

SUMMARY OF SELECTED 2009 LEGISLATION RELATING TO COURTS, JUDICIAL PROCEDURE AND CRIMINAL JUSTICE

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Editor's Note: The following summaries of selected 2009 legislation relating to courts, judicial procedure and criminal justice are excerpted from the 2009 "SUMMARY OF LEGISLATION" published by the Research Division of the Legislative Counsel Bureau. The complete publication 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 website at www.leg.state.nv.us/75th2009/Reports/.

Unless otherwise noted, the measures passed during the 2009 regular session became effective on October 1, 2009.

COURTS AND JUDICIAL/CRIMINAL PROCEDURES

A.B. 46 (Chapter 444) Transmittal of Defendant's Records to Central Repository for Nevada Records of Criminal History

Assembly Bill 46 provides that when a defendant in a criminal trial is found or pleads guilty but mentally ill, is acquitted by reason of insanity or is found incompetent to stand trial, the court must transmit the defendant's record to the Central Repository for Nevada Records of Criminal History for inclusion in the appropriate National Instant Criminal Background Check System (NICS) database. Similarly, a court must transmit to the central repository an order involuntarily admitting a person to a public or private mental health facility or an order finding that the proposed ward is a person with a mental defect in a permanent guardianship case.

The measure authorizes a person to petition a court to have his record removed from the NICS database and have his right to purchase or possess a firearm restored if the court finds the person no longer suffers from mental illness. The bill further requires the central repository to establish a procedure for a person to inspect and correct information contained in the mental health records held by the central repository.

This bill is effective on January 1, 2010.



A.B. 47 (Chapter 113) Completion of Treatment Program by Defendant/ DUI Offender

Assembly Bill 47 removes the three-year waiting period and instead requires a court to immediately seal a defendant's criminal record upon completion of a program for the treatment of mental illness or mental retardation or a program of treatment for the abuse of alcohol or drugs. The bill further requires a court to seal a defendant's criminal record upon completion of a presentence program of treatment for the abuse

of alcohol or drugs.

The bill provides that offenders who are convicted of driving under the influence and are accepted into a program of treatment for the abuse of alcohol or drugs must not have their driving privileges revoked. This bill became effective on May 19, 2009.

A.B. 63 (Chapter 143) Appointments of Masters in Justice Courts

Assembly Bill 63 authorizes the appointment of masters in justice courts to hear certain matters. The measure requires that a master must possess the same qualifications as justices of the peace in that county and must receive the training outlined by Nevada's Supreme Court prior to performing any duties as a master. Masters appointed pursuant to A.B. 63 may not preside over misdemeanor cases of domestic violence, vehicular manslaughter or driving under the influence, or in preliminary hearings for gross misdemeanors

or felonies. This bill became effective on July 1, 2009.

A.B. 64 (Chapter 442) Increase in District Court Judges – Second and Eighth Judicial Districts

Assembly Bill 64 increases from 14 to 15 the number of District Court judges in the Second Judicial District (Washoe County), with the additional judge to handle general jurisdiction cases. The bill also increases from 43 to 52 the number of judges in the Eighth Judicial District (Clark County). Two of the additional judges are added to the Family Court and the remaining seven are added as general jurisdiction judges. Although the number of District Court judges is increased effective on October 1, 2009, they will not be selected until the general election on November 2, 2010, and will take office on January 3, 2011.

A.B. 65 (Chapter 443) Additional Filing Fees in Civil Cases

Assembly Bill 65 authorizes the district courts to charge and collect additional filing fees in civil cases, which must be deposited into a special county account maintained for the benefit of the court, including court-appointed special advocate programs in counties other than Clark and Washoe Counties. The new fee revenues must only be used to offset the costs of adding and maintaining new judicial departments and reimbursing the county for capital costs incurred for adding new departments.

Notwithstanding any specific provisions to the contrary as provided in the bill, A.B. 65 requires that the fees collected from January 1, 2011, to June 30, 2011, must be used to fund the salary and benefits of any district court judge added by A.B. 64 of this legislative session only if that measure is also enacted.

In addition to the new filing fees, the measure authorizes a board of county commissioners to impose a filing fee of not more than \$20 for the commencement of any civil action or district court proceeding, to be used for certain court security costs. The bill also requires the collection of a \$50 filing fee for any notice of default and election to sell, to be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. A portion of this fee must

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be placed in a special account for use by the county recorder. The measure became effective on July 1, 2009.

A.B. 92 (Chapter 398) Senior Justice or Judge – Allowance under Judicial Retirement Plan

Assembly Bill 92 authorizes a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada court system to qualify to receive an allowance under the Judicial Retirement Plan for the duration of his or her active service. To receive the allowance, the judge or justice must be at least 60 years of age at the time of his or her re-employment and accept employment at least six months after the effective date of his or her retirement.

In addition, the measure prohibits a retired justice or judge who accepts re-employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge, and who qualifies to receive an allowance under the Judicial Retirement Plan, from enrolling in the plan. Instead, the measure provides that a retired justice or judge who is re-employed and commissioned as a senior justice, senior judge, senior justice of the peace or senior municipal judge is entitled to receive a retirement allowance in addition to compensation for his or her service, and he or she is entitled to receive additional service credit for actual time served if he or she re-enrolls in a retirement plan.

