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## Criminal Procedure; Definition of Convicted Persons for Purposes of Registration

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ment status and history; (3) family relationships; (4) reputation, character, and mental condition; (5) prior record; (6) identity of community members vouching for defendant's reliability; (7) nature of the offense; and (8) any other factors bearing on the risk that defendant may willfully fail to appear.<sup>12</sup>

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12. *See id.* *See also* Application of Floyd, 413 F. 574, 576 (D. Nev. 1976).

### **Criminal Procedure; definition of convicted persons for purposes of registration**

N.R.S. §207.080 (amended).

SB 35 (Committee on Judiciary); STATS 1981, Ch 594

Current law provides that certain convicted persons, including convicted felons<sup>1</sup> and those convicted of specific enumerated crimes whether or not a felony,<sup>2</sup> may not remain in the state of Nevada for more than forty-eight hours without registering with the sheriff of any county or the chief of police of any city within that forty-eight hour period.<sup>3</sup> Convicted persons residing outside the state also must register if they enter the state on five or more occasions during any thirty-day period.<sup>4</sup> This registration provides law enforcement officials a current record of the identity and location of these persons.<sup>5</sup> Existing law defines the term "convicted person" as any person convicted of a felony within the state of Nevada,<sup>6</sup> or of other specified crimes, whether in Nevada or elsewhere.<sup>7</sup> Prior law also included persons convicted in any place other than Nevada of any offense that, had it been committed in Nevada, would have been a felony.<sup>8</sup> Chapter 594 modifies the definition to include persons convicted of an offense punishable by imprisonment for one year or more, or those convicted outside the state of a felony as defined at the situs of conviction.<sup>9</sup>

Chapter 594 may be open to constitutional attack as violating the

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1. *See* N.R.S. §207.080 1(a).

2. *See id.* §207.080 1(b), (c), (d).

3. *Id.* §207.090 1.

4. *See id.* §207.090 2.

5. *See* *Atteberry v. State*, 84 Nev. 213, 218, 438 P.2d 789, 791 (1968).

6. *See* N.R.S. §207.080 1(a).

7. *See id.* §207.080 1(b), (c), (d) (Chapter 594 adds N.R.S. §§465.080-465.085 to the list of crimes).

8. *See* STATUTES OF NEVADA 1979, c. 524, §6, at 1019 (enacting N.R.S. §207.080 1(a)).

9. *See* N.R.S. §207.080 1(a).

due process provisions of the United States<sup>10</sup> and Nevada<sup>11</sup> Constitutions. Similar registration statutes have been challenged and found to violate due process based upon the defendant's lack of actual knowledge of the requirement of registration.<sup>12</sup> This potential due process violation exists because Chapter 594 contains no specific notice provisions.<sup>13</sup> This may be the case, for example, if Chapter 594 is applied to those persons presently in the state of Nevada who have been previously convicted of an out-of-state felony, not defined as a felony in Nevada. Prior to the enactment of Chapter 594, these persons were not required to register.<sup>14</sup> Absent actual knowledge of the requirements imposed by Chapter 594, these persons may have already failed to register within the prescribed forty-eight hour period<sup>15</sup> and therefore would be guilty of a misdemeanor.<sup>16</sup>

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10. See generally U.S. CONST. amend. V, XIV.

11. See generally NEV. CONST. art. I, §8.

12. See *Lambert v. California*, 355 U.S. 225 (1957).

13. See N.R.S. §207.080.

14. See STATUTES OF NEVADA 1979, c. 524, §6, at 1019 (enacting N.R.S. §207.080 1(a)).

15. See N.R.S. §207.090 1.

16. See *id.* §§207.140, 207.150.

## Criminal Procedure; statute of limitations—gross misdemeanors

N.R.S. §§171.090, 171.095 (amended).

SB 306 (Committee on Judiciary); STATS 1981, Ch 414

Prior to the enactment of Chapter 414 all misdemeanors<sup>1</sup> were subject to a one year statute of limitations.<sup>2</sup> Chapter 414 distinguishes gross misdemeanors<sup>3</sup> from other misdemeanors<sup>4</sup> for the purpose of establishing the statute of limitations.<sup>5</sup> The state now has two years after the commission of a gross misdemeanor to find an indictment or file an information or complaint.<sup>6</sup> The statute of limitations for other misdemeanors continues to be one year.<sup>7</sup>

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1. See N.R.S. §193.120 (definition of misdemeanors).

2. See STATUTES OF NEVADA 1981, c. 414, §1, at — (amending N.R.S. §171.090). See generally *Melvin v. Sheriff*, 92 Nev. 146, 546 P.2d 1294 (1976), *Cherubini v. Sheriff*, 92 Nev. 111, 546 P.2d 598 (1976), *Bonnefant v. Sheriff*, 84 Nev. 150, 437 P.2d 471 (1968) (application of one year statute of limitations to gross misdemeanors).

3. See N.R.S. §193.120 4 (definition of gross misdemeanor). See also *id.* §193.140 (punishment for commission of a gross misdemeanor).

4. See *id.* §193.120 3.

5. See *id.* §171.090.

6. See *id.* §171.090 1. See also *id.* §171.095 (two year statute of limitations accrues after discovery of a gross misdemeanor committed in a secret manner).

7. See *id.* §171.090 2.