

SENATE BILL NO. 369—SENATORS KIHUEN, PARKS,
FORD, ATKINSON, SPEARMAN; AND DENIS

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to overcrowding in certain county jails. (BDR 16-1044)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 correctional institutions; authorizing the release of certain prisoners from certain county jails if the number of prisoners that the sheriff determines may be safely housed in the jail based on health and safety considerations is exceeded; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the sheriff with respect to a county jail or the officer in
2 charge with respect to a city jail to apply to the chief judge of the judicial district
3 for authority to release certain prisoners when the number of prisoners in the jail
4 exceeds the number of prisoners that may be safely housed in the jail in compliance
5 with certain regulations governing health and safety adopted by the State Board of
6 Health. After the chief judge considers the application, he or she may enter an order
7 granting the sheriff authority to release certain prisoners. In a county in which there
8 is not a city jail, the chief judge of the judicial district, upon receipt of such an
9 application from the sheriff, is required to consult with a designated justice of the
10 peace and a designated judge, after which the chief judge may enter an order
11 granting the sheriff authority to release certain prisoners. Any prisoners who are
12 released may be required to remain on residential confinement for the remainder of
13 their sentence or to participate in another alternative program of supervision.
14 (NRS 211.240)

15 **Section 1** of this bill requires the sheriff in a county whose population is
16 700,000 or more to determine the number of prisoners that may be safely housed in
17 the county jail based on health and safety considerations, including, without
18 limitation, compliance with certain regulations concerning health and safety
19 adopted by the State Board of Health. **Section 1** establishes a process by which the
20 sheriff notifies the chief judge of the judicial district if such a number of prisoners
21 is exceeded. The chief judge is then authorized to enter an order authorizing the
22 sheriff to release prisoners in accordance with certain procedures until the number



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23 of prisoners housed in the jail does not exceed the number of prisoners that may be
24 safely housed therein. Any prisoners who are released may be required to remain
25 on residential confinement for the remainder of their sentence or to participate in
26 another alternative program of supervision.

27 **Section 1** also authorizes a justice of the peace or the sheriff in a county whose
28 population is 700,000 or more to place eligible prisoners into a facility for
29 transitional living for released offenders that is licensed pursuant to chapter 449 of
30 NRS, if such a facility exists in the judicial district and there is space in the facility
31 to accommodate the prisoner, if the number of prisoners that may be safely housed
32 in the jail is exceeded.

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 a new section to read as follows:

3 *1. In a county whose population is 700,000 or more, the*
4 *sheriff shall establish the operational capacity for the county jail.*
5 *If the number of prisoners in the jail exceeds the operational*
6 *capacity established by the sheriff, the sheriff shall notify the chief*
7 *judge of the judicial district of that fact. Upon receiving such*
8 *notification, the chief judge may enter an order granting the*
9 *sheriff authority to release prisoners in accordance with the*
10 *provisions of subsections 2, 3 and 4 until the operational capacity*
11 *of the jail is not exceeded. An order issued by the chief judge*
12 *pursuant to this subsection is effective for 30 days.*

13 *2. Following the issuance of an order pursuant to subsection*
14 *1, the sheriff shall release prisoners eligible for release pursuant*
15 *to this subsection until the operational capacity of the jail is not*
16 *exceeded. Among those prisoners eligible for release pursuant to*
17 *this subsection, priority must be given to those whose expiration of*
18 *sentence or other release is closest. A prisoner is eligible for*
19 *release pursuant to this subsection only if the prisoner:*

- 20 *(a) Has served at least 75 percent of his or her sentence;*
21 *(b) Is not serving a sentence for a crime for which a*
22 *mandatory sentence is required by statute;*
23 *(c) Is not serving a sentence for a crime which involved an act*
24 *of violence; and*
25 *(d) Does not pose a danger to the community.*

26 *3. If the number of prisoners in the jail exceeds the*
27 *operational capacity of the jail after all eligible prisoners are*
28 *released pursuant to subsection 2, the sheriff shall release*
29 *prisoners eligible for release pursuant to this subsection until the*
30 *operational capacity of the jail is not exceeded. Among those*
31 *prisoners eligible for release pursuant to this subsection, priority*
32 *must be given to those whose expiration of sentence or other*



1 *release is closest. A prisoner is eligible for release pursuant to this*
2 *subsection only if the prisoner:*

3 *(a) Has served at least 50 percent of his or her sentence;*

4 *(b) Is not serving a sentence for a crime for which a*
5 *mandatory sentence is required by statute;*

6 *(c) Is not serving a sentence for a crime which involved an act*
7 *of violence; and*

8 *(d) Does not pose a danger to the community.*

9 *4. If the number of prisoners in the jail exceeds the*
10 *operational capacity of the jail after all eligible prisoners are*
11 *released pursuant to subsection 3, the sheriff shall release*
12 *prisoners who are within 30 days of their scheduled release dates*
13 *until the operational capacity of the jail is not exceeded. Among*
14 *those prisoners eligible for release pursuant to this subsection,*
15 *priority must be given to those whose expiration of sentence or*
16 *other release is closest.*

17 *5. If the number of prisoners in the jail exceeds the*
18 *operational capacity of the jail after all eligible prisoners have*
19 *been released pursuant to subsections 2, 3 and 4, the sheriff shall*
20 *notify the chief judge of the judicial district of that fact. Upon*
21 *receiving such notification, the chief judge may enter an*
22 *additional order modifying the bail schedule for all nonviolent*
23 *offenders in the jail. An order issued by the chief judge pursuant*
24 *to this subsection is effective for 30 days.*

