



# SUMMARY OF SELECTED 2011 LEGISLATION RELATING TO COURTS, JUDICIAL PROCEDURE AND CRIMINAL JUSTICE

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**Editor's Note:** The following summaries of selected 2011 legislation relating to courts, judicial procedure and criminal justice are excerpted from the 2011 "SUMMARY OF LEGISLATION" published by the Research Division of the Legislative Counsel Bureau. The complete publication covers all topics of legislation of interest to members of the legal community (including, for example, elections, family topics, gaming, insurance, public lands and real property), and is available for purchase through the Legislative Publications Office at the Legislative Counsel Bureau (775) 684-6835. The full text and complete legislative history of each legislative measure summarized is available at the Nevada Legislature's web site at [www.leg.state.nv.us/Session/76th2011/Reports/](http://www.leg.state.nv.us/Session/76th2011/Reports/).

*Unless otherwise noted, the measures passed during the 2011 Regular Session became effective on October 1, 2011.*

## COURTS AND JUDICIAL/ CRIMINAL PROCEDURES

### **S.J.R. 14 (File No. 26) Intermediate Appellate Court – Court of Appeals**

Senate Joint Resolution No. 14 proposes an amendment to the Nevada Constitution to create an intermediate appellate court, known as the Court of Appeals, to be comprised of three judges initially appointed to two-year terms by the governor from nominees chosen by the Commission on Judicial Selection. Following initial appointment, the judges will be elected in the general election to serve a term of six years.

The Court of Appeals will have appellate jurisdiction in civil cases arising from the district courts and in criminal cases within the original jurisdiction of the district courts. The Nevada Supreme Court will fix the appellate court's jurisdiction and provide for the review of appeals decided by the Court of Appeals. Finally, Nevada's Supreme Court must provide for the assignment of one or more judges of the Court of Appeals to devote part of their time to serve as supplemental district judges where needed.

*If approved in identical form during the 2013 Session of the Legislature, the proposal will be submitted to the voters for final approval or disapproval at the 2014 General Election.*

### **A.B. 6 (Chapter 65) Vacating Judgment of Conviction of Prostitution**

Assembly Bill 6 authorizes a trial court to vacate a judgment of conviction for prostitution or soliciting a prostitute if the defendant was not alleged to be a customer of a prostitute, was a victim of trafficking in persons or involuntary servitude and made a motion with due diligence

after ceasing to be a victim or seeking services for a victim. In deciding whether to grant a motion, the bill requires the court to take into consideration any reasonable concerns for the safety of the defendant, the defendant's family or other victims who may be jeopardized by the bringing of the motion.

**A.B. 7 (Chapter 9) Answer to Affidavit Seeking Disqualification of Judge**

Assembly Bill 7 changes from two days to five judicial days the time within which a judge, against whom an affidavit alleging bias or prejudice has been filed, must file a written answer with the clerk of the court, unless the judge immediately transfers the case or requests another judge to hear the case. This measure applies to all judges except justices of the Supreme Court.

*This bill became effective on March 30, 2011.*

**A.B. 11 (Chapter 13) Orders for Interception of Wire or Oral Communications**

Assembly Bill 11 adds the escape of an offender in the custody of the Department of Corrections to the list of crimes for which the Attorney General or a district attorney may apply for an order authorizing the interception of wire or oral communications.

The bill also revises the definition of "peace officer" to include the Department of Correction's Inspector General and criminal investigators for the purpose of submitting affidavits in support of applications for orders authorizing the use of certain devices to capture the telephone numbers of incoming and outgoing communications.

*This bill became effective on July 1, 2011.*

**A.B. 87 (Chapter 10) Uniform Interstate Depositions and Discovery Act**

Assembly Bill 87 repeals the Uniform Foreign Depositions Act and replaces it with the Uniform Interstate Depositions and Discovery Act. When a party in another state seeks discovery from a person in Nevada, the measure requires the party to submit a subpoena from that state to the clerk of the court in the county where discovery is sought. The clerk must then promptly issue a subpoena, the service and enforcement of which must comply with Nevada's laws and rules of civil procedure.

*The bill became effective on October 1, 2011, and the Uniform Foreign Depositions Act applies to discovery in cases pending or initiated on or after that date.*

**A.B. 88 (Chapter 11) Uniform Unsworn Foreign Declarations Act**

Assembly Bill 88 enacts the Uniform Unsworn Foreign Declarations Act. This measure applies to a declaration by a person who, at the time, is

physically outside the boundaries of the United States. If Nevada law requires or permits a sworn declaration, this measure provides that an unsworn declaration that meets the requirements of the act has the same effect. However, this measure does not apply to a deposition, an oath of office, an oath required to be given before a specific official or the filing of certain documents related to estates and wills.