Finally, A.B. 92 requires the Public Employees' Retirement Board to conduct an experience study of the Judicial Retirement System of the re-employment of retired justices or judges by the Nevada court system and report the findings to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.

This measure became effective on July 1, 2009, and expires by limitation on June 30, 2015.

A.B. 102 (Chapter 326) Program for Treatment of Problem Gambling

Assembly Bill 102 authorizes a court to establish a program for the treatment of problem gambling to which a problem gambler convicted of certain crimes that were committed in furtherance or as the result of problem gambling may be assigned. Assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program. The measure further requires that the conditions include payment of restitution to the victim of

the crime. Finally, A.B. 102 authorizes a defendant to file a petition requesting the court to seal his criminal record after completion of the treatment program.

A.B. 132 (Chapter 7) Award of Damages in Action for Forcible or Unlawful Entry or Detention of Real Property

Assembly Bill 132 clarifies that in an action for forcible or unlawful entry or detention of real property, actual damages include damages to real property and personal property.

A.B. 168 (Chapter 99) Reduced/Suspended Sentence of Person Convicted of Trafficking in Controlled Substance if Convicted Person Rendered Substantial Assistance in Investigation or Prosecution of Other Offense

Assembly Bill 168 authorizes a court to reduce or suspend the sentence of any person convicted of trafficking in a controlled substance if the court finds that the convicted person rendered substantial assistance in the investigation or prosecution of any offense. When determining whether to reduce or suspend the sentence of the person, the court may consider:

- The significance and usefulness of the convicted person's assistance;
- The truthfulness, completeness and reliability of the information;
- The nature and extent of the person's assistance;
- Any injury suffered or risk of injury to the convicted person resulting from the assistance; and
- The timeliness of the assistance.

The bill became effective on May 18, 2009, and the amendatory provisions of this measure apply to any convicted person sentenced on or after the effective date.

A.B. 179 (Chapter 283) Petition for Postconviction Genetic Marker Analysis

Assembly Bill 179 authorizes a person convicted of a category A or B felony and who is currently under a sentence of imprisonment to petition the court for postconviction genetic marker analysis. The bill sets forth the information that must be included in the petition. The court may dismiss the petition or appoint counsel to further review, supplement and present the petition to the court.

If the court schedules a hearing on the petition, the judge who conducted the trial that resulted in the conviction must preside over the hearing unless that judge is unavailable. The bill requires notification of the petition, the time and place of any scheduled hearings, and the outcome of the hearings to victims who have requested such notice.

If the results of the analysis are unfavorable to the petitioner, the court must send the results to the State Board of Parole Commissioners. The petitioner must pay for the costs of the analysis unless the results are favorable to the petitioner and he is indigent and incarcerated at the time of the petition.

**A.B. 187 (Chapter 44)
Program for Treatment
of Defendants who are
Veterans or Members
of the Military**

Assembly Bill 187 authorizes a district court to establish a program for the treatment of eligible defendants who are veterans or members of the military. The court may suspend the criminal proceedings without entering a judgment of conviction and place the defendant on probation with successful completion of the treatment program as a condition. A defendant is ineligible for assignment to the treatment program if the defendant committed an offense with the use of force or violence or if existing law prohibits the sentence be suspended or prohibits probation.

Further, the bill requires the court to seal the defendant's criminal record after the defendant is released from probation and upon successful completion of the program. Justice and municipal courts are authorized to transfer misdemeanor cases to the district court for the purpose of assigning a defendant to the treatment program. This bill became effective on July 1, 2009.

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A.B. 250 (Chapter 16) Expert Witness Regarding Presence of Alcohol/Controlled Substance

Assembly Bill 250 provides that a person may qualify to testify as an expert witness in any court of record in the state, rather than only in a state district court, regarding the presence of alcohol in the breath, blood or urine of a person, or the identity or quantity of a controlled substance or other chemical in a person's possession. The measure defines who qualifies as a chemist for purposes of such expert witness testimony and authorizes a request to have the affidavit or declaration admitted as evidence at a trial to be personally served on the defendant or his counsel.

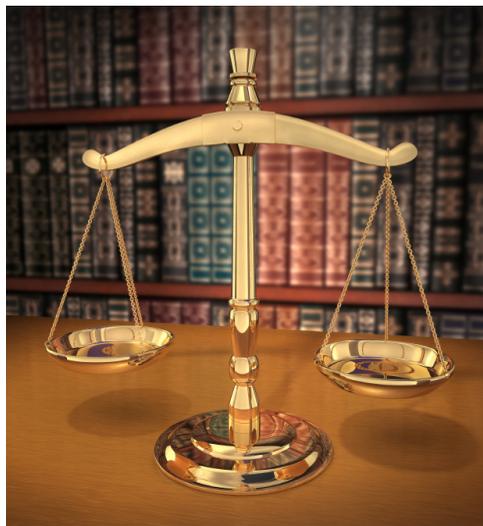
A.B. 462 (Chapter 70) Corporate Surety

Assembly Bill 462 provides that a corporate surety that is authorized to transact insurance in this state with a certificate of authority issued by the Commissioner of Insurance is a sufficient surety for all courts. This bill became effective on July 1, 2009.

