

For the 2017 legislative session, 1,251 bill draft requests were submitted to the legislative bill drafters. Of these 1,251 bill draft requests, 522 were introduced as Assembly Bills and 555 were introduced as Senate Bills. Of the 1,077 legislative bills, the governor signed 608 bills into law. The governor vetoed 41 bills; 26 were returned to the legislature while in session – none of these 26 vetoes were overridden by the legislature. The remaining 15 measures vetoed by the governor will be returned to the 2019 legislative session for consideration of overriding the governor’s veto (a two-thirds affirmative vote of each house is required to override a governor’s veto).

# 2017

# LEGISLATIVE YEAR IN REVIEW

BY SCOTT G. WASSERMAN, ESQ.

The following summaries of selected 2017 legislation relate to courts, judicial procedure and criminal justice, and are excerpted from the 2017 “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 (and includes additional bills under the subjects discussed here, as well as other laws such as laws governing corporations, partnerships and other business associations, elections, family, gaming, insurance, and natural resources and public lands). The full 2017 “Summary of Legislation” publication is available for purchase through the Legislative Publications Office at the Legislative Counsel Bureau at (775) 684-6835.

The full text and complete legislative history of each legislative measure summarized in this article is available on the Nevada Legislature’s web site at: <https://www.leg.state.nv.us/Session/79th2017/Reports/>

*Except as otherwise noted, all legislative bills discussed below became effective prior to the publication of this article.*



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# 2017 LEGISLATIVE YEAR IN REVIEW

## COURTS AND JUDICIAL PROCEDURES

### A.B. 14 (Chapter 66) Submitting Fingerprints with Name Change of Person with Criminal Record or Person Detained and Cited for Domestic Violence

Assembly Bill 14 provides that a person with a criminal record who applies for a name change must submit with his or her petition a complete set of fingerprints. In addition, the measure requires a complete set of a person's fingerprints to be transmitted to the Central Repository for Nevada Records of Criminal History for inclusion in that person's record of criminal history when a court order grants a change of name to a person who has a criminal record or rescinds its order granting a change of name to a person who falsely denied having been convicted. Lastly, the measure requires that a complete set of the person's fingerprints be sent to the Central Repository when a peace officer detains and cites a person for a violation of an ordinance or state law that is punishable as a misdemeanor and constitutes domestic violence.

### A.B. 28 (Chapter 79) Discipline of Justice of the Peace or Municipal Judge by Commission on Judicial Discipline

Assembly Bill 28 authorizes the Commission on Judicial Discipline to discipline a justice of the peace or

municipal judge by ordering the justice of the peace or municipal judge to forfeit his or her office if he or she fails to attend required instruction, unless the commission finds that there was a reasonable excuse. This measure requires the commission to give a justice of the peace or a municipal judge 30 days' notice and an opportunity to respond and to hold a public hearing before the commission orders the justice of the peace or municipal judge to forfeit his or her office.

### A.B. 37 (Chapter 68) Transfer of Case on Affidavit Alleging Bias or Prejudice; Selection of Chief Justices of the Peace and Chief Municipal Judges

Assembly Bill 37 establishes a procedure for arranging the transfer of a case to another justice of the peace or municipal judge, as appropriate, if an affidavit alleging bias or prejudice is filed against the presiding justice or judge. Similarly, the bill establishes a procedure for appointing a justice of the peace or municipal judge, as appropriate, to hear and make a determination concerning the justice or judge against whom an affidavit alleging bias or prejudice has been filed.

This measure also requires the selection of a chief justice of the peace in townships with more than one justice of the peace and a chief municipal judge in cities with more than one municipal judge, who will serve as the presiding justice or judge, respectively, and have duties similar to a chief judge of a judicial district.

### A.B. 38 (Chapter 69) Bail

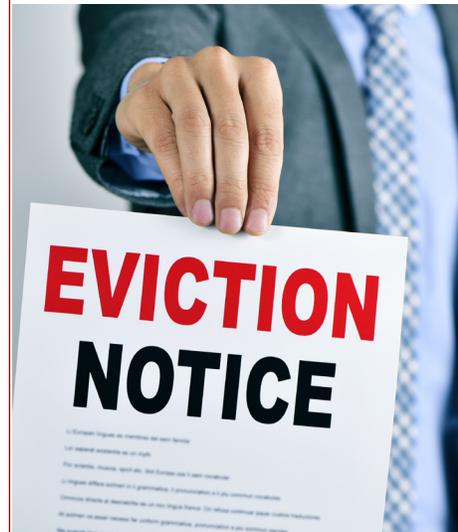
Assembly Bill 38 revises provisions related to bail. With certain exceptions, every bail agent and insurer authorized to write surety in this state and every subsidiary corporation of any such insurer must have the ability to send and receive electronic transmissions. The measure authorizes the electronic transmission of the notice of transfer of a bond or undertaking to another trial court to the surety on the bond and to the bail agent who executed the bond. Similarly, the bill authorizes the electronic transmission of a notice of a defendant's failure to make a required appearance in court, and it provides that a request for a delivery receipt is required under certain circumstances. The measure provides that before April 1, 2018, a bail agent or insurer may elect to continue to receive notices by mail; however, on and after April 1, 2018, the agent or insurer may only receive notices by mail if good cause is shown to the court. Finally, the bill reduces, from 45 days to 14 judicial days, the period of time after which a court is required to issue a warrant for the arrest of a defendant who has failed to make a required appearance in court.

### A.B. 63 (Chapter 81) Court Interpreters

Assembly Bill 63 requires an applicant for a certificate as a court interpreter or appointment as an alternate court interpreter to submit to the Court Administrator with his or her application a complete set of his or her fingerprints and written permission authorizing the Court Administrator to forward the fingerprints to the Central Repository for Nevada Records of Criminal History.