**A.B. 91 (Chapter 43) Uniform Collaborative Law Act**

Assembly Bill 91 enacts the Uniform Collaborative Law Act. This measure establishes the requirements relating to an agreement to resolve a matter through a collaborative process and prohibits a court from ordering a party to participate over the party's objection. It provides that the filing of an agreement operates as an application for a stay of pending court proceedings, but authorizes the court to issue an emergency order during a collaborative process to protect a family member or a party to the proceedings.

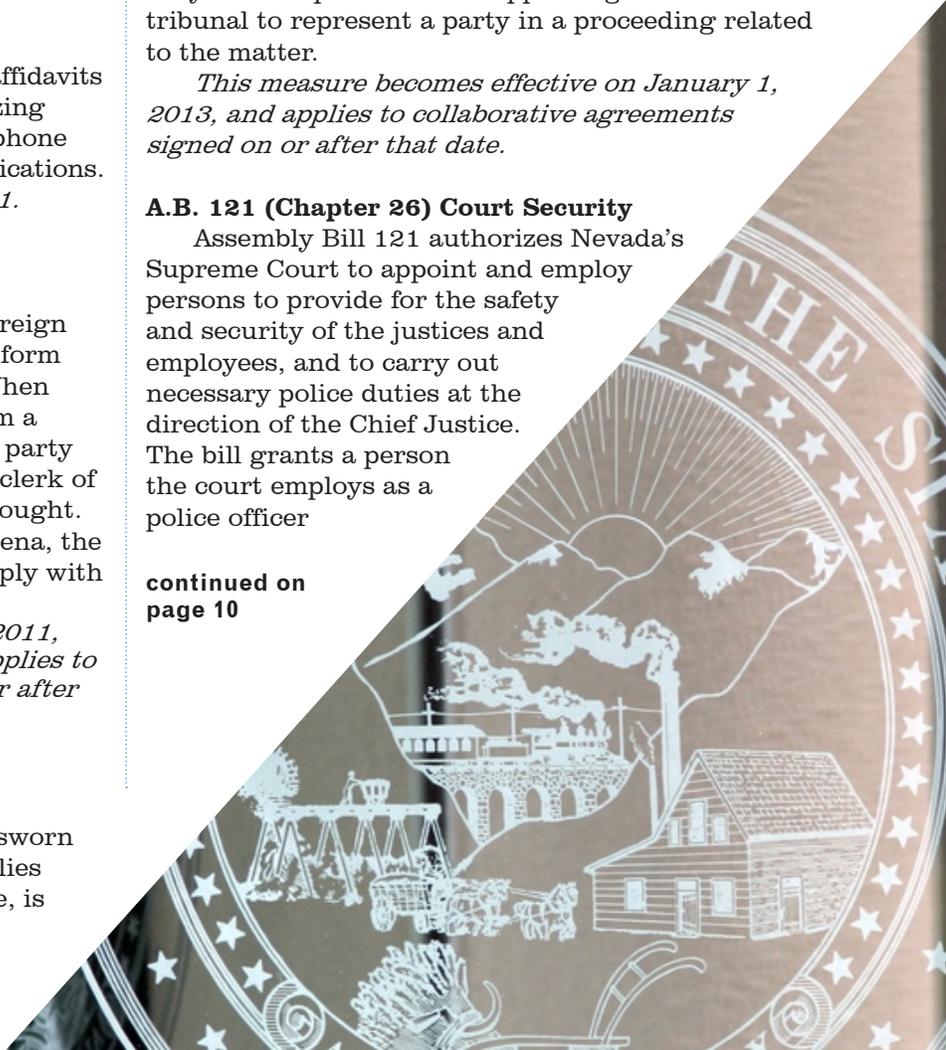
Assembly Bill 91 requires the parties in a collaborative process to make candid, complete, informal and timely disclosure of relevant information without formal discovery. With certain exceptions, the bill provides that a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the matter.

*This measure becomes effective on January 1, 2013, and applies to collaborative agreements signed on or after that date.*

**A.B. 121 (Chapter 26) Court Security**

Assembly Bill 121 authorizes Nevada's Supreme Court to appoint and employ persons to provide for the safety and security of the justices and employees, and to carry out necessary police duties at the direction of the Chief Justice. The bill grants a person the court employs as a police officer

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the powers of a peace officer when he or she is carrying out duties prescribed by the Chief Justice.

Assembly Bill 121 also authorizes the Capitol Police assigned to protect Nevada's Supreme Court to provide security services at the request of the court administrator to the justices when they are performing work duties elsewhere.

The bill also authorizes Nevada's Supreme Court to contract for security services for any facility owned, leased or occupied by the court or its employees, if the Chief Justice determines additional security is needed. Any such contractor must be licensed and is subject to the oversight of a peace officer (who is designated and directed by the Chief Justice) providing services for the court.

*This measure became effective on July 1, 2011.*

## **A.B. 194 (Chapter 55) Interpreters**

Assembly Bill 194 provides that a person with a communications disability, for whom the court appoints an interpreter in a civil proceeding, may not be charged a fee or be required to pay any part

of the interpreter's compensation.

