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Criminal Procedure; Forfeiture of Property

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also include abusing the court process or proceedings² and falsely pretending to act under a court order or process.³

2. Compare *id.* §22.010 (amended by 1983 Nev. Stat. c. 350, §1, at 843) with 1911 NEV. REV. STAT. c. 50, §5394, at 1585 (enacting NEV. REV. STAT. §22.010).

3. NEV. REV. STAT. §22.010 (amended by 1983 Nev. Stat. c. 350, §1, at 843). Additionally, Chapter 350 recodifies existing contempt provisions relating to persons occupying land that they have no legal right to possess. See *id.* §22.020 (amended by 1983 Nev. Stat. c. 350, §2, at 844) (incorporating 1911 NEV. REV. LAWS c. 50, §5395, at 1586).

Criminal Procedure; forfeiture of property

NEV. REV. STAT. §179.— (new); §217.260 (amended).
AB 275 (Malone); 1983 STAT. Ch 449

Under existing law personal property will be subject to forfeiture¹ if it is used or intended to be used in the commission of a crime involving controlled substances.² Chapter 449 creates similar forfeiture provisions for personal property³ used in the commission or attempted commission of murder, sexual assault, robbery, kidnapping, burglary, grand larceny, or pandering.⁴ All conveyances,⁵ including aircraft, vehicles, or vessels, used or intended for use during the commission of a felony will also be subject to forfeiture.⁶ These forfeiture provisions, however, will not apply if (1) a common carrier⁷ is used and the owner or person in charge of the conveyance is not a consenting party or privy to the felony⁸ (2) the act or omission was committed without the knowledge or consent of the owner of the conveyance,⁹ or (3) the conveyance is subject to the interests of a bona fide security holder and the secured party did not have knowledge of, or did not consent to, the crime.¹⁰

Chapter 499 provides that property subject to forfeiture may be seized by a law enforcement agency upon the issuance of process by a

1. NEV. REV. STAT. §453.301 (property subject to forfeiture).

2. *Id.* §§453.301, 453.306.

3. 1983 Nev. Stat. c. 449, §2, at 1135 (personal property includes any tool, substance, weapon, machine, money or security used as a instrumentality in the commission of one of the specified crimes).

4. See *id.* c. 449, §2(1), at 1135. Compare *id.* with NEV. REV. STAT. §453.301, §453.306 (provisions relating to controlled substances).

5. In the context of this statute, conveyance is apparently used to mean some means of transportation. See 1983 Nev. Stat. c. 49, §2(2), at 1135.

6. *Id.*

7. See NEV. REV. STAT. §706.036, §706.041, §706.046 (types of common carriers).

8. 1983 Nev. Stat. c. 449, §2(2)(a), at 1135; see also *One 1978 Chevrolet Van v. County of Churchill*, 97 Nev. 510, 512, 634 P.2d 1208, 1209 (1981) (application of similar provisions to controlled substances).

9. 1983 Nev. Stat. c. 449, §2(2)(b), at 1135.

10. *Id.* c. 449, §2(2)(c), at 1135.

magistrate having jurisdiction over the property.¹¹ A seizure without process may be made, however, if the seizure is incident to an arrest¹² or the law enforcement agency has probable cause to believe that the property was used in a manner that would cause the property to be subject to forfeiture.¹³ Forfeiture proceedings for property seized without process must begin promptly, and take precedence over other proceedings.¹⁴

Furthermore, under Chapter 449 the seizing agency may place the property under seal,¹⁵ remove it to a designated storage place,¹⁶ or remove it for disposal if authorized by statute.¹⁷ Upon a decision by the court that the seized property is forfeited, the seizing agency may retain the property for official use,¹⁸ sell property that is not required to be destroyed by law,¹⁹ or remove the property for disposition.²⁰

11. *Id.* c. 449, §3(1), at 1135.

12. *Id.* c. 449 §3(2)(a), at 1135.

13. *Id.* c. 449, §3(2)(b), at 1135; *see also* *One 1970 Chevrolet v. Nye County*, 90 Nev. 31, 34, 518 P.2d 38, 40 (1974) (application of similar provisions to controlled substances).

14. 1983 Nev. Stat. c. 449, §3(3), at 1135. Once the property is seized, it is in the custody of the law enforcement agency, subject only to the court having jurisdiction over the property. If the seizing agency does not file a complaint for forfeiture within sixty days from the time of seizure, the property will be subject to an action to claim delivery. *Id.*

15. *Id.* c. 449, §3(4)(a), at 1136.

16. *Id.* c. 449, §3(4)(b), at 1136.

17. *Id.* c. 449, §3(4)(c), at 1136.

18. *Id.* c. 449, §3(5)(a), at 1136.

19. *Id.* c. 449, §3(5)(b), at 1136.

20. *Id.* c. 449, §3(5)(c), at 1136.

Criminal Procedure; interception of inmate telephone calls

NEV. REV. STAT. §§209.— (new); §200.620 (amended).
SB 117 (Committee on Judiciary); 1983 STAT. Ch 287

Existing law prohibits the interception¹ of wire communications² unless (1) the interception is made with the consent of the parties to the communication,³ (2) a court order is obtained,⁴ or (3) exigent circumstances exist and it is impractical to obtain a court order before the interception.⁵ In addition, existing law does not apply to a business pro-

1. NEV. REV. STAT. §179.430 (definition of intercept).

2. *Id.* §§179.455, 200.610(2) (definition of wire communication).

3. *Id.* §200.620(1)(a).

4. *Id.* §§179.410.515.

5. *Id.* §200.620(1)(b). The interception is subject to NEV. REV. STAT. §200.620(3) requiring ratification by a supreme court judge or a district court judge within 72 hours of the interception. Ratification is possible only when (1) an emergency situation exists and it is impractical to obtain a court order, and (2) except for the absence of a court order, the interception meets the require-