

Members Present:

Chairman Hayes
Vice Chairman Stewart
Mr. Banner
Mr. Brady
Mr. Coulter
Mr. Fielding
Mr. Horn
Mr. Malone
Mr. Polish
Mr. Prengaman
Mr. Sena

Members Absent: None

Guests Present:

Mike Malloy, Washoe County District Attorney's Office
Steve McMorris, Douglas County District Attorney
Dan Seaton, Clark County District Attorney's Office
Geno Menchetti, Chief Deputy Attorney General

Chairman Hayes called the meeting to order at 9:05 a.m.

ASSEMBLY BILL 22

Allows costs in cases involving public bodies.

Mr. Stewart stated that costs are very limited in civil proceedings; when a public entity sues they don't have filing fees. Mr. Stewart stated that he had requested an amendment last week which should be forthcoming which would allow costs to be awarded to a public entity the same as any other party. This would also allow attorney fees the same as any other party. Chairman Hayes stated that AB 22 would be held until the amendment came out before taking action.

ASSEMBLY BILL 28

Raises monetary limit of jurisdiction of justices' courts.

Chairman Hayes requested that Senate Judiciary Committee give us a copy of their amendment so that we can see what direction they are going before taking action.

ASSEMBLY BILL 29

Limits liability for damages arising out of certain activities of school of medical sciences, University of Nevada.

Mr. Banner made the motion to Indefinitely Postpone this bill; Mr. Stewart seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter,
Fielding, Malone, Polish, Prengaman, Sena - 10

Nay - Horn - 1

ASSEMBLY BILL 105

Increases fraction of sentence prisoner must serve before becoming eligible for parole.

Mr. Stewart made the motion to Indefinitely Postpone this bill; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 134

Increases compensation of witnesses at hearings.

Chairman Hayes questioned Mr. Malone as to whether this needed to be amended. Mr. Malone said that he was waiting for fiscal notes. Mr. Malone stated that this bill would change the mileage rate from 15¢ per mile to 17¢ per mile and increase witness fee from \$15 per day to \$25 per day. The increase in mileage would also include round trip. Mr. Malone felt that this raise was needed in order to get people into court.

Mr. Brady expressed his opposition to this. He felt a person who does not show up in court to testify to something they have witnessed for \$15, will not show up for \$25. Mr. Brady felt that the monetary value is not the thing that's preventing them from showing up in court.

Mr. Horn mentioned testimony we received stating that county and city employees did not receive witness fees, the fees go directly to the county and employees are allowed to keep their wages. Mr. Horn pointed out that private employers do not dock their employees and most of the time the employees pick up a few extra dollars. Mr. Horn questioned as to what people we were referring too and who would fall into this category.

Mr. Malone requested committee take into consideration that courts do not dictate or send subpoenas out just to business people; they are also sent to housewives. If a babysitter is needed it is very unlikely one can be found for \$15 a day. If you live in a rural area, traveling a long distance and some instances spending the night, would involve more than \$15. Mr. Malone felt that increasing the amount would not make anyone rich, would be more of an incentive.

Chairman Hayes stated that if it is decided to pass the bill, this particular bill has to go to Ways and Means. It is our job to decide whether or not this bill is needed and whether or not it would speed justice. Mrs. Hayes asked Mr. Malone to read the fiscal notes we received pertaining to this.

Mr. Malone read notes which were submitted by the Administrative Office of Courts, the State Agency estimates were as follows:

1978/79 - \$42,400

1979/80 - \$77,989

1980/81 - \$86,506

Mr. Horn stated that in our minutes of February 1, Exhibit A, Clark County sent a memorandum to our committee indicating that last year their county paid \$15 a piece in witness fees, for 15,871 witnesses totaling \$238,000. If this rate was increased to \$25 this would mean an additional \$158,000 in witness fee costs, which would be approximately \$390,000 a year just for Clark County.

Chairman Hayes called on Steve McMorris, Douglas County District Attorney, asking his opinion. Mr. McMorris said that this would be a proportionate increase. He stated that in Douglas County they pay for transportation, food and lodging. This pertains to any witness, whether instate or out.