*This bill became effective on May 18, 2011.*

## **A.B. 195 (Chapter 382) Court Records**

Assembly Bill 195 provides that certain court records may only be destroyed under a schedule for disposition and retention approved by Nevada's Supreme Court. A clerk for the Supreme Court, a county clerk or a clerk of the district court may destroy a court record only in accordance with the retention and disposition schedule and only if an image of the record has been placed on microfilm or saved in an electronic recordkeeping system which permits retrieval and reproduction. However, unless otherwise prohibited by law, records of a justice court or municipal court may be destroyed without imaging, microfilming or electronic storage. The bill specifies that the microfilmed or electronic image must be durable, accurate, complete, clear and saved in a manner that reasonably protects it from damage or loss.

*The bill became effective on July 1, 2011.*

## **A.B. 196 (Chapter 203) Administrative Assessments, Fees and Fines**

Assembly Bill 196 establishes procedures for collecting administrative assessments, fees and fines from criminal defendants who plead guilty or are found guilty of a felony or a gross misdemeanor. The bill requires the district court entering a judgment of conviction to forward the information necessary to collect any assessment, fee or fine to the county treasurer or other designated county office. If the county is successful in collecting, the defendant must also pay the county's actual costs and fees, and a fee of 2 percent of the amount owed. The bill establishes similar procedures for collecting from a defendant who was ordered to pay for expenses incurred in providing a defense attorney.

The measure also requires a district court judge imposing an assessment, fee or fine on a criminal defendant who pleads guilty or is found guilty of a felony or a gross misdemeanor to advise the defendant that the judgment constitutes a lien, and that collection efforts may be undertaken.

*This measure became effective on July 1, 2011.*

## **A.B. 223 (Chapter 338) Enforcement of Civil Judgments**

Assembly Bill 223 makes various changes relating to the enforcement of

civil judgments. If a writ is levied on the personal bank account of a debtor, and if money has been deposited electronically in the account within the last 45 days that is reasonably identifiable as exempt from execution, the bill makes \$2,000 or the balance in the account, whichever is less, not subject to execution.

If a writ is levied on a personal bank account of a debtor, and money has not been deposited electronically within the last 45 days that is reasonably identifiable as exempt from execution, the bill provides that \$400 or the balance in the account, whichever is less, is not subject to execution unless recovery of the money is for the support of a person. If a debtor has more than one bank account with the bank to which the writ is issued, the amounts not subject to execution apply in the aggregate.

Assembly Bill 223 also changes the deadline for serving a claim of exemption from eight to 10 days after the notice of a writ is served on a debtor and, if the levy is on earnings, requires the claim to be filed within 10 days of each withholding.

#### **A.B. 244 (Chapter 76) Uniform Partition of Heirs Property Act**

Assembly Bill 244 enacts the Uniform Partition of Heirs Property Act. The bill supplements existing statutes related to partitioning of real property with tenants in common, for situations where family members inherit property in the absence of a will or other controlling document. The bill defines “heirs’ property” and requires property that meets the definition to be partitioned under the act, unless all the cotenants agree otherwise. The bill requires the court to determine the value of the property and establishes procedures for partition by sale and partition in kind. If the court orders a sale of heirs’ property, the sale must be made on the open market, unless the court finds that sale by sealed bid or auction would be in the best interests of the cotenants.

#### **A.B. 249 (Chapter 138) Court Reporters/ Sound Recording**

Assembly Bill 249 requires a business appointed as the official court reporter in a district court to be licensed by the Certified Court Reporters’ Board of Nevada, and it provides that a court reporter is appointed by, rather than employed by, the court. The bill requires a person who operates sound recording equipment in a district court to subscribe to an oath, to report any errors or malfunctions to the court and to provide a copy of a sound recording with a transcript, if both are requested. Compensation for a transcript must be paid to the reporter, rather than to the clerk or deputy clerk, before a transcript is furnished.

In the justice courts, A.B. 249 requires a sound

recording to be preserved for eight years after the time for filing an appeal expires if the proceeding involves a misdemeanor for which enhanced penalties may be imposed, a gross misdemeanor or a felony. In other proceedings in justice courts, the bill requires a sound recording to be preserved for one year after the time for filing an appeal expires.

*This measure became effective on May 29, 2011.*

#### **A.B. 250 (Chapter 33) Exemption of Police Officers from Jury Service**

Assembly Bill 250 repeals a statutory sunset provision concerning the exemption of police officers from service as grand jurors or trial jurors, thus making the exemption permanent.

*This measure became effective on July 1, 2011.*

#### **A.B. 259 (Chapter 525) Filing Fees**

Assembly Bill 259 requires certain fees charged at the commencement and first filing of civil actions be used to support legal services for the indigent in counties whose population is less than 100,000. In a county with a population of 100,000 or more, the bill directs \$10 from each stated fee to certain legal organizations for the operation of programs for the indigent.

