

SENATE BILL NO. 35—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 15, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing certain offenses relating to prisoners. (BDR 16-444)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to crimes; defining the term “intoxicant” for the purpose of certain provisions which prohibit furnishing an intoxicant to a prisoner; revising provisions governing certain crimes relating to prisoners; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that an employee of or a contractor or volunteer for a
2 prison who voluntarily engages or attempts to engage in sexual abuse of a prisoner
3 is guilty of a category D felony. (NRS 212.188) **Section 3** of this bill: (1) increases
4 the penalty for sexual abuse of a prisoner from a category D felony to a category B
5 felony; and (2) makes the crime punishable by imprisonment in the state prison for
6 a minimum term of not less than 1 year and a maximum term of not more than 10
7 years.

8 Existing law provides that an employee of or a contractor or volunteer for a
9 prison who voluntarily: (1) engages in unauthorized custodial conduct is guilty of
10 a gross misdemeanor; or (2) attempts to engage in such conduct is guilty of a
11 misdemeanor. (NRS 212.188) **Section 3** increases the penalty for unauthorized
12 custodial conduct from a gross misdemeanor to a category C felony. **Section 3** also
13 eliminates provisions relating to attempted unauthorized custodial conduct.

14 Existing law makes it a crime for certain persons to furnish a controlled
15 substance or intoxicating liquor to a prisoner. (NRS 212.160) **Section 2** of this bill
16 changes the term “intoxicating liquor” to “intoxicant” and defines the term
17 intoxicant for the purposes of this prohibition to mean: (1) a controlled substance
18 analog; (2) a spirituous or malt liquor or beverage; (3) a synthetic cannabinoid; or
19 (4) any other chemical, poison or organic solvent, or any compound or combination



20 thereof, which may be inhaled, ingested, applied or otherwise used to achieve a
21 stimulant, depressant or hallucinogenic effect.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** NRS 212.160 is hereby amended to read as follows:

3 212.160 1. A person, who is not authorized by law, who
4 knowingly furnishes, attempts to furnish, or aids or assists in
5 furnishing or attempting to furnish to a prisoner confined in an
6 institution of the Department of Corrections, or any other place
7 where prisoners are authorized to be or are assigned by the Director
8 of the Department, any deadly weapon, explosive, a facsimile of a
9 firearm or an explosive, any controlled substance or ~~intoxicating~~
10 ~~liquor;~~ *intoxicant*, shall be punished:

11 (a) Where a deadly weapon, controlled substance, explosive or a
12 facsimile of a firearm or explosive is involved, for a category B
13 felony by imprisonment in the state prison for a minimum term of
14 not less than 1 year and a maximum term of not more than 6 years,
15 and may be further punished by a fine of not more than \$5,000.

16 (b) Where an intoxicant is involved, for a gross misdemeanor.

17 2. Knowingly leaving or causing to be left any deadly weapon,
18 explosive, facsimile of a firearm or explosive, controlled substance
19 or ~~intoxicating liquor~~ *intoxicant* where it may be obtained by any
20 prisoner constitutes, within the meaning of this section, the
21 furnishing of the article to the prisoner.

22 3. A prisoner confined in an institution of the Department of
23 Corrections, or any other place where prisoners are authorized to be
24 or are assigned by the Director of the Department, who possesses a
25 controlled substance without lawful authorization or marijuana or
26 marijuana paraphernalia, regardless of whether the person holds a
27 valid registry identification card to engage in the medical use of
28 cannabis pursuant to chapter 678C of NRS, is guilty of a category D
29 felony and shall be punished as provided in NRS 193.130.