A.B. 496 (Chapter 312) Commission on Judicial Discipline

Assembly Bill 496 revises procedures relative to the Commission on Judicial Discipline. Specifically, the measure provides the following:

- The appointment of alternate members is required;
- Annual and biennial reports containing specific information must be prepared by the commission;
- Time limitations may be extended for good cause shown. With some exceptions, the commission may not consider certain actions occurring more than three years before a complaint is filed or more than a year after the complainant knew or should have known of the conduct, whichever is earlier;
- The commission must dismiss or resolve a complaint or file formal charges within 18 months, and may dismiss a complaint with or without a letter of caution;
- Time frames and procedures are revised for certain commission proceedings;



- Informal resolution of matters involving the incapacity, and physical or mental disability of a judge must be attempted;
- Public admonishment and public reprimand are added to the forms of discipline the commission may use for a judge subject to a complaint;
- Letters of caution or deferred discipline agreements are limited and the requirements of a deferred discipline agreement are revised;
 - Disclosure of certain information regarding a complaint or investigation against a judge is prohibited before formal charges are filed, except by the complainant and the judge; and
 - Under certain circumstances, the commission may issue an explanatory statement concerning a complaint in order to maintain confidence in the judicial system and the commission.

This bill becomes effective on January 1, 2010. The amendatory provisions of the bill apply only to certain filings with the commission

that occur on or after January 1, 2010.

A.B. 497 (Chapter 313) Collection and Sharing of Statistical Data and Information Relating to the Criminal Justice System

Assembly Bill 497 requires the Central Repository for Nevada Records of Criminal History to facilitate the collection of statistical information and coordinate the exchange of the information among certain criminal justice agencies in the state, and provide statistical data and information to the Advisory Commission on the Administration of Justice as requested.

The bill further requires the Department of Corrections to provide information on the rates of recidivism and the effectiveness of educational and vocational programs to the advisory commission. Finally, the court administrator must compile statistical information concerning specialty courts, including the number of participants, the nature of the criminal charges filed, the number of participants who complete the programs and the disposition of the cases. This information must be included in the report on specialty court

programs that the court administrator is required to provide to the Legislature before each legislative session.

This bill becomes effective on July 1, 2010.

**A.B. 499 (Chapter 136)
Discovery in Criminal
Proceedings**

Assembly Bill 499 requires a prosecuting attorney to provide copies of discovery to a defendant charged with a felony or gross misdemeanor at the initial arraignment or as soon as practicable thereafter, but not less than five judicial days before the preliminary examination.

**A.B. 509 (Chapter 55) Court
Reporters**

Assembly Bill 509 makes certain minor adjustments in definitions, educational requirements and grounds for discipline related to the practice of court reporting. The bill also revises the terminology of the applicable statutes to address licenses as well as certificates issued by the Certified Court Reporters' Board.

**S.B. 34 (Chapter 173)
Recording of Preliminary
Hearing in Justice Court**

Senate Bill 34 authorizes the magistrate of a justice court, when presiding over a preliminary hearing in a case that does not involve the death penalty, to use either a court reporter or sound recording equipment to record testimony and proceedings of the hearing. Recordings must conform to existing laws and any resulting transcripts must be treated in the same manner as transcripts from a court reporter. This measure became effective on May 22, 2009.

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S.B. 35 (Chapter 476) Acquittal or Conviction of Crime in Another Jurisdiction/Country

Senate Bill 35 provides that if a person is acquitted of a crime in another jurisdiction, his acquittal may be introduced as evidence by the defendant if he is prosecuted for the same offense in Nevada. The measure further amends existing law to eliminate the prohibition on the prosecution of a person in Nevada of a crime for which he has been convicted or acquitted in another country. This measure became effective on July 1, 2009.



S.B. 45 (Chapter 455) Testimony by Deposition

Senate Bill 45 expands the list of witnesses who may provide testimony by deposition if they are unable to attend a trial to include older persons who are at least 70 years of age and vulnerable persons. A court may enter an order to take a deposition from an older or vulnerable person only if good cause is shown. This measure became effective on June 4, 2009.

S.B. 84 (Chapter 412) Departments of Alternative Sentencing

Senate Bill 84 extends authority for creating departments of alternative sentencing to cities and defines the supervisory responsibilities of the chiefs of those departments at the city and county levels. In cities with a municipal court, the chief of the city's department of alternative sentencing is required to administer the program of supervision for persons sentenced by the city's municipal court.

For cities with departments of alternative sentencing located in a county that has a justice court but where no county department exists, the measure provides that the chief of the city's department of alternative sentencing may administer the program of supervision for those who were sentenced by the county's justice court. However, if the city chief chooses not to administer it, the bill authorizes the justice court to contract with a qualified person to administer the program.