### A.B. 102 (Chapter 64) Removal of Certain Civil Proceedings by Court with Continuing Jurisdiction

Assembly Bill 102 authorizes a court that has continuing jurisdiction to remove certain civil proceedings, such as divorce, annulment, separate maintenance or parentage, or child custody to a court in another county after a final order, judgment or decree has been issued. The bill also allows the respondent to request in writing, before the filing time expires, that the petition or motion be heard in the county where either party resides or where the child named in the proceeding resides.



### A.B. 107 (Chapter 52) Evictions Case Court File Sealed

Assembly Bill 107 provides that the eviction case court file in any action for summary eviction is automatically sealed if summary eviction is denied or dismissed, or the landlord fails to file an affidavit of complaint as required. The measure authorizes the court to order the sealing of an eviction case court file under certain circumstances.

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## A.B. 125 (Chapter 211) Court Interpreters

Assembly Bill 125 makes various changes to provisions related to court interpreters. It requires the Court Administrator to adopt regulations for a program to certify or register court interpreters for persons with limited English proficiency who are witnesses, defendants and litigants, and it requires court interpreters to obtain a certificate or registration. The bill removes provisions relating to the appointment of alternate court interpreters and provides that a court will appoint an interpreter if a certified or registered court interpreter is not available.

## A.B. 130 (Chapter 552) Guardianship

Assembly Bill 130 makes various changes to provisions governing guardianship. Specifically, the bill allows a court to require a proposed guardian to file a proposed preliminary care plan and budget. A person who retains an attorney for the purposes of representing a party in a guardianship is responsible for attorney's fees and costs. The person may petition the court for an order authorizing the payment of attorney's fees and costs from the estate of the ward. A court-appointed attorney may seek compensation for his or her services from the guardianship estate in accordance with the established process. In addition, the measure provides that only the prevailing party in a contested issue in a guardianship proceeding may petition the court for the payment of

attorney's fees and costs. If the court determines that there is no prevailing party, the court may authorize a portion of each party's attorney's fees and costs to be paid.

The measure replaces the term "incompetent" with "incapacitated" and revises the definition of "incapacitated." The bill requires notice and service of petitions, reports, hearings and sales of property to a ward 14 years of age or older without regard to the ward's capacity to understand information conveyed and revises requirements for the sale of personal or real property of a ward.

The bill creates the State Guardianship Compliance Office, which is appointed by the Nevada Supreme Court and serves at the pleasure of the court. The State Guardianship Compliance Officer is authorized to hire two accountants and two investigators to provide services to the district courts as part of guardianship proceedings.

## A.B. 142 (Chapter 212) Special Immigrant Juvenile

Assembly Bill 142 authorizes the district court to make the factual findings necessary to enable a child to apply for federal status as a special immigrant juvenile. The findings may be made by the district court at any time during certain proceedings. A person may file a petition with the court requesting that the court make the findings to enable a child to apply for status as a special immigrant juvenile.



If the court determines there is evidence to support the findings, the court must issue an order setting forth the findings, but the court may not make any additional findings regarding the asserted, purported or perceived motivation of the child seeking status as a special immigrant juvenile or of the person requesting the court to make such findings. Assembly Bill 142 also provides that any records containing information concerning the immigration status of a child that are not otherwise confidential must be sealed and made available for inspection only by certain persons. The Nevada Supreme Court must adopt necessary rules and procedures to implement the bill. Finally, A.B. 142 clarifies that if a person includes in a petition filed or motion made in a guardianship proceeding a request that the court make the findings necessary to enable a child to apply for status as a special immigrant juvenile, the court may, in certain circumstances, appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking such status.

## A.B. 173 (Chapter 132) Application for Name Change

Assembly Bill 173 changes the requirements for applying for a name change. The applicant for a name change must submit with the verified petition to the district court a statement signed under penalty of perjury that the applicant is not changing his or her name for a fraudulent purpose. In addition, the requirement that an applicant publish a notice of the name change in a newspaper of general circulation in the county once a week for three weeks in a row is changed to at least one time.

## A.B. 177 (Chapter 230) Temporary or Extended Order for Protection Against Domestic Violence

Assembly Bill 177 revises provisions authorizing courts to issue temporary or extended orders for protection against domestic violence. If, after due diligence, the adverse party has not been served and fails to appear at the first hearing, then the court is authorized to set a second hearing within 90 days after the date on which the first hearing was scheduled and a third hearing within an additional 90 days thereafter. The court must order a law enforcement agency to serve the adverse party an application for an extended order and the notice of any second or third hearing upon the application scheduled by the court. The temporary order remains in effect until the date on which the second or third hearing is held.

## A.B. 184 (Chapter 85) Motion to Withdraw Plea of Guilty, Guilty but Mentally III or Nolo Contendere

Assembly Bill 184 provides that a motion to withdraw a plea of guilty, guilty but mentally ill or nolo contendere that is made after sentence is imposed

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or imposition of sentence is suspended, is a remedy that is incident to the proceedings in the trial court. The bill applies to such pleas pending on or after June 12, 2014.

## **A.B. 207 (Chapter 549) Selection of Trial Jurors**

Assembly Bill 207 revises the process for selecting trial jurors. The jury commissioner assigned to select trial jurors must compile and maintain a list of qualified electors from information provided by the voter registration list in the county; the Department of Motor Vehicles; the Employment Security Division of the Department of Employment, Training and Rehabilitation; and certain public utilities. The Employment Security Division must be reimbursed for the reasonable cost of providing requested information.

In addition, the jury commissioner is required to keep certain records of each trial juror who is selected and who appears for jury service. This information is to be reported once a year to the Court Administrator.

A person who uses the information collected for purposes other than those authorized by the administrator of the division or by the law, or who fails to protect and prevent the unauthorized use or dissemination of such information, is guilty of a gross misdemeanor.

