;

33 (g) The adoption, amendment or repeal of rules governing the
34 conduct of contests and exhibitions of unarmed combat by the
35 Nevada Athletic Commission pursuant to NRS 467.075;

36 (h) The adoption, amendment or repeal of regulations by the
37 Director of the Department of Health and Human Services pursuant
38 to NRS 447.335 to 447.350, inclusive;

39 (i) The adoption, amendment or repeal of standards of content
40 and performance for courses of study in public schools by the
41 Council to Establish Academic Standards for Public Schools and the
42 State Board of Education pursuant to NRS 389.520;

43 (j) The adoption, amendment or repeal of the statewide plan to
44 allocate money from the Fund for a Resilient Nevada created by
45 NRS 433.732 established by the Department of Health and Human



1 Services pursuant to paragraph (b) of subsection 1 of NRS 433.734;
2 or

3 (k) The adoption or amendment of a data request by the
4 Commissioner of Insurance pursuant to NRS 687B.404.

5 6. The State Board of Parole Commissioners is subject to the
6 provisions of this chapter for the purpose of adopting regulations but
7 not with respect to any contested case.

8 ***7. The Department of Corrections is subject to the provisions***
9 ***of this chapter for the purpose of adopting regulations but not***
10 ***with respect to any contested case.***

11 **Sec. 2.** NRS 209.221 is hereby amended to read as follows:

12 209.221 1. The Offenders' Store Fund is hereby created as a
13 special revenue fund. All money received for the benefit of
14 offenders through contributions, and from other sources not
15 otherwise required to be deposited in another fund, must be
16 deposited in the Offenders' Store Fund.

17 2. The Director shall:

18 (a) Keep, or cause to be kept, a full and accurate account of the
19 Fund;

20 (b) Submit reports to the Board relative to money in the Fund as
21 may be required from time to time; and

22 (c) Submit a monthly report to the offenders of the amount of
23 money in the Fund by posting copies of the report at locations
24 accessible to offenders generally or by delivery of copies to the
25 appropriate representatives of the offenders if any are selected.

26 3. Except as otherwise provided in subsections 4 to 10,
27 inclusive, money in the Offenders' Store Fund, except interest
28 earned upon it, must be expended for the welfare and benefit of all
29 offenders or for any other purpose authorized by the Legislature.

30 4. If necessary to cover a shortfall of money in the Prisoners'
31 Personal Property Fund, the Director may, after obtaining the
32 approval of the Interim Finance Committee, authorize the State
33 Controller to transfer money from the Offenders' Store Fund to the
34 Prisoners' Personal Property Fund, and the State Controller shall
35 make the transfer.

36 5. If an offender has insufficient money in his or her individual
37 account in the Prisoners' Personal Property Fund to repay or defray
38 costs assessed to the offender pursuant to NRS 209.246, the Director
39 shall authorize the State Controller to transfer sufficient money from
40 the Offenders' Store Fund to the appropriate account in the State
41 General Fund to pay costs remaining unpaid, and the State
42 Controller shall make the transfer. Any money so transferred must
43 be accounted for separately. The Director shall cause the Offenders'
44 Store Fund to be reimbursed from the offender's individual account



1 in the Prisoners' Personal Property Fund, as money becomes
2 available.

3 6. If the Department incurs costs related to state property that
4 has been willfully damaged, destroyed or lost or incurs costs related
5 to medical examination, diagnosis or treatment for an injury to an
6 offender, the Director may authorize the State Controller to transfer
7 money from the Offenders' Store Fund to the appropriate account in
8 the State General Fund to repay or defray those costs if:

9 (a) The Director has reason to believe that an offender caused
10 the damage, destruction, loss or injury; and

11 (b) The identity of the offender is unknown or cannot be
12 determined by the Director with reasonable certainty.

13 ↪ The State Controller shall make the transfer if authorized by the
14 Director. Any money transferred must be accounted for separately.
15 If the identity of the offender is determined after money has been
16 transferred, the Director shall cause the Offenders' Store Fund to be
17 reimbursed from the offender's individual account in the Prisoners'
18 Personal Property Fund, as money becomes available.