The bill also reduces from \$50 to \$45 dollars the Foreclosure Mediation Program support fee paid at the time a notice of default and election to sell is recorded, and directs the \$5 difference to certain legal organizations for the operation of programs for the indigent.

*This measure became effective on July 1, 2011.*

#### **A.B. 261 (Chapter 34) Small Claims Actions**

Assembly Bill 261 changes the upper limit on small claims actions in the justice courts from \$5,000 to \$7,500. For the preparation and filing of an affidavit and order in a small claims action in which the sum claimed exceeds \$5,000, the bill requires the justice of the peace to charge a fee of \$125.

*The measure became effective on July 1, 2011.*

#### **A.B. 269 (Chapter 67) Grand Jury – Statement from Defendant**

Assembly Bill 269 provides that a criminal defendant is entitled to submit a statement to a grand jury regarding whether a preliminary hearing was held concerning the matter involving the defendant and, if so, that the evidence presented at the preliminary hearing was considered insufficient to warrant holding the defendant for trial.

#### **S.B. 5 (Chapter 8) Grand Jury Selection**

Senate Bill 5 revises the process for selecting and seating grand juries in Clark and Washoe Counties by enlarging the pool of potential jurors to 50 or more, increasing from 12 to 14 the number of

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alternate jurors and allowing flexibility in the number of proposed jurors who fail to appear before others must be summoned. The measure also requires the court, rather than the county sheriff, to summon proposed grand jurors.

*This measure became effective on March 25, 2011.*

## **S.B. 6 (Chapter 152) Seal of the Court**

Senate Bill 6 authorizes the electronic reproduction of the seal of a court on appropriate court documents in accordance with electronic filing rules established by the Supreme Court and any local rules of practice for implementation that are adopted by the court. The measure also provides that an electronic seal has the same legal effect as a seal that is impressed.

*This measure became effective on May 29, 2011.*

## **S.B. 24 (Chapter 499) Writ of Execution**

Senate Bill 24 revises the procedure for issuing a writ of execution in justice court. The bill authorizes the clerk of the court, under the direction and supervision of the Justice of the Peace, to issue and renew writs of execution. It also requires a writ to

bear the court seal and adds several items to the information a writ must contain.

*This measure became effective on June 17, 2011.*

## **S.B. 25 (Chapter 158) Justices of the Peace (Clark County)**

Senate Bill 25 revises the number of justices of the peace in Clark County. For townships with populations of fewer than 1.1 million, one justice of the peace is required for each 100,000 residents or fraction thereof, until the township has four justices of the peace. Thereafter, another justice is added for each 125,000 residents or fraction thereof, over a population of 300,000.

In a township with a population of 1.1 million or more, one justice of the peace is required for each 100,000 residents or fraction thereof, up to a population of 1.1 million. Thereafter, another justice of the peace is added for each 125,000 population of the township or fraction thereof.

*This measure becomes effective on January 1, 2012.*

## **S.B. 94 (Chapter 316) Tenth Judicial District**

Senate Bill 94 increases from nine to 10 the number of judicial districts in this state by removing

Churchill County from the Third Judicial District and providing that Churchill County constitutes the Tenth Judicial District. The bill also decreases from three to two the number of district judges in the Third Judicial District and provides that the Tenth Judicial District will be served by one district judge.

*This measure becomes effective on January 1, 2012.*

**S.B. 186 (Chapter 388) Judgment Creditors; Letters Testamentary; Letters of Administration; Letters of Guardianship**

Senate Bill 186 revises the information that a judgment creditor must include in the affidavit recorded in a civil judgment or decree. The required information must be based on personal knowledge and include:

- (1) Certain personal identification numbers;
- (2) Parcel information and proof of ownership of the judgment debtor's real property; and
- (3) The location, serial number and proof of ownership of a manufactured home or mobile home if one is included in the lien.

The document number of a recorded judgment is also added to the information required in an affidavit that is filed to renew a lien on real property, which is to be titled "Affidavit of Renewal of Judgment."

The bill requires certain letters concerning the estate of a decedent to be recorded in the county recorder's office for each county in which real property of the estate is located.

Finally, S.B. 186 requires a cover sheet containing the guardian's name, address and telephone number, along with certain property information, to be attached to the letters of guardianship recorded by the guardian in each county where the ward has real property.

**S.B. 194 (Chapter 322) Class Actions**

Senate Bill 194 cites the importance of full disclosure to potential members of class action lawsuits in order for the members to make an informed decision whether to remain a member of the class and participate in the suit or to opt out of the lawsuit.

The measure urges Nevada's Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in class actions to make all of the disclosures required under the Federal Rules of Civil Procedure to each member of the class.

