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## Criminal Procedure; parole-mandatory release of prisoners

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**Criminal Procedure; parole—mandatory release of prisoners**

NEV. REV. STAT. §§ 213.\_\_\_\_ (new); §§ 213.107, 213.1099, 213.1519, 213.160 (amended).

AB 584 (Select Committee on Corrections); 1987 STAT. Ch 416

Existing law provides that the State Board of Parole Commissioners (Board)<sup>1</sup> may grant parole<sup>2</sup> to a prisoner<sup>3</sup> provided there is a reasonable probability that the prisoner will remain at liberty without violating the law and release is not incompatible with the welfare of society.<sup>4</sup> Chapter 416 provides that a prisoner sentenced to confinement for a term of three years or more who has not been previously paroled for that sentence and is not otherwise ineligible for parole, must be paroled 9 months before the end of the prisoner's term.<sup>5</sup> If the Board determines that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, or the prisoner is the subject of a request from another law enforcement agency to be held or detained for release to that agency, the Board may deny parole and require the prisoner to serve the remaining balance of the sentence.<sup>6</sup> Under Chapter 416, the Board in making a parole decision may not consider whether the prisoner will soon

1. See NEV. REV. STAT. § 213.107 1 (State Board of Parole Commissioners).

2. See generally *id.* §§ 213.107-213.160 (parole eligibility requirements).

3. See *id.* § 208.085 (definition of prisoner).

4. *Id.* § 213.1099 1(a),(b) (amended by 1987 Nev. Stat. ch. 416, sec. 5, at \_\_\_\_). Any parolee whose parole is revoked by the Board for a violation of a rule or regulation governing their conduct must forfeit all credits for good behavior earned prior to their parole, and serve any part of the unexpired term of the original sentence as determined by the Board. *Id.* § 213.1519 1(b) (amended by 1987 Nev. Stat. ch. 416, sec. 6, at \_\_\_\_). See *Weakland v. Board of Parole Commissioners*, 100 Nev. 218, 219, 678 P.2d 1158, 1160 (1984); *Severence v. Armstrong*, 96 Nev. 836, 839, 620 P.2d 369, 370 (1980); *Austin v. Armstrong*, 473 F.Supp. 1114, 1117 (D. Nev. 1979) (the Parole Board's decisions concerning parole are discretionary, and the Board is not constitutionally required to render any statement as to why parole was denied). See generally *id.* § 209.433 (credits for good behavior); See also 1985 PAC. L.J. REV. NEV. LEGIS. 88, 88-89 (credits for good behavior).

5. 1987 Nev. Stat. ch. 416, sec. 2, at \_\_\_\_ (enacting NEV. REV. STAT. § 213.\_\_\_\_). Each parolee released pursuant to this chapter must be supervised closely by the department according to a statewide plan developed by the executive officer. *Id.* The term must be reduced by any credits for good behavior earned against the sentence. *Id.* The determination of the 9-month period before the end of a prisoner's term must be calculated without consideration of any credits they may have earned against their sentence had they not been paroled. *Id.* sec. 2, at \_\_\_\_ (enacting NEV. REV. STAT. § 213.\_\_\_\_). The provisions of this section apply to any prisoner whose imprisonment ends on or after March 31, 1988. *Id.* ch. 416, sec. 8, at \_\_\_\_ See also *Greenholtz v. Inmates of the Nebraska Penal and Correction Complex*, 442 U.S. 1, 11 (1979) (discussion of a statute which creates a legitimate expectation of parole to which due process safeguards attach).

6. 1987 Nev. Stat. ch. 416, sec. 2, at \_\_\_\_ (enacting NEV. REV. STAT. § 213.\_\_\_\_).

be eligible for release pursuant to Chapter 416.<sup>7</sup> Furthermore, a prisoner whose parole<sup>8</sup> is revoked for a violation of any rule or regulation governing their conduct, must: (a) Forfeit all credits for good behavior earned before parole; (b) serve the entire unexpired term of the original sentence; and (c) not be paroled during their term of imprisonment.<sup>9</sup>

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7. *Id.* sec. 5, at \_\_\_ (enacting NEV. REV. STAT. § 213.1099'4).

8. *Id.* sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 213.\_\_\_\_) (parolee released on parole pursuant to Chapter 416).

9. *Id.* sec. 6, at \_\_\_ (amending NEV. REV. STAT. § 213.1519). *See supra*, note 4 (discussion of credits for good behavior).

### **Criminal Procedure; post-conviction relief**

NEV. REV. STAT. §§ 34.\_\_\_\_, 176.\_\_\_\_, 177.\_\_\_\_, 178.\_\_\_\_ (new); §§ 34.370, 34.530, 34.540, 34.710, 34.720, 34.730, 34.750, 34.780, 34.800, 34.820, 34.830, 176.415, 177.315, 177.325, 177.335, 177.345, 177.355, 177.365, 177.375 (amended).

SB 286 (Committee on Judiciary); 1987 STAT. Ch 539

Under existing law, any person unlawfully detained, confined, or restrained may prosecute a writ of habeas corpus<sup>1</sup> and inquire into the reason for such restraint.<sup>2</sup> A person convicted of a crime and sentenced to death or imprisonment, who claims that the conviction is in violation of the United States Constitution, may file a petition<sup>3</sup> for post-conviction relief in the district court.<sup>4</sup> Chapter 539 provides that a petition for a post-conviction writ of habeas corpus<sup>5</sup> may not be filed unless the petitioner first files a petition for post-conviction

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1. BLACK'S LAW DICTIONARY 638 (6th ed. 1979) (purpose of a writ of habeas corpus is to bring the party before the court, or to release the party from unlawful imprisonment).

2. NEV. REV. STAT. § 34.360. *See also* NEV. CONST. art. V, § 14 (Nevada Constitution gives the governor the power to grant pardons and suspend sentences).

3. NEV. REV. STAT. § 177.355 (amended by 1987 Nev. Stat. ch. 539, sec. 43, at \_\_\_) (deadlines for filing supplementary petitions).

4. *Id.* § 177.315 (amended by 1987 Nev. Stat. ch. 539, sec. 39, at \_\_\_). *See also id.* § 34.360 (form of petition for post-conviction relief).

5. 1987 Nev. Stat. ch. 539, sec. 7, at \_\_\_ (enacting NEV. REV. STAT. 34.\_\_\_\_) (form for writ of habeas corpus).