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Criminal Procedure; Complaints Upon Declaration

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sumption of unlawful intent¹⁰ with a *reasonable inference*¹¹ of unlawful intent.¹²

Prior law also provided that any person who leased or rented a vehicle, and willfully failed to return the vehicle to its owner within a seventy-two hour period after the expiration of the lease or rental agreement, was presumed to have embezzled the vehicle.¹³ This presumption was expressly declared unconstitutional by the Nevada Supreme Court in *Sheriff v. Boyer*,¹⁴ because the presumption relieved the state of its burden of proving the crime of vehicle embezzlement.¹⁵ In apparent response to the *Boyer* decision, Chapter 294 was enacted to replace the statutory presumption of vehicle embezzlement with a reasonable inference of guilt.¹⁶ In addition, Chapter 294 makes the identical change in the provisions relating to vehicle larceny.¹⁷

Finally, under existing law, burglary is defined as the unlawful entry into specified residences, buildings, and conveyances, with the intent to commit grand or petit larceny or any felony therein.¹⁸ Chapter 294 expands the definition of burglary to include the unlawful entry into any airplane, glider, or boat.¹⁹

10. See generally Comment, *Statutory Criminal Presumptions*, 18 UCLA L. REV. 157, 164 (1970)(discussion of the constitutional issues involved in statutes that presume intent).

11. *Ex parte Kline*, 71 Nev. 124, 134, 282 P.2d 367, 371 (1955) (an inference may be defined as a deduction by the reason of the jury from the facts proved, without an express direction of law).

12. Compare NEV. REV. STAT. §205.065 (amended by 1983 Nev. Stat. c. 294, §2, at 718) with 1959 Nev. Stat. c. 22, §1, at 19 (amending NEV. REV. STAT. §205.065).

13. 1963 Nev. Stat. c. 234, §1, at 393 (enacting NEV. REV. STAT. §205.312).

14. 97 Nev. 599, 637 P.2d 834 (1981).

15. *Id.* at 601, 637 P.2d at 838.

16. Compare NEV. REV. STAT. §205.312 (amended by 1983 Nev. Stat. c. 294, §4, at 718) with 1963 Nev. Stat. c. 234, §1, at 393 (enacting NEV. REV. STAT. §205.2715).

17. Compare *id.* §205.2715 (amended by 1983 Nev. Stat. c. 294, §3, at 718) with 1973 Nev. Stat. c. 1686, §2, at 6698 (enacting NEV. REV. STAT. §205.2715). The *presumption* that one in possession of another's vehicle, without consent, has taken and carried it away, is changed to a *reasonable inference* of this unlawful action. Compare NEV. REV. STAT. §205.2715 (amended by 1983 Nev. Stat. c. 294, §3, at 718) with 1973 Nev. Stat. c. 1686, §2, at 6698 (enacting NEV. REV. STAT. §205.2715).

18. NEV. REV. STAT. §205.060.

19. Compare *id.* §205.060 (amended by 1983 Nev. Stat. c. 294, §1, at 717) with 1981 Nev. Stat. c. 295, §1, at 551 (amending NEV. REV. STAT. §205.060).

Criminal Procedure; complaints upon declaration

NEV. REV. STAT. §§171.102, 171.1778, 484.817 (amended).

SB 191 (Committee on Judiciary); 1983 STAT. Ch 188

Prior law provided that a criminal complaint must have been upon

oath before a magistrate or a notary public.¹ Chapter 188 now requires a criminal complaint to be made upon either (1) an oath before a magistrate or notary public,² or (2) a declaration that is made subject to the penalty for perjury.³

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1. 1969 Nev. Stat. c. 227, §1, at 387 (amending NEV. REV. STAT. §171 at 102).
 2. NEV. REV. STAT. §171.102(1) (amended by 1983 Nev. Stat. c. 188, §1(1), at 446).
 3. *Id.* 3171.102(2) (amended by 1983 Nev. Stat. c. 188, §1(2), at 446).

Criminal Procedure; speedy trial and motion for new trial

NEV. REV. STAT. §174.— (new); 176.515, 178.594 (amended).
SB 220 (Committee on Judiciary); 1983 STAT. Ch 571

Under existing law, a defendant has the right to a speedy trial.¹ Unless a defendant is brought to trial within sixty days after an indictment or the filing of an information,² the court may dismiss the case.³ Chapter 571 gives the state the right to demand a trial within sixty days after the arraignment.⁴ The court may deny this request, however, and postpone the trial if more time is needed by the defendant to prepare, or if the number of cases pending in the court prohibits the acceptance of the case for trial.⁵ Chapter 571 incorporates into the order of disposition of issues on the trial calendar situations in which the state has demanded a trial.⁶

Under existing law, courts may grant a new trial when new evidence has been discovered.⁷ Prior law required the motion for a new trial to be made within two years after final judgment.⁸ The Nevada Supreme Court recently held that a judgment becomes final (1) if no appeal is taken on the last date for taking an appeal, or (2) if an appeal is taken, on the date when the appeal is terminated.⁹ In an apparent response to this decision, Chapter 571 provides a new standard for granting a mo-

1. *See* State v. Squire, 56 Nev. 386, 399, 54 P.2d 227, 232 (1936); *In re* Hansen, 79 Nev. 492, 495, 387 P.2d 659, 660 (1963); U.S. CONST. amend. VI.

2. NEV. REV. STAT. §173.015 (description of indictment or information).

3. *Id.* §178.556. A defendant may waive his right to a speedy trial either by asking for more time or by conduct that indicates the defendant is merely trying to delay the prosecution of the case. *See* Hampton v. Sheriff, 86 Nev. 157, 159, 465 P.2d 615, 616 (1970).

4. 1983 Nev. Stat. c. 571, §1, at 1670; *see* NEV. REV. STAT. §§174.015-.025 (arraignment procedures).

5. 1983 Nev. Stat. c. 571, §1, at 1671.

6. *Compare* NEV. REV. STAT. §178.594 (amended by 1983 Nev. Stat. c. 571, §3, at 1671) with 1967 Nev. Stat. c. 523, §379, at 1458 (enacting Nev. Rev. Stat. §178.594).

7. NEV. REV. STAT. §176.515(1).

8. 1967 Nev. Stat. c. 523, §280, at 1443 (enacting NEV. REV. STAT. §176.515).

9. *See* Ybarra v. State, 97 Nev. 247, 249, 628 P.2d 297, 298 (1981).