**S.B. 221 (Chapter 270) Estates and Trusts**

Senate Bill 221 revises laws relating to estates and trusts. The bill defines "nonprobate transfer" and provides that a provision in a contract for nonprobate transfer on death is not testamentary and is exempt from the statutes relating to wills. A designated beneficiary has no rights in the property

covered by a nonprobate transfer before the death of the owner, and an owner may revoke or change a beneficiary designation, unless the designation is expressly made irrevocable. The bill provides that recipients of nonprobate transfers are liable for creditors' claims not paid in full from the decedent's estate, but are not liable for more than they received.

Senate Bill 221 also enacts the Independent Administration of Estates Act. The bill authorizes a court to grant a personal representative full or limited authority to administer an estate, after a hearing on a petition for authority, and also authorizes the court to revoke such authority. A personal representative who has been granted authority must still obtain court approval for certain actions, including allowance of compensation, settlement of accounts, and any transaction that would directly or indirectly benefit the personal representative or the representative's family or attorney. The bill provides that a personal representative with limited authority must also obtain court supervision for any sale or exchange of, or encumbrance on, real property.

Senate Bill 221 also makes other changes to the laws on estates and trusts, including the laws on the allocation of expenses to income beneficiaries, the duties of fiduciaries' attorneys and trustees, the effect of divorce on trusts and wills, spendthrift trusts, transfer-on-death accounts, vexatious litigants, void transfers and other subjects.

## CRIMINAL JUSTICE

**A.B. 83 (Chapter 31) Identity Theft**

Assembly Bill 83 extends the statute of limitations for an identity theft felony against a victim who was under 18 years of age at the time the offense was committed to four years after the victim discovers, or reasonably should have discovered, the offense.

This measure became effective on October 1, 2011, and applies retroactively to a person who committed an identity theft crime before that date, if the applicable statute of limitations has commenced but not yet expired on that date.

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## **A.B. 107 (Chapter 80) Identifications Procedures**

Assembly Bill 107 requires each law enforcement agency to adopt policies and procedures applicable to identification procedures, including live lineups, photo lineups and show-ups.

The bill also directs the Advisory Commission on the Administration of Justice to place a discussion of the progress of the law enforcement agencies on the agendas of two meetings prior to the 77th Session of the Nevada Legislature, and directs a representative of the Nevada Sheriffs' and Chiefs' Association to attend the meetings and present the reports.

## **A.B. 181 (Chapter 54) Advisory Commission on the Administration of Justice**

Assembly Bill 181 expands the duties of the Advisory Commission on the Administration of Justice to include an evaluation of the policies and practices relating to involuntary civil commitment of sexually dangerous persons.

## **A.B. 408 (Chapter 75) Offenders – Use of Restraints on Certain Offenders**

Assembly Bill 408 applies to jails, juvenile detention facilities and state prisons, and provides that no restraints of any kind be used on an offender who is in labor, delivering her baby or recuperating from delivery unless there are compelling reasons to believe the offender presents a serious and immediate threat to herself or others or a substantial flight risk and cannot be reasonably confined by other means. If the offender is restrained, only the least restrictive restraints necessary may be used.

## **S.B. 159 (Chapter 427) Providing Information to Offenders Upon Release**

Senate Bill 159 requires the Department of Corrections to provide information to inmates, upon their release, relating to obtaining employment and including information about programs that provide workplace bonds. The department must also provide information and reasonable assistance, upon request, relating to acquiring a driver's license or identification card.

The measure also extends a waiver of certain fees for the issuance of certified copies of birth certificates and duplicate drivers' licenses or identification cards to inmates released from prison within the immediately preceding 90 days. Vendors that produce photographs by agreement with Nevada's Department of Motor Vehicles (DMV) for drivers' licenses and identification cards must similarly be encouraged by the DMV to waive the cost of photographs for such inmates.

Provisions requiring the Department of Corrections to provide information to inmates upon their release became effective on October 1, 2011. The remaining provisions of the bill become effective on February 1, 2012.

## **S.B. 201 (Chapter 251) Mediation of Offender Complaints**

Senate Bill 201 authorizes the Attorney General to establish a program to mediate certain complaints from offenders. Such complaints are limited to those regarding an administrative act alleged to be contrary to law or policy of the Department of Corrections, or significant issues concerning the health and safety of offenders and other matters for which there is no effective administrative remedy.

If a mediation program is established, the Attorney General must create necessary regulations and procedures and prepare an annual report to the Board of Prison Commissioners describing the complaints, the dollar amount of the claims, the number of complaints resolved through the program, the amount paid to offenders to resolve those claims and the savings realized by the program.

## CRIME AND PUNISHMENT

### **A.B. 57 (Chapter 51) Sex Offenders**

Assembly Bill 57 specifies the items that must be included in a record of registration of a sex offender or an offender convicted of a crime against a child. The record must identify the offender and include information on the offender's criminal history, employment or occupation, enrollment as a student, level of registration, residence, vehicles, volunteer service and other information required by federal law.