30 **4. As used in this section:**

31 (a) *“Controlled substance analog” has the meaning ascribed*
32 *to it in NRS 453.043.*

33 (b) *“Intoxicant” means:*

34 (1) *A controlled substance analog;*

35 (2) *A spirituous or malt liquor or beverage;*

36 (3) *A synthetic cannabinoid; or*

37 (4) *Any other chemical, poison or organic solvent, or any*
38 *compound or combination thereof, which may be inhaled,*



1 *ingested, applied or otherwise used to achieve a stimulant,*
2 *depressant or hallucinogenic effect.*

3 *(c) "Synthetic cannabinoid" has the meaning ascribed to it in*
4 *NRS 678A.239.*

5 **Sec. 3.** NRS 212.188 is hereby amended to read as follows:

6 212.188 1. An employee of or a contractor or volunteer for a
7 prison who voluntarily engages in, or attempts to engage in, with a
8 prisoner who is in lawful custody or confinement, other than in the
9 custody of the Division of Parole and Probation of the Department
10 of Public Safety pursuant to NRS 209.4886 or 209.4888 or
11 residential confinement, any of the acts set forth in:

12 (a) Paragraph (a) of subsection 3, commits sexual abuse of a
13 prisoner.

14 (b) Paragraph (b) of subsection 3, commits unauthorized
15 custodial conduct.

16 2. Unless a greater penalty is provided pursuant to any other
17 applicable provision of law, an employee of or a contractor or
18 volunteer for a prison who commits:

19 (a) Sexual abuse of a prisoner is guilty of a category ~~FD~~ **B**
20 felony and shall be punished ~~as provided~~ *by imprisonment in*
21 ~~[NRS 193.130.]~~ *the state prison for a minimum term of not less*
22 *than 1 year and a maximum term of not more than 10 years.*

23 (b) Unauthorized custodial conduct by engaging in any of the
24 acts described in paragraph (b) of subsection 3 is guilty of a ~~gross~~
25 ~~misdemeanor.~~

26 ~~—(c) Unauthorized custodial conduct by attempting to engage in~~
27 ~~any of the acts described in paragraph (b) of subsection 3 is guilty of~~
28 ~~a misdemeanor.]~~ *category C felony and shall be punished as*
29 *provided in NRS 193.130.*

30 3. As used in this section:

31 (a) "Sexual abuse":

32 (1) Includes any of the following acts between an employee
33 of or a contractor or volunteer for a prison and a prisoner, regardless
34 of whether the prisoner consents to the act:

35 (I) Sexual intercourse or anal intercourse, including
36 penetration, however slight;

37 (II) Fellatio, cunnilingus or contact between the mouth
38 and the anus;

39 (III) Penetration, however slight, of an object into the
40 genital or anal opening of the body of a prisoner committed with the
41 intent to abuse the prisoner or to arouse, appeal to or gratify
42 the sexual desires of either person;

43 (IV) Any other intentional contact with a prisoner's
44 unclothed genitals, pubic area, anus, buttocks, inner thigh or breasts



1 committed with the intent to abuse the prisoner or to arouse, appeal
2 to or gratify the sexual desires of either person;

3 (V) Watching a prisoner change clothing or use a shower,
4 toilet or urinal;

5 (VI) Requiring a prisoner to expose his or her genitals,
6 buttocks or breasts; or

7 (VII) Capturing an image of the private area of a prisoner
8 in violation of NRS 200.604.

9 (2) Does not include acts of an employee of or a contractor
10 or volunteer for the prison in which the prisoner is confined that are
11 performed to carry out the official duties of such an employee,
12 contractor or volunteer.

13 (b) "Unauthorized custodial conduct":

14 (1) Includes any of the following acts between an employee
15 of or a contractor or volunteer for a prison and a prisoner, regardless
16 of whether the prisoner consents to the act:

17 (I) Contact between the mouth and any part of the body
18 committed with the intent to abuse the prisoner or to arouse, appeal
19 to or gratify the sexual desires of either person;

20 (II) Any other intentional contact with a prisoner's
21 clothed genitals, pubic area, anus, buttocks, inner thigh or breasts
22 committed with the intent to abuse the prisoner or to arouse, appeal
23 to or gratify the sexual desires of either person;

24 (III) Any threat or request by an employee or a contractor
25 or volunteer to engage in any act described in sub-subparagraph (I)
26 or (II); or

27 (IV) Any display by an employee or a contractor or
28 volunteer of his or her unclothed genitals, buttocks or breasts in the
29 presence of a prisoner.

30 (2) Does not include acts of an employee of or a contractor
31 or volunteer for the prison in which the prisoner is confined that are
32 performed to carry out the official duties of such an employee,
33 contractor or volunteer.

