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Criminal Procedure; residential confinement

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Criminal Procedure; use of closed-circuit television

NEV. REV. STAT. § 178.388 (amended).
AB 129 (Dini & Sader); 1987 STAT. Ch 760

Under existing law, the defendant must be present at the arraignment and at every stage of the trial, including the impaneling of the jury, the return of the verdict and the imposition of sentence.¹ Existing law, however, allows the defendant to consent to be absent in specified proceedings.² Under Chapter 760, the court may allow the defendant to be absent only if the court determines that consent was given by the defendant with full awareness of all constitutional rights.³ Chapter 760 also provides that the presence of the defendant is not required if the court provides closed-circuit television during the proceeding to facilitate communication between the court and the defendant.⁴ Finally, if closed-circuit television is provided, members of the news media may observe and record the proceedings from both locations unless the court specifically provides otherwise.⁵

SAW

1. NEV. REV. STAT. § 178.388 1. In the prosecution for an offense not punishable by death, the defendant's voluntary absence, after being present at the commencement of trial, must not prevent the trial from continuing or prevent the return of the verdict. *Id.* § 178.388 2. The defendant's presence is not required while instructing the jury. *Id.* § 178.388 5 (amended by 1987 Nev. Stat. ch. 760, sec. 1, at ____).

2. *Id.* § 178.388 3 (amended by 1987 Nev. Stat. ch. 760, sec. 1, at ____) (the defendant must provide written consent and applies to proceedings involving offenses punishable by confinement for not more than one year or by fines).

3. 1987 Nev. Stat. ch. 760, sec. 1, at ____ (amending NEV. REV. STAT. § 178.388 3).

4. *Id.* sec. 1, at ____ (amending NEV. REV. STAT. § 178.388).

5. *Id.*

Criminal Procedure; residential confinement

NEV. REV. STAT. §§ 4.____, 5.____, 176.____, 213.____ (new); §§ 176.175, 176.221, 213.107 (amended).
SB 88 (Shaffer); 1987 STAT. Ch 804

Under existing law, if a probationer is arrested in another judicial

district, the court¹ that granted probation may assign the case to the district court where the arrest took place.² The court that retains jurisdiction may continue or revoke the probation or suspension of the sentence, or cause the sentence to be executed.³ With the enactment of Chapter 804, the court retaining jurisdiction is also permitted to order the probationer to a term of residential confinement.⁴ In addition, Chapter 804 provides that a justice of the peace or a municipal judge may sentence a person convicted of a misdemeanor to a term of residential confinement in lieu of imposing any penalty other than the minimum sentence mandated by statute.⁵ Chapter 804 further provides that if a person violates a condition of probation, the court may order the person to a term of residential confinement in lieu of causing the sentence to be executed.⁶ Furthermore, if a parolee violates a condition of parole, the State Board of Parole Commissioners (Board)⁷ may order the parolee to a term of residential confinement in lieu of suspending parole and ordering reconfinement.⁸ In addition, under Chapter 804 no person may be sentenced to a term of residential confinement unless they agree to the sentence.⁹

1. See NEV. REV. STAT. § 176.175 2 (amended by 1987 Nev. Stat. ch. 804, sec. 6, at ____ (definition of court)).

2. NEV. REV. STAT. § 176.221 (amended by 1987 Nev. Stat. ch. 804, sec. 7, at ____ (the court in the district where the arrest took place must also consent to the assignment)).

3. *Id.*

4. 1987 Nev. Stat. ch. 804, sec. 7, at ____ (amending NEV. REV. STAT. § 176.221). Residential confinement means the confinement of persons convicted of a crime to their place of residence under the terms and conditions established by the sentencing court. *Id.* sec. 6, at ____ (enacting NEV. REV. STAT. § 176.____). A term of residential confinement may not be longer than the sentence imposed by the court. *Id.* sec. 2, at ____ (enacting NEV. REV. STAT. § 176. ____).

5. *Id.* sec. 10, at ____ (enacting NEV. REV. STAT. § 4.____); *id.* sec. 16, at ____ (enacting NEV. REV. STAT. § 5.____). In determining whether to order a person to a term of residential confinement, the justice of the peace or municipal judge must consider the criminal record of the defendant and the seriousness of the crime committed. *Id.* sec. 10, at ____ (enacting NEV. REV. STAT. § 4.____); *id.* sec. 16, at ____ (enacting NEV. REV. STAT. § 5.____). The term of residential confinement, together with the term of any minimum required sentence, may not exceed the maximum sentence that could have been imposed for the offense. *id.* sec. 10, at ____ (enacting NEV. REV. STAT. § 4.____); *id.* sec. 16, at ____ (enacting NEV. REV. STAT. § 5.____).

6. *Id.* sec. 2, at ____ (enacting NEV. REV. STAT. § 176.____). The court must consider the criminal record of the person and the seriousness of the crime committed. *Id.* The term of residential confinement may not be longer than the sentence imposed by the court. *Id.*

7. NEV. REV. STAT. § 176.175 1 (amended by 1987 Nev. Stat. ch. 804, sec. 6, at ____ (definition of Board)).

8. 1987 Nev. Stat. ch. 804, sec. 21, at ____ (enacting NEV. REV. STAT. § 176.____). The Board must consider the criminal record of the person and the seriousness of the crime committed. *Id.* The Board may not order a parolee to a term longer than the unexpired term of the parolee's original sentence. *Id.*

9. *Id.* sec. 2, at ____ (enacting NEV. REV. STAT. § 176.____); *id.* sec. 10, at ____ (enacting NEV. REV. STAT. § 4.____); *id.* sec. 16, at ____ (enacting NEV. REV. STAT. § 5.____); *id.* sec. 21, at ____ (enacting NEV. REV. STAT. § 213.____).

Moreover, if a person violates any term or condition of residential confinement, the sentence may be rescinded, modified or continued.¹⁰

NJB

10. *Id.* sec. 4, at ____ (enacting NEV. REV. STAT. § 176.____); *id.* sec. 12, at ____ (enacting NEV. REV. STAT. § 4.____); *id.* sec. 18, at ____ (enacting NEV. REV. STAT. § 5.____); *id.* sec. 23, at ____ (enacting NEV. REV. STAT. § 213.____).