Finally, the bill revises the responsibility of the chief

of a county department of alternative sentencing. In those counties where a municipal court exists in a city but that city has no department of alternative sentencing, the county chief is required to supervise the program of supervision for those sentenced by the municipal court. Where there is no county department of alternative sentencing, the bill authorizes the municipal court to contract with a qualified person to administer the program.

S.J.R. 2 – 74th Session (File No. 87) Appointment and Retention Election of Justices and Judges (subject to voter approval at the 2010 General Election)

Senate Joint Resolution No. 2 of the 74th Session of the Nevada Legislature proposes to amend the Nevada Constitution to provide for the initial appointment of Supreme Court justices and District Court judges, followed by a retention election by the voters in Nevada. An initial appointment is made by the governor from candidates chosen by the Commission on Judicial Selection. This appointment expires on the first Monday of January following the general election that occurs at least 12 months after appointment.

Upon declaration of candidacy for retention, a justice or judge must undergo a performance review by the newly created Commission on Judicial Performance. The commission must issue a report to the public of its review and recommendation prior to the retention election. If 55 percent of the votes cast are in favor of retention, the justice or judge serves a six-year term and is subject to another retention election and performance review at the end of each six-year term. If he does not declare his candidacy or receives less than 55 percent of the votes cast, the vacancy is again filled through the appointment process.

This measure was approved in identical form during the 2007 and 2009 Sessions of the Legislature. The proposal will be submitted to the voters for final approval or disapproval at the 2010 general election.

S.J.R. 9 (File No. 57) Intermediate Appellate Court (subject to voter approval at the 2010 General Election)

Senate Joint Resolution No. 9 of the 74th Session of the Nevada Legislature proposes an amendment to the Nevada Constitution to allow for an intermediate appellate court,

known as the “Court of Appeals,” with jurisdiction in civil cases arising in District Court and in criminal cases within the original jurisdiction of the district courts. This measure was approved in identical form during the 2007 and 2009 Sessions of the Legislature. The proposal will be submitted to the voters for final approval or disapproval at the 2010 general election.

CRIMINAL JUSTICE

A.B. 105 (Chapter 39) Genetic Marker Testing of Defendants

Assembly Bill 105 eliminates the requirement for a court order to collect personal identifying information and a biological specimen from a defendant, and provides that if it is determined that a defendant’s biological specimen has previously been submitted for conviction of a prior offense, an additional specimen is not required. This bill became effective on July 1, 2009.

A.B. 279 (Chapter 368) Preservation of Biological Evidence

Assembly Bill 279 provides that upon conviction of a defendant for a category A or B felony, an agency of criminal justice that possesses certain biological evidence must preserve such evidence until expiration of any sentence imposed on the defendant.

A.B. 332 (Chapter 50) Immunity from Civil Liability

Assembly Bill 332 provides that immunity from civil liability applies to persons who donate and who receive or distribute perishable food. This bill became effective on July 1, 2009.

A.B. 380 (Chapter 160) Pandering/Prostitution of Child

Assembly Bill 380 provides that the assets of a person who commits pandering or prostitution of a child are subject to forfeiture and a court may enter a temporary restraining order to freeze the assets. Proceeds from the forfeiture of assets must be distributed to programs to prevent child prostitution which are designated to receive such distributions from the county district attorney. The bill provides that in addition to criminal penalties prescribed by statute, a court may impose additional criminal fines on a person convicted of pandering or prostitution of a child.

A.B. 385 (Chapter 486) Incarceration in Private Facility

Assembly Bill 385 requires the Board of State Prison Commissioners to adopt regulations establishing the maximum number of prisoners that may be incarcerated in a private facility, based on standards adopted by the American Correctional Association.

Nevada’s Department of Corrections is required to monitor all private facilities that house prisoners, the expense of which will be reimbursed by the facility being monitored. The bill specifies that certain state laws governing state correctional facilities and escapees from those facilities also apply to private facilities built in Nevada. A private organization operating a private facility or institution must reimburse the state for expenses charged against or paid by the state concerning a prisoner who escapes from the private facility or institution. Finally, correctional officers employed by a private facility must receive training equivalent to that given to state correctional officers. This bill became effective on July 1, 2009.

CRIME AND PUNISHMENT

A.B. 88 (Chapter 471) Child Pornography

Assembly Bill 88 prohibits a person from using the Internet to knowingly and willfully control child pornography with the intent to view child pornography.

The bill also creates a civil cause of action for a person who, while under the age of 16, appeared in child pornography and suffered personal or psychological injury as a result. The action may be brought against anyone over the age of 18 who knowingly and willfully promoted or possessed the pornography, or used the Internet with the specific intent to view the pornography. A victim who prevails in the civil action may recover actual damages, which are deemed to be at least \$150,000, plus attorney’s fees and costs. The victim may also request the use of a pseudonym in court proceedings and records.

The statute of limitations for such an action is three years after the court enters a verdict in a related criminal case or the victim reaches the age of 18, whichever is later.