The bill requires an offender who initially reported a shorter stay to give notice to the local law enforcement agency after remaining in a jurisdiction longer than 30 days. If the offender has no fixed residence, in addition to the other requirements, the bill requires the offender to notify the law enforcement agency at least every 30 days if there are any changes in the address of a dwelling that is providing temporary shelter or the location where the offender habitually sleeps. The measure authorizes the court to dismiss any criminal charges for failure to comply if the offender immediately updates his or her record of registration.

Assembly Bill 57 also adds a member who is a mental health professional, appointed by the

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Attorney General, to the Advisory Committee to Study Laws Concerning Sex Offender Registration.

*This measure became effective on May 18, 2011.*

## **A.B. 142 (Chapter 41)**

### **Property Crimes**

Assembly Bill 142 changes the threshold, expressed in terms of the amount of money or value misappropriated, stolen or taken, between lesser and greater property crimes. The bill amends the penalty provisions for various property crimes, including accepting a kickback; fraud against an innkeeper; fraud in the course of an enterprise or occupation; issuance of a bad check; Medicaid fraud; misappropriation by a public officer; participation in an organized retail theft ring; receiving stolen property; theft; theft of scrap metal; unauthorized use of food stamps; unemployment insurance fraud; workers' compensation fraud; and others.

In general, the bill changes the threshold between a misdemeanor and a gross misdemeanor, or between a misdemeanor and a category C or D felony, from \$250 to \$650. It also changes certain thresholds between a category B felony and a lesser felony from \$2,500 to \$3,500.

## **A.B. 161 (Chapter 74) Trespassing**

Assembly Bill 161 revises the laws concerning the crime of trespassing. The bill provides that a person who commits unlawful trespass at a licensed gaming establishment and who has three prior convictions for engaging in or soliciting prostitution in the last five years is guilty of a misdemeanor. With the consent of the accused and without entering a judgment of conviction, A.B. 161 authorizes the court to suspend further proceedings and place the accused on probation, with the condition that the accused must complete a program of counseling, drug treatment and rehabilitation, or education and agree

to pay the cost of the program to the extent of his or her financial resources.

Under this measure, the dismissal of the trespassing charge is not a conviction, except for the purpose of setting bail or imposing additional penalties for a subsequent conviction. However, dismissal may occur only once for any offender, and a professional licensing board may consider a proceeding on the trespassing charge when determining suitability for a license.

This measure became effective on October 1, 2011 and applies to offenses committed before that date for the purpose of determining whether a court may suspend further proceedings and place the accused person on probation with conditions.

#### **A.B. 321 (Chapter 59) Justifiable Homicide**

Assembly Bill 321 amends the definition of “justifiable homicide” by providing that a person is not required to retreat before using deadly force if he or she is not the original aggressor, has a right to be at the location where deadly force is used, and is not actively engaged in conduct in furtherance of criminal activity at the time.

#### **A.B. 571 (Chapter 515) Nevada Clean Indoor Air Act**

Assembly Bill 571 revises the Nevada Clean Indoor Air Act to permit smoking tobacco in completely enclosed areas within stand-alone bars, taverns and saloons that patrons under 21 years of age are prohibited from entering, as well as age-restricted stand-alone bars, taverns and saloons. Age-restricted stand-alone establishments must be housed in a physically independent building that has no common entryway or indoor area with a restaurant, public space or other indoor workplace, or a completely enclosed area of a larger structure.

Any stand-alone bar, tavern, or saloon that allows a person under 21 years of age to loiter in an area in which smoking is permitted is liable for a civil penalty and any supervisor on duty or other person who allows such loitering is guilty of a misdemeanor. Also, this bill reenacts provisions that allow smoking in the area of a convention facility in which a meeting or trade show is being held that is not open to the public, and is being produced by a business relating to tobacco and involves the display of tobacco products.

*This bill became effective on June 17, 2011.*

#### **S.B. 55 (Chapter 332) Embezzlement**

Senate Bill 55 provides that a person who is convicted of embezzlement of money or property of a value of \$250 or more, obtaining money or property of a value of \$250 or more by false pretenses or taking money or property from the person of another is subject to an additional civil penalty if the crime was committed against a person 60 years

of age or older. The bill allows the Attorney General to use any money collected from the civil penalties to provide compensation to older persons who are victims of these crimes.

#### **S.B. 257 (Chapter 282) Graffiti**

Senate Bill 257 reduces from \$5,000 to \$500 the aggregate value of damage used to determine the penalty imposed for committing multiple graffiti offenses. The bill also provides that a person who places graffiti on any protected site is guilty of a category C felony and must serve at least 10 days in jail as a condition of probation, if granted. It also requires a person convicted of a third graffiti offense to perform up to 300 hours of community service for up to a year and authorizes the court to order the person to maintain a specific property free of graffiti.