## **A.B. 228 (Chapter 166) Termination of Parental Rights**

Assembly Bill 228 revises provisions regarding the termination of parental rights. The measure requires personal service to be attempted on a parent, legal custodian or guardian regardless of where the person resides. Before notice of hearing for the termination of parental rights is published, the clerk of the court must replace the name of the child with the initials of the child. The hearing may take place any time after the birth of the child and service on the father, or putative father, if known, is completed. The hearings, files and records of the court relating to a proceeding to terminate parental rights are confidential, with certain exceptions. Lastly, this measure provides that the conviction of the natural parent of a child for a sexual assault that results in the conception of the child is grounds for terminating the parental rights of the natural parent.

## **A.B. 232 (Chapter 161) Changing Name of Minor**

Assembly Bill 232 revises the procedure for changing the name of a minor. A parent of an unemancipated minor may file a verified petition with the clerk of the district court where the minor resides. The measure sets forth steps a parent must take if the other parent does not consent. Upon proof of filing and evidence of service, the court must make an order changing the name of the minor as requested in the petition, if satisfied by statements in the petition or other evidence that good reason exists, verified

consent of the other parent is stated in the petition, or no written objection is filed within ten days after the notice and service requirements have been fulfilled. If an objection is filed, then the court is required to hold a hearing. The order must be recorded as a judgment of the court, and the clerk must transmit a certified copy of the order to the State Registrar of Vital Statistics. Finally, a petition to change a name of an unemancipated minor may be filed in an action for divorce, child custody, the establishment of parentage, the termination of parental rights or the emancipation of a minor.

requires the court to notify the Central Repository for Nevada Records of Criminal History, the Office of the Attorney General, and each office of the district attorney and law enforcement agency in this state before deciding to grant a petition.

The court is authorized to enter an order to vacate a judgment of conviction if the petitioner satisfies all requirements necessary for the judgment to be vacated, but the petition is deficient with respect to the sealing of the petitioner's record. If the court enters such an order, then the court also is required to order the sealing of the petitioner's records that relate to the judgment being vacated.

## **A.B. 253 (Chapter 309) Mental Health Adjudications**

Assembly Bill 253 revises various provisions governing mental health adjudications. The bill requires a court to conduct a hearing as soon as practicable if an application for a writ of habeas corpus is made before the initial hearing on a petition for the involuntary court-ordered admission of a person who has, or is alleged to have, a mental illness to a mental health facility or a program of community-based or outpatient services.

In addition, the measure revises the definition of a "person with mental illness" to clarify that the person presents a clear and present danger of harm to himself or herself, if there is a reasonable probability that the person will harm himself or herself, unless required to participate in a program of community-based or outpatient services. The physician or psychologist who examines and evaluates a person who has been involuntarily admitted to a mental health facility or



## **A.B. 243 (Chapter 277) Vacating Judgment of Conviction and Sealing Records of Victim of Sex Trafficking or Involuntary Servitude**

Assembly Bill 243 allows a court to grant a motion to vacate a judgment of conviction and seal the records of a victim of sex trafficking or involuntary servitude. The measure sets forth the procedure for vacating the judgment of conviction and

certain other services is required to submit a written summary of findings and evaluation 24 hours before the hearing on the petition. The court must transmit a record of the order to each law enforcement agency of this state with which the court has entered into an agreement for such transmission for inclusion in certain databases. Finally, the bill establishes a procedure for a public or private hospital or a mental health facility to request and obtain a copy of a court order of involuntary admission that relates to a person alleged to be a person with mental illness who has been admitted to the hospital or facility.



### **A.B. 254 (Chapter 233) Guardianship Proceedings**

Assembly Bill 254 requires any inventory of the property of a ward that a guardian must file in a guardianship proceeding include the existence of any trust of which the ward is a beneficiary. If such an inventory includes the existence of a trust, the trustee must be served with a copy of the inventory.

This bill also authorizes a court having jurisdiction of a trust to transfer supervision

of the trust to a district court having jurisdiction of the guardianship of a ward who is currently a beneficiary who is receiving or entitled to receive distributions from the trust. The court will assume jurisdiction of the trust if:

- No objection to the court assuming jurisdiction is filed; or
- The court does not find good cause as to why it should not have jurisdiction of the trust.

A guardian or attorney of the ward or any interested person is authorized to demand that a copy of the trust, and an accounting of the assets of the trust, be filed with the court. A guardian of an estate must obtain court approval before submitting an irrevocable trust to the jurisdiction of the court under certain circumstances.

### **A.B. 268 (Chapter 478) Court Order for Genetic Marker Analysis**

Assembly Bill 268 revises certain findings a court must make before it may order a genetic marker analysis as requested in a postconviction petition. The revised findings include that:

- A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;
- The petitioner alleges and supports with facts that he or she asked his or her attorney to request to have a genetic marker analysis conducted, but the attorney refused or neglected to do so; or
- The court previously ordered a genetic marker analysis to be conducted, but an analysis was never conducted.



### **A.B. 286 (Chapter 484) Program for Treatment of Veterans and Military Members Charged with Certain Offenses**

Assembly Bill 286 authorizes a justice court or municipal court to establish a program for the treatment of veterans and members of the military who are charged with first misdemeanor offenses of battery constituting domestic violence, or driving under the influence of alcohol or drugs. To be eligible for the program, the person must appear to suffer from mental illness, alcohol or drug abuse, posttraumatic stress disorder, traumatic brain injury, military sexual trauma or problematic readjustment to civilian life that appears to be related to military service. The bill specifies circumstances that make a defendant ineligible for the program and authorizes sanctions against a defendant who violates the terms and conditions of the program.

The court may conditionally dismiss the charges against a person who successfully completes this program or a diversionary or specialty court program. All records relating to the charges must be sealed not sooner than seven years after the conditional dismissal and upon the filing of a petition by the defendant. Conditionally dismissed offenses constitute prior offenses for purposes of determining program eligibility.

### **A.B. 319 (Chapter 172) Guardianships of Minors**

Assembly Bill 319 creates a new chapter in Nevada Revised Statutes relating to guardianships of minors and carries over provisions from existing law, but with certain revisions. The measure sets forth the procedures for the appointment of a guardian, the powers and duties of a guardian and the termination of the guardianship.