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A.B. 93 (Chapter 37) Assault

Assembly Bill 93 expands the crime of assault to include unlawfully attempting to use physical force against another person in addition to intentionally placing another person in reasonable apprehension of immediate bodily harm, which is the existing crime of assault. This bill became effective on May 6, 2009.

A.B. 164 (Chapter 42) Battery

Assembly Bill 164 revises the crime of battery by providing that a person who intentionally impedes the normal breathing or blood circulation by applying pressure on the throat or neck, or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm, is guilty of the crime of battery which is committed by strangulation. This bill became effective on May 6, 2009.

A.B. 182 (Chapter 11) Crimes Involving Explosives

Assembly Bill 182 adds the federal list of explosive materials to the definition of explosive for purposes of crimes involving explosives. This bill became effective on April 22, 2009.

A.B. 238 (Chapter 291) Soliciting a Child for Prostitution

Assembly Bill 238 provides that a person who solicits a child for prostitution is guilty of a category E felony.

A.B. 239 (Chapter 156) Habitual Criminal

Assembly Bill 239 removes from the statutes provisions concerning convictions and prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud that relate to conviction as a habitual criminal. This bill provides that a person may be prosecuted as a habitual criminal, punishable as a category B felony if he receives a felony conviction and has two previous felony convictions, or punishable as a category A felony if he receives a felony conviction and has three previous felony convictions.

A.B. 253 (Chapter 58) Resisting, Obstructing or Delaying a Public Officer

Assembly Bill 253 revises the crime of resisting, obstructing or delaying a public officer in the discharge of his duties by making it a category C felony to use a firearm in the resistance, obstruction or delay, or if the person removes

or takes the public officer's firearm in the course of resisting, obstructing or delaying the public officer. This bill makes it a category D felony to use a dangerous weapon, other than a firearm, in the commission of this crime.

A.B. 264 (Chapter 46) Motion for Hearing to Determine Whether Defendant Should be Committed to Secure Facility for Offenders/Defendants with Mental Disorders

Assembly Bill 264 revises the list of crimes that a defendant whose case has been dismissed due to the defendant's incompetence must have been charged with before a prosecuting attorney may file a motion for a hearing to determine whether that defendant should be committed to a forensic facility of the Division of Mental Health and Developmental Services, Department of Health and Human Services. Instead of being charged with a category A or a category B felony, the defendant must have been charged with a category A felony or a specified violent category B felony before the motion may be filed.

The bill also requires the division to conduct a comprehensive risk assessment to determine whether the person requires placement in a secure forensic facility, and the division must provide that assessment to the court, the prosecuting attorney and the person's counsel. Before a court may commit a person to a forensic facility, the person's dangerousness must be at a level that requires him to be placed in such a facility.

Finally, the bill authorizes the division or the committed person to petition the court for conditional release from a forensic facility.

A.B. 286 (Chapter 48) Trespass

Assembly Bill 286 provides that a sufficient warning against trespass is given by the owner or occupant of the land or the building by making an oral or written demand to any guest to vacate the land or the building.

A.B. 309 (Chapter 497) Stalking

Assembly Bill 309 revises the crime of stalking to include a course of conduct that would make a reasonable person feel fearful for the immediate safety of a member of the person's family or household. Family or household member is defined as a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person. The bill adds text messaging to the existing crime of stalking with the use of

a communication device, which is punishable as a category C felony.

A.B. 322 (Chapter 49) Fraud or Deceit; Racketeering

Assembly Bill 322 provides that it is a category B felony for a person, under certain circumstances, to engage in at least two similar transactions within four years that operate as a fraud or deceit on another person by making false representations or omitting material facts that the person knows are false, intends to have another person rely on and results in loss to another person who relied on the false information. To be guilty of this crime, a person must, in the course of an enterprise or occupation, engage in the fraudulent or deceitful transactions knowingly and with the intent to defraud. The new crime set forth in this bill is also incorporated into the crimes of racketeering and money laundering.

The bill also prohibits a person from transporting, attempting to transport or providing property to another person knowing the property will be used to further racketeering activity. Finally, the bill makes it unlawful for a person to conduct a property transaction, knowing the property is derived from unlawful activity, with the intent to further racketeering activity or knowing the transaction conceals the source of the property.

A.B. 335 (Chapter 303) Private Nuisance – Gang Activity

Assembly Bill 335 includes in the definition of a private nuisance any building or place that is regularly and continuously used by members of a criminal gang to further gang activities, and it allows the person whose property is affected to bring a civil action for abatement of the nuisance and damages. Such a building or place may also constitute a public nuisance, and anyone responsible for the nuisance is guilty of a misdemeanor.

The measure also allows the board of county commissioners and the governing body of a city to adopt ordinances authorizing civil actions to enjoin the activities of a specific member of a gang and to recover damages, fees and costs against the gang member and the owner of the building or place that is found to be a nuisance due to gang activity. Fees collected must be used to benefit the community or neighborhood injured by the criminal activities of

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the gang, or where the building or place of gang activity is located. A material violation of the injunction is a misdemeanor.