25 *6. If the number of prisoners in the jail exceeds the*
26 *operational capacity of the jail after all eligible prisoners have*
27 *been released pursuant to subsection 5, the sheriff shall notify the*
28 *chief judge of the judicial district of that fact. The chief judge, in*
29 *cooperation with the justice courts in the judicial district, shall*
30 *identify and notify the sheriff of any additional prisoners eligible*
31 *for release whose release will reduce the number of prisoners in*
32 *the jail to the operational capacity of the jail.*

33 *7. A prisoner released pursuant to subsections 2 to 6,*
34 *inclusive, may be required to remain on residential confinement*
35 *for the remainder of his or her sentence or may be required to*
36 *participate in another alternative program of supervision.*

37 *8. In addition to the authorization to release prisoners given*
38 *to the sheriff by the chief judge of the judicial district pursuant to*
39 *this section, a justice of the peace or the sheriff may, for the*
40 *purpose of reducing the number of prisoners in the jail to the*
41 *operational capacity of the jail, place a prisoner into a facility for*
42 *transitional living for released offenders that is licensed pursuant*
43 *to chapter 449 of NRS, if such a facility exists in the judicial*
44 *district and there is space in the facility to accommodate the*
45 *prisoner, and the prisoner:*



1 (a) *Is serving a misdemeanor sentence for which the*
2 *underlying offense relates to or arises from mental health issues,*
3 *homelessness or addiction to alcohol or drugs; and*

4 (b) *Has no gross misdemeanor or felony charges pending*
5 *against him or her.*

6 9. *As used in this section:*

7 (a) *“Facility for transitional living for released offenders” has*
8 *the meaning ascribed to it in NRS 449.0055.*

9 (b) *“Operational capacity” means the number of prisoners that*
10 *a sheriff determines may be safely housed in a county jail based*
11 *on health and safety considerations, including, without limitation,*
12 *compliance with the regulations governing the sanitation,*
13 *healthfulness, cleanliness and safety of the jail that are adopted by*
14 *the State Board of Health pursuant to NRS 444.335.*

15 **Sec. 2.** NRS 211.240 is hereby amended to read as follows:

16 211.240 1. Except as otherwise provided in subsection 2 **†**
17 **and section 1 of this act**, the sheriff with respect to a county jail, or
18 the officer in charge with respect to a city jail, may apply to the
19 chief judge of the judicial district for authority to release prisoners
20 pursuant to the provisions of this section. After considering the
21 application, the chief judge may enter an order consistent with the
22 provisions of this section granting authority to release prisoners in
23 the manner set forth in the order. The duration of this authority, if
24 granted, must not exceed 30 days.

25 2. In a county in which there is not a city jail, the sheriff may
26 apply to the chief judge of the judicial district for authority to
27 release prisoners pursuant to the provisions of this section. Upon
28 receipt of such an application, the chief judge shall consult with a
29 justice of the peace designated by the justices of the peace for the
30 county and a judge designated by the municipal courts for the
31 county. After the consultation, the chief judge may enter an order
32 consistent with the provisions of this section granting authority to
33 release prisoners in the manner set forth in the order. The duration
34 of this authority, if granted, must not exceed 30 days.

35 3. At any time within the duration of an authority granted when
36 the number of prisoners exceeds the operational capacity of the jail,
37 the sheriff or other officer in charge may release the lesser of:

38 (a) The number of prisoners eligible under this section; or

39 (b) The difference between the number of prisoners and the
40 operational capacity of the jail.

41 4. A prisoner is eligible for release only if the prisoner:

42 (a) Has served at least 75 percent of his or her sentence;

43 (b) Is not serving a sentence for a crime for which a mandatory
44 sentence is required by statute;



1 (c) Is not serving a sentence for a crime which involved an act of
2 violence; and

3 (d) Does not pose a danger to the community.

4 5. Among prisoners eligible, priority must be given to those
5 whose expiration of sentence or other release is closest.

6 6. A prisoner released pursuant to this section may be required
7 to remain on residential confinement for the remainder of his or her
8 sentence or may be required to participate in another alternative
9 program of supervision.

10 7. As used in this section, "operational capacity" means the
11 number of prisoners that may be safely housed in a jail in
12 compliance with the regulations governing the sanitation,
13 healthfulness, cleanliness and safety of the jail that are adopted by
14 the State Board of Health pursuant to NRS 444.335.

15 **Sec. 3.** NRS 449.0055 is hereby amended to read as follows:

16 449.0055 1. "Facility for transitional living for released
17 offenders" means a residence that provides housing and a living
18 environment for persons who have been released from prison *or jail*
19 and who require assistance with reintegration into the community,
20 other than such a residence that is operated or maintained by a state
21 or local government or an agency thereof. The term does not include
22 a halfway house for recovering alcohol and drug abusers or a facility
23 for the treatment of abuse of alcohol or drugs.

24 2. As used in this section, "person who has been released from
25 prison ~~or~~ *or jail*" means:

26 (a) A parolee.

27 (b) A person who is participating in:

28 (1) A judicial program pursuant to NRS 209.4886 or
29 213.625; or

30 (2) A correctional program pursuant to NRS 209.4888
31 or 213.632.

32 (c) A person who is supervised by the Division of Parole and
33 Probation of the Department of Public Safety through residential
34 confinement pursuant to NRS 213.371 to 213.410, inclusive.

35 (d) A person who has been released from prison by expiration of
36 his or her term of sentence.

37 (e) *A person who has been released from a county jail
38 pursuant to subsection 8 of section 1 of this act because the
39 operational capacity of the jail was exceeded.*

40 **Sec. 4.** This act becomes effective on July 1, 2015.