### **A.B. 326 (Chapter 554) Presentence or General Investigation Reports**

Assembly Bill 326 provides a process for the disclosure of documentation supporting information in a presentence report on a defendant's criminal gang affiliation or membership. The measure also authorizes a court to order the Division of Parole and Probation of the Department of Public Safety to correct the contents of a presentence or general investigation report if the defendant and prosecuting attorney stipulate to the correction within 180 days of the date of conviction. Finally, the bill clarifies that these provisions apply to reports made on or after October 1, 2017.

### **A.B. 327 (Chapter 378) Sealing Records Relating to Conviction**

Assembly Bill 327 allows a person who is given a dishonorable discharge from probation to apply to the court for the sealing of records relating to the conviction if he or she is otherwise eligible to have the records sealed. Upon the filing of a petition for the sealing of records, there is a rebuttable presumption that the records should be sealed if the applicant satisfies all statutory requirements for the sealing

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of the records. However, such a presumption does not apply to a defendant who is given a dishonorable discharge from probation and applies to the court for the sealing of records relating to the conviction. A person may file a petition for the sealing of records in district court if the person wishes to have more than one record sealed and would otherwise need to file a petition in more than one court. The district court is authorized to order the sealing of any records in the justice or municipal courts in certain circumstances.

The length of certain periods that a person is required to wait

before petitioning a court to have records sealed is reduced and the requirement that a petition be accompanied by the petitioner's current, verified records received from criminal justice agencies is removed. The court is authorized to order the records sealed without a hearing if the prosecuting attorney stipulates to the sealing of the records and the court makes certain findings.

Lastly, the sealing of the records of a person who completes a correctional or judicial program for reentry into the community is reduced from five years to four years after the completion of the program.

## **A.B. 356 (Chapter 313) Judge Required to Present Jury with Certain Charges Submitted by Either Party**

Assembly Bill 356 requires a judge to present a jury with a charge submitted by either party in a case if the judge believes the charge is both pertinent and an accurate statement of the law, regardless of whether the charge has been adopted as a model jury instruction.

## **A.B. 412 (Chapter 235) Certain Misdemeanors Must be Joined with Related Felonies and Gross Misdemeanors**

Assembly Bill 412 requires that certain misdemeanors, that otherwise would be under the jurisdiction of municipal courts, be joined with related felonies and gross misdemeanors in the district courts. This bill also provides that a charge for any such misdemeanor erroneously included in a criminal complaint

filed in a municipal court shall be deemed to be void and must be stricken.

## **A.B. 440 (Chapter 482) Involuntary Commitment Hearings; Involuntary Court-Ordered Admission of Person to Program of Community-Based or Outpatient Services**

Assembly Bill 440 authorizes a proceeding for the involuntary court-ordered admission of a person who is the defendant in a criminal proceeding in the district court to a program of community-based or outpatient services to be commenced by the district court, on its own motion, or by motion of the defendant or the district attorney if certain conditions are met. The measure specifies the circumstances under which the court may suspend the criminal proceedings against a defendant and order the defendant to

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a program of community-based or outpatient services. If the defendant successfully completes the program, the district court is authorized to dismiss with prejudice the criminal charges against the defendant.

The measure also provides that if the Chief Judge of a district court designates a district court judge or hearing master to preside over involuntary commitment hearings, that district court judge or hearing master is required to preside over such hearings. Finally, a district judge or hearing master specifically assigned to hear certain involuntary commitment proceedings is exempt from the requirement to attend certain instruction at the National Council of Juvenile and Family Court Judges in Reno, Nevada.

#### **A.B. 453 (Chapter 237) Conditional Plea Agreement**

Assembly Bill 453 provides that upon an unconditional waiver of a preliminary hearing, a defendant and the district attorney may enter into a written conditional plea agreement. Such an agreement is subject to the court accepting the recommended sentence pursuant to the agreement.

#### **A.B. 470 (Chapter 483) Preprosecution Diversion Program**

Assembly Bill 470 authorizes the creation of a preprosecution diversion program by a justice or municipal court for certain persons who have been accused of committing misdemeanors, and it establishes conditions for eligibility to participate in such a program, if such a program exists. A defendant charged with vehicular manslaughter is not eligible for such a program.

Preprosecution diversion programs may include treatment to rehabilitate the defendant such as educational programs, anger management therapy or counseling, or a program of treatment for veterans and members of the military, persons with mental illness, intellectual disabilities or persons with substance abuse issues. A justice court or municipal court is authorized to order a defendant to complete a preprosecution diversion program. The court's decision relating to a defendant's participation in the program may not be appealed.

The court is required to dismiss the charge or charges against a defendant after successful completion of the program. A defendant who fails to successfully complete the program is dismissed from the

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## Newly Released Publication: **Contract Templates for Nevada Attorneys**



The first edition from the state bar's Publications Committee, *Contract Templates for Nevada Attorneys* provides lawyers with **more than 60 sample contract templates** covering the most commonly used transactions, such as lease agreements and deeds of trust. Written by Nevada attorneys, these forms have been adapted from documents actually used in practice.

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program and can be prosecuted in the normal manner provided by law. Criminal records of a defendant who has successfully completed the program are sealed and confidential except as otherwise required by law. A defendant may request that any biological or DNA sample provided to the state be destroyed upon his or her successful completion of the program.

## **A.B. 512 (Chapter 446)** **Certain Court Fees for DUI**

Assembly Bill 512 extends to June 30, 2019, the expiration date of a \$100 fee that must be imposed by a court if a person pleads guilty, guilty but mentally ill, or nolo contendere to, or is found guilty of a charge of driving under the influence of intoxicating liquor or a controlled substance that is punishable as a misdemeanor.