A.B. 384 (Chapter 52) Unlawful Acts Committed by Prisoners

Assembly Bill 384 expands to prisoners under lawful arrest the criminal provisions governing certain unlawful acts involving human excrement or bodily fluid. A first offense is a gross misdemeanor, and a second or subsequent offense is a category D felony. If the victim of such a crime is an officer or employee of a law enforcement agency, that agency must pay for certain examinations or tests to determine whether a communicable disease was transmitted to the victim.

A.B. 461 (Chapter 437) Crimes Against Older Person

Assembly Bill 461 provides that reports investigating crimes against an older person must be submitted to the Aging Services Division of Nevada's Department of Health and Human Services, the repository of crimes against older persons and the attorney general's investigative unit for crimes against older persons within 30 days after completion of the report. The bill also creates a multidisciplinary team, which may be organized by the attorney general's investigative unit, to review allegations of crimes against older persons and requires that all peace officers be trained in cases of crimes against older persons.

A.B. 481 (Chapter 135) Fugitive from Justice

Assembly Bill 481 defines fugitive from justice as a person found in this state after: (1) being charged with a felony in another state and fleeing from that state to avoid prosecution for the felony; or (2) fleeing from another state to avoid giving testimony in any criminal proceeding. This definition applies to existing law that makes it a crime for a person who is a fugitive from justice to own or possess a firearm, possess an electronic stun device, purchase firearms or ammunition, and receive explosives.

S.B. 125 (Chapter 205) Unlawful Use of Radio Frequency Identification

Senate Bill 125 prohibits the intentional use of radio frequency identification to capture, read, retain, or use the personal identifying information of another person without his knowledge or consent for the purpose of fraud, identity theft or other illegal purposes.

S.B. 142 (Chapter 112) Criminal Gang Recruitment

Senate Bill 142 establishes the crime of criminal gang recruitment, committed when an adult engages in certain threatening or violent activities with the specific intent to coerce or solicit a child to join, rejoin or remain in a criminal gang. A person who commits this crime is guilty of a category E felony, but is not subject to the additional penalty for crimes committed to promote or assist the activities of a criminal gang.



S.B. 223 (Chapter 63) Crimes Involving Credit or Debit Cards

Senate Bill 223 clarifies that for the purposes of certain property crimes, the identifying description of a credit card or debit card may be the physical or electronic description of the card.

JUVENILE CRIME AND DELINQUENCY

A.B. 237 (Chapter 69) Presumptive Certification of Child as Adult for Criminal Proceedings

Assembly Bill 237 revises the factors a court may consider when determining whether to certify a child for criminal proceedings as an adult under the procedure commonly referred to as presumptive certification if the child is charged with certain offenses. Specifically A.B. 237 provides that the Juvenile Court shall not certify the child as an adult if the court finds by clear and convincing evidence that the child has substance abuse or emotional or behavioral problems that may be appropriately treated through the jurisdiction of the Juvenile Court. The bill also raises, from 14 to 16 years, the age at which a child may be certified as an adult under presumptive certification. This bill became effective on May 11, 2009.

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S.B. 235 (Chapter 25) Jurisdiction of Juvenile Court

Senate Bill 235 requires a hearing by a Juvenile Court to determine whether to dismiss the charges against certain juvenile offenders or to transfer jurisdiction to a criminal court that would otherwise have jurisdiction if the delinquent act was committed by an adult. The juvenile offenders to whom these provisions apply are those who, between 16 and 18 years of age, commit an act that would be a category A or B felony if committed by an adult, and who are identified by law enforcement before turning 21 years of age but are apprehended after reaching the age of 21. The court's decision to either dismiss the charges or to transfer the case to a criminal court must be based on the interests of justice and the need for protection of the public, with consideration given to the nature of the acts, impact to the victim, extent of punishment or counseling, behavior of the offender, risk of recidivism and other factors. Transfer of the case to a criminal court also transfers jurisdiction over the offender, and the offender must be held as an adult and is entitled to

bail. Finally, except for the hearing to dismiss the charges or transfer the case to an adult criminal court, the bill provides that these delinquent acts and juvenile offenders are not otherwise under the jurisdiction of the juvenile court.

PARDONS, PAROLE AND PROBATION

A.B. 117 (Chapter 148) Parole Without Meeting of State Board of Parole Commissioners

Assembly Bill 117 authorizes the State Board of Parole Commissioners to grant parole to a prisoner without a meeting if the board anticipates that parole will be granted. The bill also provides that a member of the board or a case hearing representative may recommend parole of a prisoner without a hearing if certain conditions are met. Such a recommendation remains subject to final approval by a majority of the board. This bill became effective on July 1, 2009.

A.B. 259 (Chapter 447) Residential Confinement; Deductions from Period of Probation; Parolee returned to Confinement May Earn Credits to Reduce Sentence

Assembly Bill 259 requires the standards for offenders who are eligible for residential confinement, as adopted by the director of Nevada's Department of Corrections, to provide that an offender convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation, if the offender is not otherwise ineligible and the director makes a written finding that the offender is not likely to pose a threat to the safety of the public.

