Criminal Procedure; Definition of Convicted Persons for Purposes of Registration

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Criminal Procedure

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 and those convicted of specific enumerated crimes whether or not a felony, 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. Convicted persons residing outside the state also must register if they enter the state on five or more occasions during any thirty-day period. This registration provides law enforcement officials a current record of the identity and location of these persons. Existing law defines the term "convicted person" as any person convicted of a felony within the state of Nevada, or of other specified crimes, whether in Nevada or elsewhere. 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. 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.

Chapter 594 may be open to constitutional attack as violating the

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.
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 and Nevada 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. This potential due process violation exists because Chapter 594 contains no specific notice provisions. 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. 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 and therefore would be guilty of a misdemeanor.

10. See generally U.S. Const. amend. V, XIV.
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 were subject to a one year statute of limitations. Chapter 414 distinguishes gross misdemeanors from other misdemeanors for the purpose of establishing the statute of limitations. The state now has two years after the commission of a gross misdemeanor to find an indictment or file an information or complaint. The statute of limitations for other misdemeanors continues to be one year.

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

Selected 1981 Nevada Legislation