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Criminal Procedure; Admissibility of Intercepted Communications

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when a defendant is committed because of insanity.⁴¹ Under existing law, a defendant acquitted by reason of insanity must be committed to the custody of the Administrator of the Mental Hygiene and Mental Retardation Division of the Department of Human Resources.⁴² Chapter 687 requires the Administrator to report and the court to proceed in the same manner as if the person were committed because of incompetency to stand trial.⁴³ In determining whether the defendant should be released, however, the Administrator, the sanity commission, and the district judge must determine if the person has recovered from the mental illness or has improved to such an extent that he or she no longer qualifies as a mentally ill person⁴⁴ for purposes of involuntary court-ordered admission to a mental health facility.⁴⁵

41. *See id.* §175.521.

42. *See id.* *See also* Eule, *The Presumption of Sanity: Bursting the Bubble*, 25 U.C.L.A. L. REV. 637, 659 (1978) (indeterminate confinement for those who pose a danger to others and have been acquitted by reason of insanity has become commonplace).

43. *See* N.R.S. §175.521.

44. *See id.* §433.194 (definition of mentally ill for purposes of involuntary court-ordered admission to a mental health facility).

45. *See id.* §175.521 2.

Criminal Procedure; admissibility of intercepted communications

N.R.S. §48.— (new).

SB 31 (Committee on Judiciary); STATS 1981, Ch 66

Currently, there are comprehensive provisions governing the interception¹ of wire² and oral³ communications.⁴ Under existing law, an intercepted communication obtained by means authorized under the laws of Nevada or the United States,⁵ or evidence derived from the lawfully intercepted communication, may be disclosed during sworn testimony in a criminal proceeding in any state or federal court or before a federal or state grand jury.⁶

Chapter 66 expands the use of intercepted communications by providing that the contents of any communication lawfully intercepted

1. *See* N.R.S. §179.430 (definition of intercept).

2. *See id.* §179.455 (definition of wire).

3. *See id.* §179.440 (definition of oral).

4. *See generally id.* §§179.410-179.515.

5. *See generally* 18 U.S.C. §§2510-2520 (regulating the interception and use of oral and wire communications).

6. *See* N.R.S. §179.465 2.

under federal law or the law of another jurisdiction if the interception occurred within the other jurisdiction,⁷ and any evidence derived therefrom are admissible in actions or proceedings in any Nevada court.⁸ Furthermore, Chapter 66 specifically establishes that the intercepted communication will be admissible before Nevada administrative bodies including, but not limited to, the Nevada Gaming Commission and the State Gaming Control Board.⁹ In adopting this provision, the legislature apparently attempts to clarify the admissibility of evidence of intercepted communications obtained within the territorial limits of the United States or other jurisdictions in administrative as well as other specified proceedings.¹⁰ Finally, Chapter 66 reinforces existing law by providing that an otherwise privileged communication will not lose that privileged character by reason of any interception.¹¹

7. *See id.* §48.— (before, on, or after July 1, 1981).

8. *See id.*

9. *See id.*

10. *See* STATUTES OF NEVADA 1981, c. 66, §2, at —.

11. *Compare* N.R.S. §48.— *with* N.R.S. §179.465 3.

Criminal Procedure; appeal of orders on suppression of evidence and change of venue

N.R.S. §§2.090, 2.110, 174.455, 177.015 (amended).

AB 659 (Committee on Judiciary); STATS 1981, Ch 702

Prior to the enactment of Chapter 702, an aggrieved party in a criminal action, whether the state or the defendant, could appeal to the supreme court from an order of the district court granting a motion to dismiss, a motion for acquittal,¹ a motion in arrest of judgment, or granting or refusing a new trial.² Chapter 702 permits the *state*, upon a showing of good cause, to appeal to the supreme court from a pretrial order by the district court granting or denying a motion to suppress evidence in a criminal action.³ If the appeal is allowed, or if otherwise necessary, the supreme court may order the trial stayed for the time it deems necessary.⁴ Chapter 702 requires the state to file notice of the appeal with the district court clerk within two judicial days, and with the supreme court clerk within five judicial days, after the district court

1. N.R.S. §177.015 1(b).

2. *See generally id.* §174.125.

3. *Id.* §177.015 2 (the supreme court may establish procedures for requiring the state to make a preliminary showing of the propriety and necessity of the appeal).

4. *Id.*