## **S.B. 29 (Chapter 73)** **Transfer of Criminal Case**

Senate Bill 29 authorizes a justice or municipal court, upon its own motion, to transfer a criminal case to another justice or municipal court, or to a district court, if:

- The transfer is necessary to achieve justice for the defendant;
- A plea deal or final disposition has been reached in the case; and
- The court enters its findings regarding the necessity for the transfer into the record.

If a district court declines to accept a case on transfer, the case must be returned to the court of original jurisdiction.

## **S.B. 230 (Chapter 329)** **Percentage of Judgment Debtor's Disposable Earnings Exempt From Execution; Garnishment**

Senate Bill 230 raises the exempt amount of a judgement debtor's disposable earnings to 82 percent if the debtor's gross weekly salary or wage is \$770 or less, and it maintains the exemption at 75 percent if the debtor's weekly earnings exceed \$770. The bill also sets forth the formula for how weekly earnings are to be determined and provides that a debtor may bring a civil action against a creditor who garnishes a bank account or other personal property without domesticating a foreign judgment.

The period of garnishment served on an employer is extended from 120 to 180 days, and no new application for a writ of garnishment concerning the same debt may be approved unless a proper accounting and report of previous garnishments are submitted with the application.

## **CRIMINAL JUSTICE**

### **A.B. 146 (Chapter 137)** **Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act**

Assembly Bill 146 enacts the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act. The measure provides for the enforcement

and registration of domestic-violence protection orders issued by Canadian courts. A law enforcement officer must, subject to certain exceptions, enforce a Canadian domestic-violence protection order in the same way that he or she would enforce a similar order issued by a court of this state. A person who enforces such an order based upon a reasonable belief that the order is valid, or who refuses to enforce such an order based upon a reasonable belief that the order is not valid, is provided immunity from civil or criminal liability.



### **A.B. 444 (Chapter 236)** **Search Warrants to Search and Seize Property of Attorney**

Assembly Bill 444 allows for a search warrant to be issued by a magistrate to search and seize the property of an attorney under certain circumstances. The measure requires the search warrant to be executed in a manner that minimizes the scrutiny of the property that is subject to the attorney-client privilege and authorizes a team of certain officers and attorneys to review property during the search to determine whether the property is covered by the search warrant. A district

attorney or the Attorney General is required to ensure that any property seized during a search conducted pursuant to such a search warrant is reviewed to determine whether the attorney-client privilege applies and returned to the attorney from whom the property was seized if the seized property is subject to the attorney-client privilege.

### **S.B. 125 (Chapter 256)** **Sealing of Criminal Records**

Senate Bill 125 reduces the waiting period for certain persons to petition a court for the sealing of their criminal records.

### **S.B. 177 (Chapter 106)** **Definition of "Mental Illness" for Assigning Offenders to Treatment Programs**

Senate Bill 177 amends the definition of "mental illness" to include hoarding disorder, as described in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders, for the purpose of assigning certain offenders to programs for the treatment of mental illness.

### **S.B. 182 (Chapter 196)** **Fees Charged by Sheriff or Constable**

Senate Bill 182 authorizes a sheriff to charge and collect the same \$21 fee that a constable is entitled to collect for each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution. The bill further authorizes a constable to collect the same \$2 fee that a sheriff is entitled to collect for mailing a notice of a writ of execution. Finally, the bill prohibits a deputy constable from being a bail agent, bail enforcement agent or bail solicitor.



### **S.B. 402 (Chapter 499) Imposing Solitary Confinement on Prisoner**

Senate Bill 402 prohibits the Department of Corrections or a private facility or institution from imposing solitary confinement on a person in prison unless the offender is found guilty of an infraction, is provided written notice of the charges and a hearing is held after the completion of an investigation of the alleged violation. The Department of Corrections shall not place offenders with serious mental illness or other significant mental impairment in solitary confinement, unless the offender poses a safety threat to him- or herself, staff or other inmates. The bill also establishes a requirement for the psychological evaluation of an offender with a serious mental illness or significant mental impairment prior to holding a hearing concerning charges against the offender.

An offender may request placement into solitary confinement to protect his or her safety after an independent assessment is performed and only for the duration of the threat. In such instances, the offender must receive a health and welfare check at his or her cell at least once daily by a provider of health care.

The use of solitary confinement must be limited to the shortest time possible to address the issue at hand, and an offender may petition the warden of the facility for early release from solitary confinement. The department is required to provide certain provisions and accommodations to an offender who is subject to disciplinary segregation, and it allows an offender the ability to petition the warden of the institution or facility for release from segregation if the offender has demonstrated good behavior.

## **CORRECTIONS, PAROLE AND PROBATION**

### **A.B. 25 (Chapter 503) Deductions from Period of Probation or Sentence of Person**

Assembly Bill 25 provides that for the purpose of determining whether a probationer or a parolee is allowed a deduction from his or her period of probation or sentence, respectively, the person is deemed to be current with any fee to defray the costs of his or her supervision and any payment of restitution for any given month if, during that month, the person makes at least the minimum monthly payment established by the court, the Division of Parole and Probation of the Department of Public Safety or the State Board of Parole Commissioners, as applicable.

The bill also provides that, if the governor determines by executive order that it is necessary, the governor may authorize the deduction of up to five days from a sentence for each month an offender serves. This provision must be uniformly applied to all offenders under a sentence at the time the governor makes such a determination.

### **A.B. 181 (Chapter 362) Restoration of Civil Rights**

Assembly Bill 181 revises provisions governing the restoration of civil rights to resident offenders in this state. A probationer, parolee or person who has completed his or her sentence and was released from prison, with certain exceptions, is immediately restored his or her right to serve as a juror in a civil case and to vote after discharge from probation,

discharge from parole or release from prison. Exceptions are made for a person who was previously convicted of a category A felony or certain category B felonies, in which case the person's right to vote is restored two years after discharge from probation, discharge from parole or release from prison. The bill also allows for the restoration of the civil rights of a probationer or a parolee who receives a dishonorable discharge. This bill becomes effective on January 1, 2019.