Senate Bill 257 authorizes the court to order an offender to pay restitution or participate in counseling and, if the offender is under the age of 18, to order the offender’s parent or guardian to participate in counseling. The bill also allows a property owner to commence a civil action against a graffiti offender and to recover triple damages, plus attorney’s fees and costs from the offender or, if the offender is under the age of 18, the offender’s parent or guardian.

#### **S.B. 282 (Chapter 429) Public Display of Social Security Number**

Senate Bill 282 prohibits a person from intentionally and willfully posting or displaying in public the Social Security number of another person unless authorized by law to do so. A violation of this prohibition is a misdemeanor. The bill does not prohibit the use of Social Security numbers for purposes of internal administration or verification, nor does it apply to documents required by law to be open to the public or to recorded documents.

Senate Bill 282 authorizes a victim to bring a civil cause of action against a violator, and authorizes a court to award actual damages, attorney’s fees and related costs.

#### **S.B. 376 (Chapter 524) Technological Crimes**

Senate Bill 376 provides that a person who knowingly, maliciously, willfully and without authorization interferes with the use of a computer, system or network, or gains access to a computer, information service, network, telecommunications device, telecommunications service or system is guilty of a gross misdemeanor.

*This measure became effective on June 17, 2011.*

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## JUVENILE CRIME AND DELINQUENCY

### **A.B. 13 (Chapter 129) Adjudicated Delinquent for Act Involving Killing or Possessing Big Game**

Assembly Bill 13 authorizes a court to order certain punishments when a juvenile is adjudicated delinquent for an unlawful act involving killing or possessing big game. The bill authorizes a court to:

- Order the juvenile to pay a fine;
- Order the child, parent or guardian to pay a civil penalty;
- Order revocation of any license issued to the child by the Department of Wildlife;
- Prohibit the child from receiving a license from the department for two years or until he or she reaches the age of 18 years old; or
- Order the child to be placed on probation.

Assembly Bill 13 also removes the requirement for a peace officer or probation officer to take a child into custody if the officer believes the child has committed an unlawful act involving the possession, threatened use or use of a firearm.

*This measure becomes effective on March 1, 2012.*

### **A.B. 134 (Chapter 12) Maximum Punishment of Juvenile Offender**

Assembly Bill 134 clarifies and revises the maximum punishment a court may impose for a crime by a person who was under 18 years old when the crime was committed. For such a person convicted of a crime otherwise punishable by death, the maximum punishment is life imprisonment without the possibility of parole. For a non-homicide crime, the maximum punishment is life imprisonment with the possibility of parole.

This measure became effective on March 30, 2011, and applies retroactively to a sentence of life imprisonment without the possibility of parole that has been imposed upon a person for a non-homicide crime that was committed by the person when the person was less than 18 years of age.

### **S.B. 112 (Chapter 230) Review of Records Relating to Child Custody**

Senate Bill 112 authorizes a juvenile court to review records relating to child custody or the involvement of a child with a child welfare agency to assist the court in determining the appropriate placement or treatment plan for a child. The bill prohibits the court from using the records to prove that the child committed a delinquent act or for any other purpose, unless the records would otherwise be admissible as evidence, and prohibits the court from disclosing such records except to the parties and their attorneys.

*This measure became effective on July 1, 2011.*

### **S.B. 277 (Chapter 245) Electronic Transmission of Sexual Image of a Minor**

Senate Bill 277 prohibits a minor from knowingly and willfully using an electronic communication device to possess, transmit or distribute a sexual image of himself, herself or another minor. If the images transmitted are of himself or herself, the minor is considered a minor in need of supervision for the first offense and a delinquent for a second or subsequent offense. If the images are of another minor, the minor in willful possession of the images is a child in need of supervision, but if the image is transmitted or distributed, the minor commits a delinquent act.

The measure provides an affirmative defense if the minor who possesses the image did not knowingly purchase or solicit it and promptly destroys the image or reports it to a school official or law enforcement agent.

Finally, S.B. 277 revises the definition of “cyber-bullying” to clarify that the term includes the use of electronic communication to transmit or distribute a sexual image of a minor.

*This measure became effective on July 1, 2011.*

### **S.B. 476 (Chapter 401) Order Returning Child to State Juvenile Detention Facility**

Senate Bill 476 removes authority of a juvenile court to order the return of a child to a state juvenile detention facility under certain circumstances and authorizes, rather than requires, the Youth Parole Bureau to pay the costs of confining a child in a local regional detention facility to the extent money is available.

*This measure became effective on July 1, 2011.*

## PARDONS, PAROLE AND PROBATION

### **A.B. 12 (Chapter 22) Parolees’ Revolving Loan Account Abolished**

Assembly Bill 12 abolishes the Parolees’ Revolving Loan Account by directing the Chief Parole and Probation Officer to revert the remaining account balance to the State General Fund. Any further money received in the account from repayment of outstanding loans must be similarly reverted as soon as practicable after the money is received.