The bill amends existing law authorizing a term of residential confinement for parolees and probationers who violate the terms of their parole or probation to provide that such offenders may also be placed in an institution of the department, and that the department may select the facility or institution in which to place the person. Under A.B. 259, a court may provide for the forfeiture of credits for good behavior of a probationer who violates a condition of probation, and, as appropriate, for the restoration of those credits. In addition, the bill requires that a person sentenced to a period of probation for a felony or gross misdemeanor must be allowed a deduction from his period of probation for certain activities if the probationer is in compliance with the terms and conditions of his probation as determined by the division. Finally, the bill provides that a parolee returned to confinement in the department, may earn credits to reduce his sentence. The bill became effective on July 1, 2009.

A.B. 474 (Chapter 345) Parole Eligibility for Certain Prisoners

Assembly Bill 474 changes parole eligibility for prisoners serving two or more consecutive life sentences with the possibility of parole. For offenses committed on or after July 1, 2009, parole eligibility must be based on the aggregate minimum sentence for those offenses. If committed prior to July 1, 2009, and the prisoner has not previously been considered for parole, he may elect to have his parole eligibility based on the minimum aggregate sentence. Regardless of the date of the offenses,

the State Board of Parole Commissioners is not required to consider parole until the minimum aggregate sentence is served.

The bill further provides conditions under which a prisoner sentenced to life imprisonment with the possibility of parole, who was under 16 years of age at the time he committed the offense, must be granted parole. The prisoner must have served the minimum term, have completed a program of general education or an industrial or vocational training program, not be a member of a group that poses a security threat within Nevada's Department of Corrections, and have not, within the immediately preceding 24 months, committed a major violation or been housed in disciplinary segregation.

If the prisoner is serving consecutive sentences, he will be paroled from his current sentence to his subsequent term of imprisonment. If he is not serving consecutive sentences, he will be released on parole. Upon release, he is subject to the same conditions and supervision requirements as other prisoners released under Nevada's mandatory parole statute.

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The bill became effective on July 1, 2009, as it pertains to parole eligibility using minimum aggregate sentencing, and on October 1, 2009, for parole of prisoners whose offense was committed under the age of 16 years.

S.B. 238 (Chapter 211) State Board of Pardons Commissioners – Policy to Expedite Process for Restoring Civil Rights

Senate Bill 238 authorizes the State Board of Pardons Commissioners to adopt a policy to provide an expedited process for restoring the civil rights of certain persons without the need for a meeting of the board. The person must submit an application to the board and meet certain conditions. Among the conditions, there must be no objection from either the court in which the judgment was rendered or the district attorney of the county where the conviction took place, and there can be no written request from the victim for notice of a clemency hearing.

TRAFFIC LAWS

A.B. 163 (Chapter 41) Low Emission Vehicles

Assembly Bill 163 provides that Nevada's Department of Transportation (NDOT) may adopt regulations to allow certified low emission and energy-efficient vehicles to be operated in a lane on a highway under its jurisdiction designated for the preferential use or exclusive use of high occupancy vehicles. Additionally, a county or city may adopt regulations to allow low emission and energy-efficient vehicles, including golf carts, to travel within a designated lane on streets within a planned community. Provisions relating to a county or city adopting regulations became effective on May 6, 2009. Provisions concerning NDOT are effective on July 1, 2010.

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A.B. 247 (Chapter 45) Bicyclists to Signal Turn

Assembly Bill 247 requires a person operating a bicycle to signal his intention to turn at least one time, unless the bicycle is in a designated turn lane or when safe operation of the bicycle requires the operator to keep both hands on the bicycle. In addition, an operator of a bicycle may signal for a right turn by extending his right hand and arm horizontally and to the right side of the bicycle.

A.B. 417 (Chapter 53) Vehicle May Pass on Right on Unobstructed Pavement

Assembly Bill 417 provides a driver of a vehicle may overtake and pass upon the right of another vehicle on a highway with unobstructed pavement that is not marked as a traffic lane and which is not occupied by parked vehicles, if the vehicle that is passing does not travel more than 200 feet in the section of pavement not marked as a traffic lane or does not travel through an intersection or past any private driveway that is used to enter or exit the highway. In addition, the bill provides that a driver of a vehicle is prohibited from driving the vehicle upon any portion of a controlled-access highway that lies outside the marked traffic lanes or marked entrance or exit lanes or across any solid white line that separates an entrance or exit lane from a marked traffic lane, unless required to do so because of an emergency. This bill became effective on July 1, 2009.

A.B. 475 (Chapter 134) Reorganizing Traffic Laws in NRS

Assembly Bill 475 requires the Legislative Counsel to reorganize the traffic laws contained in Chapter 484 of the Nevada Revised Statutes (NRS) and similar provisions of the Nevada Administrative Code to make them easier to use and understand. The bill further clarifies that if the Legislative Counsel renumbers any section of NRS, citation to the previous section number has the same legal meaning and effect as if the citation were to the new number, unless another intent is otherwise specified. This bill became effective on May 19, 2009.