### **A.B. 291 (Chapter 423) Presentence Investigation Reports**

Assembly Bill 291 revises provisions governing investigation reports. The Division of Parole and Probation of the Department of Public Safety is required to include certain information as it relates to the defendant's offense in the presentence investigation report. The division also is required to include any score sheets or scales used to determine a recommendation. Lastly, the measure allows the court to order the division to correct the contents of any general investigation or presentence investigation report within 180 days after the date on which the judgment of conviction was entered.

### **S.B. 268 (Chapter 565) Deduction from Sentence for Earning GED and Other Programs**

The bill provides that a prisoner may earn up to a five-day deduction, instead of the current five-day deduction, from his or her sentence for earning a general educational development (GED) certificate or equivalent thereof. A similar deduction is provided for the completion of various other

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programs, including the completion of a vocational education program in lieu of a GED, and an additional five-day deduction is available for those who perform with meritorious or exceptional achievement.

## CRIME AND PUNISHMENT

### A.B. 132 (Chapter 59) Assault and Battery of Officer

Assembly Bill 132 revises the definition of “officer” to include certain civilian employees and volunteers of law enforcement agencies, fire-fighting agencies and political subdivisions of this state for the purpose of enhancing the penalties for the crimes of assault and battery against such a person.

### A.B. 148 (Chapter 284) Notaries Public

Assembly Bill 148 increases the criminal penalty for a notary public who willfully violates the restrictions on advertising his or her services or violates the prohibition against using certain terms on an advertisement if he or she is not a licensed attorney. This bill increases the penalty from a gross misdemeanor to a category D felony if the offense causes irreparable harm. Specifically, a notary public who is not a licensed attorney in Nevada may not use the terms “notario,” “notario public” or “licenciado” on any advertisement.

### A.B. 260 (Chapter 310) Prostitution

Assembly Bill 260 revises the provisions and penalties for certain acts relating to prostitution. The measure authorizes a justice of the peace or municipal judge to suspend the sentence of a person who is convicted of a misdemeanor that constitutes solicitation for prostitution on the condition that the person actively participates in a treatment program for persons who solicit prostitution and complies with any other conditions ordered by the justice of the peace or municipal judge.

The measure provides that a prostitute who engages in prostitution or solicitation for prostitution under certain circumstances is guilty of a misdemeanor. A customer who is found guilty of engaging in prostitution or soliciting prostitution must pay a mandatory fine based on the number of times the customer has been found guilty.

In addition to any other penalty imposed, the court is required to impose a civil penalty on a customer who is found guilty of such an offense. All civil penalties collected are to be used for enforcing certain crimes relating to solicitation for prostitution and certified treatment programs for persons who solicit prostitution. Community service may be performed in lieu of all or partial payment of the civil penalty.

The court is authorized to discharge the person and dismiss the proceedings

against the person upon the person’s fulfilling the terms and conditions of the treatment program. The discharge and dismissal may only occur once. In addition, the discharge and dismissal is without adjudication of guilt and is not a conviction for the purposes of employment, civil rights or other certain purposes. However, the discharge and dismissal is considered a conviction for the purpose of additional penalties imposed for second or subsequent convictions or for the setting of bail. Lastly, the court is required to seal all records, without a hearing, if the person is discharged and the proceedings against the person are dismissed.

### A.B. 391 (Chapter 86) Crime of Bestiality

Assembly Bill 391 creates the crime of bestiality punishable as a gross misdemeanor or a category D felony, depending upon the circumstances. The bill defines the elements of the crime, requires relinquishment of the animal and prohibits a person convicted of bestiality from owning, residing or working in a location where animals are present. The court also may require persons convicted of the crime to undergo psychiatric counseling at their expense and pay any costs associated with care or maintenance of an animal involved in the crime. Finally the bill defines “sexual conduct” and excludes veterinary medical procedures, animal husbandry practices or similar activities from the definition.

### S.B. 124 (Chapter 490) Revises Provisions Concerning Ownership, Possession and Control of Firearms by Certain Persons

Senate Bill 124 provides that a court may order a person

who is subject to an extended order for protection related to domestic violence to surrender, sell or transfer any firearms in that person’s possession while the order is in place except in certain circumstances where a firearm is necessary for employment. Procedures relating to the surrender, sale or transfer of firearms are provided in the bill. The court must inform a person who is convicted of battery constituting domestic violence or, under certain circumstances, a person convicted of stalking, that he or she is prohibited from owning, possessing or having a firearm under his or her control and order the person to permanently surrender, sell or transfer any firearm under his or her control. The penalty for violating these provisions is a category B felony.

If the offender does not own a firearm, the offender must acknowledge understanding of these provisions via affidavit to the court. If a person surrenders a firearm to a person designated by the court, the person must do so within 72 hours or one business day, whichever is later. The person who surrenders the firearm must provide the name and address of the person designated in the order, a written description of each firearm surrendered and the serial number of each firearm to the court and the appropriate local law enforcement agency. In instances where a firearm is sold or transferred to a licensed dealer, the dealer must provide a receipt detailing the transfer of the firearm, and whether the transfer is temporary or permanent; the offender must provide the receipt and the serial number of each firearm to the court and to law enforcement.

The bill also adds to the list of persons prohibited from possessing a firearm in Nevada any person who has been convicted in Nevada, or any other state, of a crime constituting domestic violence or stalking, and the court has entered a finding in the judgment of conviction or admonishment of rights or who is subject to an extended order for protection against domestic violence on or after October 1, 2017, while the order is in effect.