*This measure became effective on May 10, 2011.*

### **A.B. 18 (Chapter 23) State Board of Parole Commissioners**

Assembly Bill 18 reenacts statutes related to meetings of the State Board of Parole Commissioners. The bill prohibits the board

from denying parole unless a prisoner has been given notice of the board meeting and an opportunity to be present, and requires the board to allow prisoners or their representatives to speak. The measure also requires the board to provide written notice of its final decisions concerning parole within 10 working days after a hearing and, if parole is denied, specific recommendations to improve the possibility of being granted parole, if any.

This measure reenacts provisions of the Nevada Revised Statutes that the United States District Court of Nevada permanently enjoined the state from enforcing in the matter of *ACLU of Nevada v. Masto*, in 2008. Testimony indicated that these particular provisions are not directly related to the issues in that case. This bill is intended to express the intent of the legislature that these provisions continue to apply.

*This measure became effective on May 10, 2011.*

#### **A.B. 66 (Chapter 14) Restoration of Person's Right to Bear Arms**

Assembly Bill 66 requires a court to give persons whose records have been sealed a written notice that their right to bear arms has not been restored, unless they received a pardon and the pardon does not restrict that right. The bill provides that a person who receives an unconditional pardon has the right to bear arms, and if a pardon restores that right to a person, the pardon document must explicitly say so.

This measure also authorizes the State Board of Pardons Commissioners and its agents to inspect sealed records if the person who is the subject of the records has applied for a pardon.

#### **A.B. 93 (Chapter 433) Pilot Diversion Program**

Assembly Bill 93 directs the Nevada Department of Corrections to establish a pilot diversion program as an alternative to revocation of probation, and to provide suitable facilities for up to 50 persons at one time. The bill authorizes a district court to:

- Remand felony probation violators to the pilot program for supervision;
- Require the probation violators to receive treatment for alcohol or drug abuse or mental illness during their participation in the pilot program; and

- Release them from supervision when they have satisfied the terms and conditions the court established.

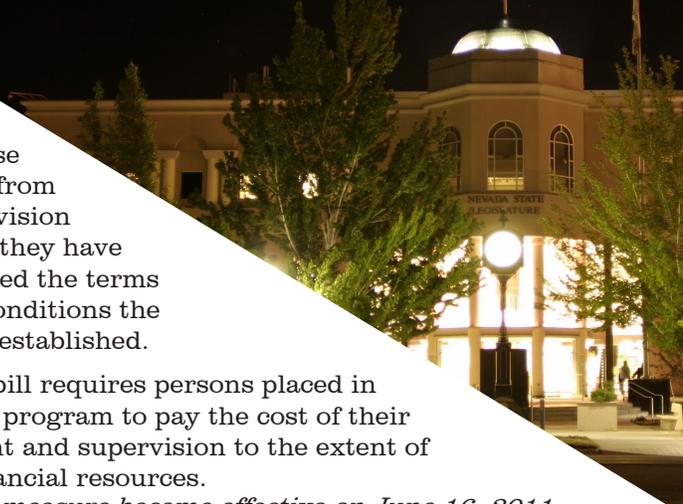
The bill requires persons placed in the pilot program to pay the cost of their treatment and supervision to the extent of their financial resources.

*This measure became effective on June 16, 2011, and expires on July 1, 2015.*

#### **S.B. 187 (Chapter 368) Prisoners Convicted of Certain Sexual Offenses**

Senate Bill 187 replaces the requirement that a prisoner convicted of certain sexual offenses may only be released on parole by the Board of Parole Commissioners with certification by a panel that the prisoner does not represent a high risk to reoffend. Instead, the bill requires that before being granted or continued on parole, the prisoner must be evaluated by a panel within 120 days before a parole hearing. The panel must adopt regulations to ensure that the evaluations are based on currently accepted

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standards of assessment, contain a statement about other relevant information known about the prisoner and rate the prisoner's risk to reoffend.

The measure also authorizes the board to require an evaluation of a sex offender to assist in determining parole and clarifies that a prisoner does not have a right to an evaluation or reevaluation more frequently than the prisoner's regularly scheduled parole hearings.

Finally, S.B. 187 requires that certain meetings of the panel are subject to the Open Meeting Law.

## TRAFFIC LAWS

### **A.B. 328 (Chapter 294) Reckless Driving**

Assembly Bill 328 provides that a driver who, while violating certain rules of the road relating to bicycles, pedestrians, crosswalks, school crossing guards, school zones or speeding, is the proximate cause of a collision with a pedestrian or person riding a bicycle has committed the offense of reckless driving.

### **S.B. 248 (Chapter 69) Passing Bicycles**

Senate Bill 248 requires a motor vehicle operator to overtake and pass a bicycle or electric bicycle if they are going in the same direction by moving the vehicle into the immediate left lane, if there is more than one lane traveling in the same direction and it is safe to move into that lane, or by passing to the left of the bicycle at a distance of not less than three feet from the bicycle or electric bicycle. ■



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