Mr. Malone made a motion to Do Pass AB 134, which would increase mileage from 15¢ to 17¢ to and from their home or place of business, and \$15 to \$25 for food and lodging. Mr. Fielding seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Banner, Fielding, Malone, Polish, Sena - 6

Nay - Brady, Coulter, Horn, Prengaman, Stewart - 5

ASSEMBLY BILL 146

Consolidates and clarifies certain provisions relating to comparative negligence.

Chairman Hayes said that the committee needed more time to think about this bill.

ASSEMBLY BILL 158

Eliminates limitation on admissibility of evidence of transactions or conversations with or action of deceased persons.

Chairman Hayes stated that we had no testimony at all from the District Attorney's office on AB 158.

Mr. Dan Seaton, Clark County District Attorney's Office, said that it was his understanding that the District Attorney's office had not taken a strong position on AB 158. Mr. Seaton briefly related that he had had a couple of occasions in homicide cases where judges in Clark County did not appreciate the distinction to be made in the admissibility in this kind of evidence. As a result they denied evidence in both cases and they lost both of the cases. Mr. Seaton felt that in his experience it was of relative importance. Mr. Seaton also stated he was unfamiliar with the objection to the repeal of this statute. He was not real excited about it because it didn't come up that often.

Mr. Stewart asked Mr. Seaton whether or not he felt that when the judge threw out the cases did he feel they were able to present some cooperation. Mr. Seaton stated that yes he did. One of the cases involved were two police officers in Clark County who allegedly had beaten up a cab arsonist during the cab strike a number of years ago. The injuries were consistent with the kind of beating that was said by the deceased to have taken place. With the statute we knew we were walking a fine line and not sure we would get it in. There were some other things inadmissible that made us certain of guilt of accused. We felt pretty strongly about the case and the judge denied his conversation which were quite to the point to an FBI officer and indicated quite clearly the beating had taken place. The conversations were not admitted and the case was lost thereafter.

Mr. Stewart asked if it was possible for another judge to have ruled in a different manner, talking about a misapplication of the Dead Man rule. Mr. Seaton stated that in this particular instance, yes, it probably could be fairly termed a misapplication, but this seems to only occur in major cases.

Mr. Horn asked if it were true that Nevada and New Mexico are the only two states that have not repealed this law. Mr. Seaton was not sure but research indicated that we were in a minority. Chairman Hayes stated that yes, Nevada & New Mexico were the only states that had not repealed this.

Mr. Malone made the motion to Do Pass AB 158; seconded by Mr. Polish. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Malone,
Polish, Prengaman, Sena - 8

Nay - Coulter, Fielding, Horn - 3

ASSEMBLY BILL 174

Provides penalties for certain damage to community antenna television systems.

Mr. Fielding handed members of the committee a memorandum dated January 30, 1979 pertaining to AB 147, see Exhibit A. Mr. Fielding had researched this paper and found out that we are covered more or less for the violation.

Mr. Fielding made the motion to Indefinitely Postpone AB 174; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 177

Makes certain employees at juvenile correctional institutions peace officers.

Chairman Hayes stated that the hesitation on AB 177 was because there was an amendment from the City of Las Vegas on this particular bill. Mr. Ron Jacka agreed to put his amendments in this bill. The main problem now is that the people taking girls to Elko do not really have police powers. There are no special disability coverages involved. Mr. Malone felt that this would cause problems down the road. You have to be careful who you are designating peace officers, they hire people right off the street. Mr. Malone felt that because of this it is a bad bill.

Mr. Geno Menchetti, Chief Deputy Attorney General, spoke next. On page 2, line 3 thru 5, it states what happens to correctional officers in Nevada State Prisons. They are peace officers so long as they are carrying out the duties prescribed by the director. If you include group supervisors, you would probably want to limit it to such time they are acting under the supervision of whoever the director is.

AB 177

Mr. Sena suggested that on Page 2, line 10, we delete "Board of Trustees" and insert "Local Government entities".

Mr. Malone stated that his main concern is the people being peace officers off duty. Mr. Horn suggested that the whole statute be cleaned up so that it applies to everyone.

Mr. Sena made the motion Do Pass As Amended to AB 177; Mr. Banner seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 179

Prohibits commercial use of telephone for soliciting persons at home to make purchases.

Mr. Sena requested that this bill be held until further notice.