### **S.B. 169 (Chapter 375) Sexual Offenses**

Senate Bill 169 prohibits employees and contractors of and volunteers for certain entities from engaging in sexual conduct with children or young adults under the care, custody, control or supervision of the entity. The prohibition on public disclosure of the identity of sexual assault victims is expanded to include victims of employees, contractors or volunteers of various child welfare and juvenile justice agencies. A person who is 25 years of age or older, who is in a position of authority with one of these entities as an employee, contractor or volunteer, and who engages in sexual conduct with a person between 16 and 18 years of age with whom they have direct contact related to their duties is guilty of a category C felony. Persons who are married to each other and who engage in such sexual conduct are exempted from these provisions.

### **S.B. 259 (Chapter 564) DUI – Ignition Interlock Device**

Senate Bill 259 requires a person whose driver's license, permit or privilege has been revoked for suspicion of driving under the influence (DUI) to install, at his or her own expense, an ignition

interlock device in each vehicle the person owns or operates as a condition to obtaining a restricted license. A court must order a person convicted of an offense involving DUI of alcohol or a controlled substance to install an ignition interlock device, with certain exceptions. A juvenile court is authorized by this bill to order the installation of an ignition interlock device for a child convicted of an offense involving DUI of alcohol or a controlled substance. A person who provides a sample of his or her breath for an ignition interlock device for another person is guilty of a misdemeanor.

Finally, the bill increases the period of revocation of a license, permit or privilege for driving under the influence of alcohol or a controlled substance from 90 days to not less than 185 days for a first offense.

This measure is effective on June 12, 2017, for the purposes of adopting regulations and performing other preparatory administrative tasks and on October 1, 2018, for all other purposes.

### **S.B. 361 (Chapter 496) Domestic Violence**

Senate Bill 361 requires an employer to provide paid or unpaid leave to an employee who has been employed by the employer for at least 90 days and who is a victim of domestic violence or whose family or household member is a victim of domestic violence. The leave must be used within one year of the date on which the violence occurred, may be used consecutively or intermittently, and may be deducted from leave permitted by the federal Family and Medical Leave Act of 1993. An employer must maintain a record of leave days used by

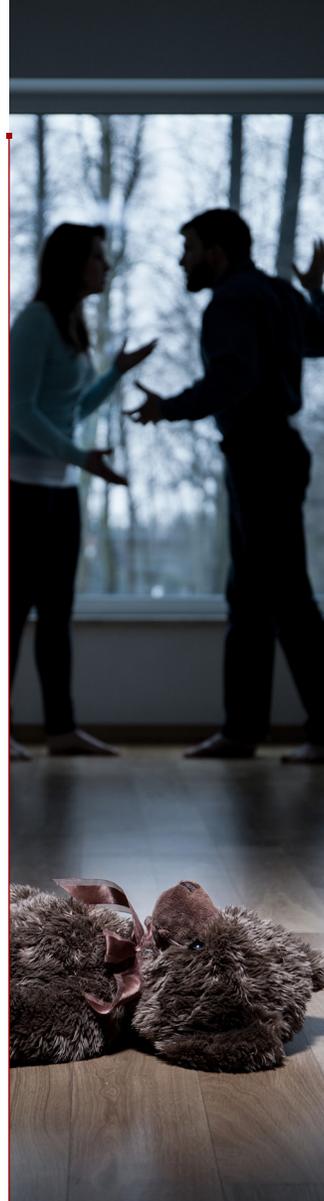
each employee for a two-year period and make those records available for inspection by the Labor Commissioner who shall prepare a bulletin setting forth the right to these benefits and require employers to post the bulletin in the workplace.

The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation may request evidence to support a claim for benefits, and the administrator is prohibited from disqualifying a person from receiving unemployment compensation benefits if:

1. The person left employment to protect himself or herself, or his or her family or household member; and
2. The person actively engaged in an effort to preserve employment.

An employer must provide reasonable accommodations for an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence and an employer may not condition employment on or take certain employment actions because the employee, or the employee's family or household member is a victim of domestic violence. The measure revises the definition of domestic violence.

This bill makes it a category B felony to commit battery constituting domestic violence if the person has been convicted previously of a felony in this state for committing battery constituting domestic violence or a similar violation in any other jurisdiction. Lastly, the bill clarifies that an officer may still arrest an individual for battery upon a cohabitant.



### **S.B. 362 (Chapter 116) Racketeering**

Senate Bill 362 provides that a crime related to racketeering includes:

- Forgery of a credit card or debit card;
- Obtaining and using the personal information of another person; and
- Establishing or possessing a financial forgery laboratory.

### **S.B. 451 (Chapter 583) Nevada Sentencing Commission**

Senate Bill 451 creates the Nevada Sentencing Commission. The duties of

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the Sentencing Commission include:

- Evaluating the effectiveness and fiscal impact of policies and practices related to sentences for felonies and misdemeanors in this state;
- Advising the legislature on proposed legislation; and
- Making recommendations with respect to matters relating to the elements of this state's system of criminal justice that affect the sentences imposed for felonies and gross misdemeanors.

## S.B. 473 (Chapter 263) Increased Penalties for Certain Sexual Offenses

Senate Bill 473 provides that an increased penalty for committing certain sexual offenses in the presence of a child under 18 years of age or a vulnerable person does not apply if the person committing the offense is less than 18 years of age.



## S.B. 488 (Chapter 569) Facilitating Sex Trafficking

Senate Bill 488 establishes the crime of facilitating sex trafficking and provides that a person is guilty of such a crime if he or she facilitates, arranges, provides or pays for the

transportation of a person to or within Nevada with the intent of inducing that person to engage in unlawful sexual conduct or prostitution or, if that person is a child, engaging in certain acts relating to pornography involving minors. Such a crime is punishable as a category B felony and a person found guilty of such a crime is subject to certain minimum and maximum terms of imprisonment depending on whether the victim is an adult or a child. If a person who is 18 years of age or younger commits the crime of facilitating sex trafficking and is prosecuted in a criminal proceeding as an adult, there is a rebuttable presumption that the person acted under duress.