S.B. 134 (Chapter 186) Temporary Traffic Control Zones

Senate Bill 134 authorizes imposition of a double penalty for certain acts committed by a motor vehicle driver if the offense occurs in an area designated as a temporary traffic control zone in which workers are performing work other than highway maintenance or construction. A

person who would otherwise be subject to a double penalty if the violation occurred in a temporary traffic control zone is exempt from the enhanced penalty if the offense occurs where signs are not erected, unless the violation results in injury to a worker or property damage equal to \$1,000 or more.

S.B. 240 (Chapter 77) State Route 159 Safety Speed Zone (Red Rock Canyon)

Senate Bill 240 establishes the State Route 159 Safety Speed Zone, which includes portions of State Route 159 that are within or adjacent to the Red Rock Canyon National Conservation Area and certain other portions of State Route 159 that have been designated as a Scenic Byway or State Scenic Byway. The bill requires the director of Nevada's Department of Transportation to set the speed limit in the zone at a level that takes into consideration the safety and protection of the residents and visitors of the Red Rock Canyon National Conservation Area. The director also must ensure that adequate signage or other forms of notice are evaluated and installed to support and enhance the speed limit that is set. This measure became effective on July 1, 2009.

S.B. 243 (Chapter 356) Enforcement of Statutes Relating to Vehicle Weight

Senate Bill 243 authorizes certain category I peace officers in Clark and Washoe Counties, and certain inspectors in Nevada's Departments of Motor Vehicles and Public Safety (DPS), who have completed a vehicle weight enforcement training program conducted by the Nevada Highway Patrol (NHP), to enforce statutes relating to vehicle weight.

S.B. 251 (Chapter 263) Vehicles with Flashing Amber Warning Lights

Senate Bill 251 authorizes a tow car equipped with flashing amber warning lights to display the lights when at the scene of a traffic hazard. The driver of an approaching vehicle shall decrease the speed of his vehicle, proceed with caution, be prepared to stop and, if possible, drive in a lane that is not adjacent to the lane in which the tow car is stopped. The bill became effective on July 1, 2009.

VICTIMS OF CRIME

A.B. 27 (Chapter 5) Victims of Identity Theft

Assembly Bill 27 revises the identity theft passport program administered by the Office of the Attorney General for victims of identity theft. The bill changes the name of the

“identity theft passport” to the “identity theft program card;” it distinguishes the application requirements for residents and nonresidents of Nevada; and it provides authority to the Office of the Attorney General to designate the agencies that may accept an application for an identity theft program card.

victim if a condition of the defendant’s sentence restricts the ability of the defendant to have contact with the victim.

This bill became effective on May 11, 2009.

A.B. 114 (Chapter 40) Fund for Compensation of Victims – Appeal of Denial of Claim

Assembly Bill 114 extends from 15 days to 60 days the period of time in which a crime victim may appeal the denial of a claim from the Fund for the Compensation of Victims of Crime. This bill became effective on May 6, 2009.



A.B. 283 (Chapter 337) Fund for Compensation of Victims – Increase in Compensation Limits

Assembly Bill 283 increases from \$50,000 to \$100,000 the limit on the amount of compensation that may be awarded to a crime victim from the Fund for the Compensation of Victims of Crime. The bill also authorizes the State Board of Examiners to

provide an additional award up to \$50,000 after considering the amount of money in the fund and the circumstances of the victim. This bill became effective on May 29, 2009.

A.B. 116 (Chapter 147) Fund for Compensation of Victims – Compensation of Victim of Domestic Violence/Sexual Assault

Assembly Bill 116 prohibits a compensation officer with the Fund for the Compensation of Victims of Crime from considering the provocation, consent or any other behavior of a victim in cases involving domestic violence or sexual assault when determining whether to award compensation to the victim. The measure requires a law enforcement agency or a juvenile court to provide the compensation officer with a copy of the requested investigative and police reports within 10 days after the receipt of the request or within 10 days after the report is completed, whichever is later. This bill became effective on May 22, 2009.

A.B. 325 (Chapter 300) Protections for Victims of Sexual Offenses

Assembly Bill 325 provides that a person convicted of certain sexual offenses and released on probation, a suspended sentence, parole or placed on lifetime supervision must not have any contact with the victim or a witness who testified against him unless approved by the Chief of the Division of Parole and Probation, Nevada’s Department of Public Safety or his designee. The bill further expands the prohibition against public disclosure of a sexual assault victim’s identification to include a victim of statutory sexual seduction or sexual conduct involving a pupil or student. [NL](#)

A.B. 120 (Chapter 68) Victim of Sexual Assault – Request for Order of Protection

Assembly Bill 120 authorizes a victim of a sexual assault to request a temporary or extended order of protection against a person who allegedly committed the sexual assault. Further, the bill:

- Provides for the deferment of fees related to the protection order;
- Fixes the duration of the order;
- Requires the order to be transmitted to and enforced by law enforcement; and
- Requires the court to provide a copy of the order to the

SCOTT WASSERMAN serves as the chief executive officer of the Board of Regents of the Nevada System of Higher Education. Previously Wasserman served as a deputy attorney general in the civil division of the Office of the Attorney General and served the Nevada State Legislature as chief deputy legislative counsel.