19 7. The Director may, with approval of the Board, establish by
20 regulation criteria for a reasonable deduction from money credited
21 to the Offenders' Store Fund to repay or defray the costs relating to
22 the operation and maintenance of the offenders' store, coffee shop,
23 gymnasium and correctional officers' salaries for visitation posts
24 where they exist in each facility. ~~Any regulations adopted pursuant~~
25 ~~to this subsection must be adopted in accordance with the provisions~~
26 ~~of chapter 233B of NRS.]~~

27 8. The Director may, with approval of the Board, establish by
28 regulation a charge on the purchase of electronic devices by
29 offenders to defray the costs relating to the operation of the devices.
30 The Director shall utilize the proceeds collected from the charge
31 established for operation of the devices to offset the energy costs of
32 the facilities within the Department. ~~Any regulations adopted~~
33 ~~pursuant to this subsection must be adopted in accordance with the~~
34 ~~provisions of chapter 233B of NRS.]~~

35 9. The Director may, with approval of the Board, establish by
36 regulation a charge on the use by offenders of videoconferencing
37 equipment for conducting visits to defray the costs relating to the
38 operation and maintenance of the equipment. The Director shall
39 utilize the proceeds collected from the charge established for the
40 operation and maintenance of the equipment to offset the costs of
41 operating and maintaining the videoconferencing equipment and
42 correctional officers' salaries for posts for conducting visits by
43 videoconference where the posts exist in each facility.

44 10. If an offender who has been assigned to a center for the
45 purpose of making restitution is returned to an institution for



1 committing an infraction of the regulations of the Department and
2 the center has not been fully compensated for the cost of providing
3 the offender with housing, transportation, meals, or medical or
4 dental services at the center, the Director may authorize the State
5 Controller to transfer money from the Offenders' Store Fund to the
6 appropriate account in the State General Fund to repay or defray
7 those costs. The State Controller shall make the transfer if
8 authorized by the Director. Any money transferred must be
9 accounted for separately. The Director shall cause the Offenders'
10 Store Fund to be reimbursed from the offender's individual account
11 in the Prisoners' Personal Property Fund, as money becomes
12 available.

13 11. If an offender has insufficient money in his or her
14 individual account in the Prisoners' Personal Property Fund to repay
15 or defray costs assessed to the offender pursuant to NRS 209.246,
16 the offender shall sign a statement under penalty of perjury
17 concerning his or her financial situation. Such a statement must
18 include, but is not limited to, the following information:

- 19 (a) The value of any interest the offender has in real estate;
20 (b) The value of the personal property of the offender;
21 (c) The assets in any bank account of the offender; and
22 (d) The employment status of the offender.

23 12. The statement required by subsection 11 must also
24 authorize the Department to access any relevant document, for the
25 purpose of verifying the accuracy of the information provided by the
26 offender pursuant to this section, including, but not limited to,
27 information regarding any bank account of the offender, information
28 regarding any bank account held in trust for the offender and any
29 federal income tax return, report or withholding form of the
30 offender.

31 13. An offender who conceals assets from the Department or
32 provides false or misleading information on a statement prepared
33 pursuant to this section is guilty of a gross misdemeanor.

34 14. A person who aids or encourages an offender to conceal
35 assets from the Department or to provide false or misleading
36 information on a statement prepared pursuant to this section is guilty
37 of a gross misdemeanor.

38 **Sec. 3.** NRS 209.2473 is hereby amended to read as follows:

39 209.2473 ~~[1.]~~ The Department may adopt regulations
40 necessary to carry out the provisions of NRS 209.247 and 209.463.

41 ~~[2.— Any regulations adopted pursuant to this section must be
42 adopted in accordance with the provisions of chapter 233B of NRS.]~~

43 **Sec. 4.** 1. Any current regulations adopted by the
44 Department of Corrections, except for those regulations adopted by the
45 Department pursuant to NRS 209.221 and 209.2473, as those



1 sections existed before July 1, 2023, must remain in effect until
2 regulations are adopted pursuant to chapter 233B of NRS, as
3 amended by section 1 of this act, to replace those regulations, as
4 required pursuant to subsection 2.

5 2. The Department shall, as soon as practicable, adopt
6 regulations pursuant to chapter 233B of NRS, as amended by
7 section 1 of this act, to replace the current regulations adopted by
8 the Department, except for those regulations adopted by the
9 Department pursuant to NRS 209.221 and 209.2473, as those
10 sections existed before July 1, 2023.

11 **Sec. 5.** This act becomes effective on July 1, 2023.