A person is guilty of facilitating sex trafficking if he or she sells travel services that include or facilitate the travel of another person to Nevada with the knowledge that the other person is traveling to this state for the intent of engaging in sexual conduct with a victim of sex trafficking, soliciting a child who is a victim of sex trafficking or engaging in certain acts relating to pornography involving minors. Additionally, a person is guilty of facilitating sex trafficking if he or she travels to or within Nevada for the purpose of engaging in sexual conduct with the knowledge that the victim has been induced to engage in sexual conduct, prostitution or acts relating to pornography involving minors.

The definition of “victim” is revised to include a person who alleges that an act of human trafficking has been committed against the person, thereby

authorizing the person to assert the privilege of confidential communication between the person and a victim’s advocate.

## S.B. 541 (Chapter 586) Crimes Against First Responder

Senate Bill 541 provides that any person who willfully commits certain crimes against a first responder because of the fact that the victim is a first responder may, in addition to any penalty already prescribed by statute for the crime, be punished by imprisonment in the state prison for a term of not less than one year and not more than 20 years.

## JUVENILE CRIME AND DELINQUENCY

### A.B. 180 (Chapter 165) Juvenile Justice Bill of Rights

Assembly Bill 180 enacts the Juvenile Justice Bill of Rights. The measure sets forth certain rights of a child who is detained in a detention facility and requires the facility to inform the child of those rights. However, reasonable restrictions on the rights of a child may be imposed if those restrictions are necessary to preserve order, security or safety. A child who believes that his or her rights have been violated is authorized to raise and redress a grievance. Lastly, each detention facility must establish policies to ensure that a child who is detained has timely access to clinically appropriate psychotropic medication.

### A.B. 218 (Chapter 231) Offender Convicted as Adult for Offense Committed Before Offender was 18 Years of Age

Assembly Bill 218 revises provisions related to juvenile offenders. If an offender is

convicted as an adult for an offense committed before he or she was 18 years of age, the court may, after considering the differences between juvenile and adult offenders, reduce any mandatory minimum period of incarceration that the offender must serve by not more than 35 percent if the court determines that such a departure or reduction is warranted, given the age of the person and his or her prospects for rehabilitation.

### A.B. 251 (Chapter 308) Commutation of Sentence of Death or Imprisonment for Life

Assembly Bill 251 authorizes the State Board of Pardons Commissioners to commute a sentence of death or imprisonment in the state prison for life without the possibility of parole to a sentence that would allow parole if a person is convicted of any crime that the person committed when he or she was less than 18 years of age. This bill revises existing law to conform with the holding in *Miller v. Ignacio*, 112 Nev. 930.

### A.B. 341 (Chapter 174) Representation of Juveniles

Assembly Bill 341 authorizes an attorney who represents a child in a juvenile proceeding to consult and seek appointment from a social worker, a mental health professional, an educator or other expert the attorney deems appropriate. In addition, this measure urges the Nevada Supreme Court to adopt rules for attorneys who represent juveniles to ensure effective assistance of counsel in proceedings. Rules may include:

- Minimum requirements for courses, programs and continuing legal education in order to provide effective representation of juveniles;
- Standards for professional conduct specific to juvenile justice; and



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receiving it and then, upon completion of the test, include the DNA profile obtained from the genetic marker analysis in the State DNA Database and the Federal Bureau of Investigation's Combined DNA Index System. In addition, each forensic laboratory must submit a report to the Director of the Legislative Counsel Bureau for transmittal to the next session of the Legislature or to the Legislative Commission, as applicable. The bill also requires the Attorney General to designate a department or division of the Executive Branch to establish a statewide SAFE kit tracking program and sets forth requirements related to the program. The word "arrestee" is removed from the name of the Subcommittee to Review Arrestee DNA to reflect the subcommittee's expanded duties, which include evaluating and reviewing information relating to SAFE kit testing and tracking. The subcommittee also is required to report to the Advisory Commission on the Administration of Justice on matters relating to the submittal, storage, and testing of SAFE kits.

The measure authorizes a compensation officer of the Department of Administration to order the payment of compensation from the fund for the Compensation of Victims of Crime to a county for the reimbursement of costs associated with conducting forensic medical examinations of victims of sexual assault. Lastly, the bill appropriates \$3 million from the State General Fund to the Office of

the Attorney General for the purpose of making payments to forensic laboratories to reduce the backlog of SAFE kits that have not been tested.

Sections of this bill relating to the establishment of a SAFE kit tracking program are effective as of January 1, 2021. The remaining sections of the bill became effective on October 1, 2017.

## **A.B. 122 (Chapter 418) Compensation to Certain Victims of Crime**

Assembly Bill 122 removes provisions that prohibit the State Board of Examiners from awarding compensation to certain victims of crime who do not meet certain citizenship or residency requirements.

## **A.B. 145 (Chapter 111) Extending Statute of Limitations for Filing Civil Action to Recover Damages Arising Out of Sexual Abuse or Pornography**

Assembly Bill 145 extends the statute of limitations for filing a civil action to recover damages arising out of sexual abuse committed against a person less than 18 years of age. The time is extended from 10 years to 20 years after the person reaches 18 years of age, or discovers or should have discovered that an injury was caused by the sexual abuse, whichever is later.

In addition, the bill extends the statute of limitations for filing a civil action to recover damages arising out of the appearance in pornographic material before 16 years of age. The time is extended from three years to 20 years after the person reaches 18 years of age or after a court enters a verdict in a related criminal case, whichever is later.

Lastly, if the cause of action has not yet expired, then the statute of limitations is extended, but if the cause of action has expired, it cannot be revived.

## **A.B. 247 (Chapter 109) Early Termination of Rental Agreement by Victim of Certain Crimes**

Assembly Bill 247 provides for the early termination of a rental agreement if a tenant, cotenant or household member is a victim of harassment, sexual assault or stalking. The measure further prohibits a landlord from taking certain retaliatory actions against a victim who terminates a rental agreement for these reasons. **NL**



### **SCOTT WASSERMAN**

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