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Criminal Procedure; Appeal of Orders on Suppression of Evidence and Change of Venue

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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.*

ruling.⁵ The district court clerk must notify the defendant's counsel or, if acting pro se,⁶ the defendant, within two judicial days after filing the notice of appeal.⁷ A defendant, however, may appeal only from a final judgment or verdict in a criminal case.⁸

Prior to the enactment of Chapter 702, the law did not distinguish between criminal and civil actions regarding supreme court jurisdiction to review an order granting or refusing to change the place of trial.⁹ Chapter 702 provides that the supreme court has jurisdiction to review on appeal from a final judgment¹⁰ in a criminal action any order changing or refusing to change the place of trial of the action or proceeding when the original matter in dispute is within the general jurisdiction of the court.¹¹ In contrast, the supreme court has jurisdiction to review an order in a civil action changing or refusing to change the place of trial in cases when the court has appellate jurisdiction¹² but only on direct appeal from the order.¹³ Under existing law, the supreme court may reverse, affirm, or modify the judgment or order appealed from as to any or all of the parties, and if it deems necessary, order a new trial.¹⁴ Under Chapter 702, the supreme court may order that the new trial be conducted in the proper place.¹⁵

5. *Id.*

6. BLACK'S LAW DICTIONARY 1099 (5th ed. 1979) (definition of pro se).

7. N.R.S. §177.015 2.

8. *Id.* §177.015 3.

9. See NEVADA COMPILED LAWS 1929, §8375 (enacting N.R.S. §2.090).

10. N.R.S. §2.090 1. See *State v. Aslup*, 68 Nev. 45, 47-8, 226 P.2d 801, 802 (1951). See generally *State v. Viers*, 86 Nev. 385, 469 P.2d 53 (1970); NEV. CONST. art. VI, §4.

11. See N.R.S. §2.090 1.

12. See *id.* §§2.090 2, 2.110.

13. See *id.* §2.110.

14. See *id.*

15. See *id.*

Criminal Procedure; search warrant—oral statements and authorization

N.R.S. §§179.045, 179.095 (amended).

AB 405 (Committee on Judiciary); STATS 1981, Ch 685

Prior to the enactment of Chapter 685, a magistrate could issue a search warrant only upon a sworn affidavit setting forth the grounds for the warrant.¹ Chapter 685 provides that in lieu of a sworn affidavit, an application for a search warrant may be based upon an oral statement

1. STATUTES OF NEVADA 1975, c. 34, §1, at 39 (amending N.R.S. §179.045).