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Criminal Procedure; Attendants for Prosecuting Witnesses

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secure waiting area for cooperating victims and witnesses.²¹ This area must not be used by the defendant, the defendant's family and friends, or members of the jury.²² In addition, if the court has custody of any stolen or other personal property²³ belonging to the victim or witness, the court must (1) make available a list describing the property, unless disclosure would seriously impede the investigation of the crime,²⁴ or (2) return the property expeditiously when it is no longer needed as evidence.²⁵

Finally, under Chapter 368, the prosecuting attorney, sheriff, or chief of police must inform the victim or witness²⁶ of (1) the defendant's release from custody prior to trial,²⁷ (2) the amount of bail required for the defendant's release,²⁸ and (3) the final disposition of the criminal case directly involving the victim or witness.²⁹ Furthermore, if the defendant was convicted of a felony and was subsequently imprisoned, the warden must, if requested,³⁰ notify the victim or witness when the defendant is released from prison.³¹

21. See *id.* c. 368, §5(1), at 890.

22. *Id.*

23. NEV. REV. STAT. §169.145. Personal property includes money, goods, chattels, choses in action, and evidences of debt. *Id.*

24. 1983 Nev. Stat. c. 368, §5(2)(a), at 890. The victim or witness must make a written request for this list. *Id.*

25. *Id.* c. 368, §5(2)(b), at 890.

26. *Id.* c. 368, §7(1), at 890. The victim or witness must request this information in writing. *Id.*

27. *Id.* c. 368, §7(1)(a), at 890.

28. *Id.* c. 368, §7(1)(b), at 890.

29. *Id.* c. 368, §7(1)(c), at 890.

30. *Id.* c. 368, §7(2), at 890. Chapter 368, however, relieves the warden from providing this information if a written request with a current address is not received from the victim or witness. *Id.*

31. *Id.*

Criminal Procedure; attendants for prosecuting witnesses

NEV. REV. STAT. §178.— (new); §171.204 (amended).
SB 386 (Foley); 1983 STAT. Ch 369

Chapter 369 enacts provisions that affect the rights of prosecuting witnesses.¹ These provisions provide that in a case involving the violation of a specified sex crime,² a prosecuting witness may designate an attendant to be present at the preliminary hearing and trial when the

1. See 1983 Nev. Stat. c. 369, §1, at 891.

2. *Id.* c. 369, §1(1), at 891. These specified crimes include sexual assault, statutory sexual seduction, incest, lewdness, and indecent exposure. *Id.*

witness testifies for the purpose of providing support.³ The attendant must not be (1) a member of the news or broadcast media, unless the attendant is also the parent, child, brother or sister of the prosecuting witness⁴, or (2) a witness in the proceedings.⁵

Under Chapter 369, an attendant who influences or affects the testimony of the prosecuting witness must be excluded by the court.⁶ Additionally, a defendant may move to exclude a particular attendant on a showing of good cause.⁷ In apparent conflict with this provision,⁸ Chapter 369 changes existing law⁹ by including attendants within the class of persons absolutely protected from being excluded from hearings upon a motion by the defendant.¹⁰

These conflicting provisions pertain to preliminary hearings or examinations only, while the provisions of Chapter 369, as they relate to trials, are not in conflict.¹¹ Furthermore, the apparent intent of the legislature is that the general prohibition of existing law preventing the exclusion of attendants should not be used to circumvent the more specific provision of Chapter 369 authorizing the exclusion of an attendant for good cause.¹²

3. *Id.*

4. *Id.* c. 369, §1(2), at 891. Chapter 369 prohibits attendants from taking notes during the hearing or trial. *Id.*

5. *Id.* c. 369, §1(1), at 891.

6. *Id.* c. 369, §1(3), at 891. Chapter 369 also prohibits the attendant from *attempting* to influence the witness' testimony. If an attendant is excluded for any reason, the prosecuting witness may designate another attendant. *Id.* c. 369, §1(3),(4) at 891.

7. *Id.* c. 369, §1(4), at 891. The court must hear the defendant's motion out of the presence of the jury, if any. *Id.*

8. Compare NEV. REV. STAT. §171.204 (amended by 1983 Nev. Stat. c. 369, §2, at 891) with 1983 Nev. Stat. c. 369, §1(4), at 891.

9. Compare NEV. REV. STAT. §171.204 (amended by 1983 Nev. Stat. c. 369, §2, at 891) with 1969 Nev. Stat. c. 364, §1, at 628-29 (amending NEV. REV. STAT. §171.204).

10. NEV. REV. STAT. §171.204 (amended by 1983 Nev. Stat. c. 369, §2, at 891).

11. See 1983 Nev. Stat. c. 369, §1(1), at 891; see NEV. REV. STAT. §171.204 (amended by 1983 Nev. Stat. c. 369, §2, at 891); see also Telephone conversation with Mr. Lorne Malkiewich, Legislative Counsel Bureau attorney (June 29, 1983) (notes on file at the *Pacific Law Journal*) [hereinafter cited as Telephone conversation].

12. See Telephone conversation, *supra* note 11.

Criminal Procedure; witness immunity

NEV. REV. STAT. §178.572 (amended).

AB 246 (Committee on Judiciary); 1983 STAT. Ch 497

Under prior law, in any grand jury investigation, trial in a court of