ASSEMBLY BILL 186

Limits to district courts authority to order civil commitment of alcoholics and drug addicts charged with crimes and makes plea of guilt condition of defendants' eligibility.

Geno Menchetti, Chief Deputy Attorney General, said that after some discussion last time the committee heard this bill and requested that two changes be made.

1. The Bill include a provision that the individual was under the influence of alcohol or drugs at the time of act before he is eligible for the program.
2. The language "has pleaded guilty" should be changed to "has been found guilty".

Mr. Mike Malloy, Washoe County District Attorney's Office, felt that there were a few problems with the Bill the way it is now written. It was discussed in the State District Attorneys' meeting and there was a lot of feeling that the whole scheme should be repealed. They felt that this bill is an escape hatch for people to use where anyone can say they are an alcoholic, even though he is not.

AB 186

Mr. Malloy gave his views on how AB 186 could be made a better statute.

1. Requiring that crime be committed while under the influence of drugs or alcohol at the time of the act.
2. Should read "has been found guilty of a crime".

When someone either pleads guilty or has been found guilty by a jury they are not convicted until the judge enters judgment of guilt. On Page 2, line 10, it says that hearing court shall advise him that prosecution of the charge will be postponed. By changing the rest of the statute as was suggested, he thought this would be the place to put language in such as, "judgement of guilt will be withheld". The same change should also be made on line 22 and 23. Other than that Mr. Malloy felt the bill was reasonably written and important to keep other amendments in there which require that this procedure only take place in the court so that people don't use this to avoid convictions of DUI's and other misdemeanors. If you commit a crime while under the influence and not an alcoholic you get to go to prison. If you are able to say that you're a drug addict or alcoholic then you're not even going to be convicted, if the judge is willing to accept your election.

Mr. Stewart stated that he would like to hear from municipal court justices and JP's as they have a lot of experience in this matter. Mr. Malloy suggested that the other amendments be adopted if the statute must be kept.

Chairman Hayes appointed a subcommittee of Mr. Sena, Mr. Stewart and Mr. Malone to research this further.

ASSEMBLY BILL 187

Provides penalty for solicitation of felony if no criminal act is committed.

Mr. Geno Menchetti, Chief Deputy Attorney General, stated that the last time AB 187 was before the committee it was discussed as to what we could do to make this bill more reasonable. The proposed amendment would limit crime of solicitation which is now going to be a crime. The result of the proposed change is to make a list of crimes considered more hideous, solicitation of these crimes would be a felony. Mr. Sena suggested taking out the word "no". Mr. Menchetti felt it would be a felony if a crime was committed, by striking "no" would be another limitation.

Mr. Malloy, Washoe County District Attorney's Office, quoted NRS 199.480 which gave two classes of crime. Mr. Malloy said that it is not a crime to ask someone to kill someone for you, but is a crime if they agree to do it.

Mr. Malone made the motion Do Pass as Amended, striking out "criminal act committed as a result of solicitation". Mr. Stewart seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Malone, Polish,
Coulter, Fielding, Horn, Sena - 10

Nay - Prengaman - 1

ASSEMBLY BILL 188

Permits additional fees for court-appointed attorneys in criminal trials by jury.

Chairman Hayes stated that before this bill is passed it will go to Ways & Means Committee. Mr. Stewart suggested that on this bill new language be added on Page 1, line 23 - to read "\$30 per hour not to exceed \$200 per day". The public defender does not receive these kinds of fees. Mr. Prengaman asked why the additional \$200, if a case goes to trial is not consultation, research, etc. considered preparation for the trial.

Mr. Malone made the motion to Indefinitely Postpone AB 188; Mr. Prengaman seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter,
Fielding, Horn, Malone, Polish, Prengaman - 10

Nay - Sena-1

ASSEMBLY BILL 192

Requires publication of list of persons paroled or pardoned.

Mr. Prengaman requested an amendment, and he stated that beginning on line 12 the amendment would request that a list be prepared which would have, for instance, name, crime, county in which prisoner was sentenced, length of sentence, actual time served before parole and good time served; so that a person could review at a glance, prisoners' time in prison. The District Attorney could get this list, and if he wished to contest he could. The original intent of this bill was if a newspaper wanted to find out how much time a person were serving they could get the list to see who was actually paroled rather than publishing the list once a year.

AB 192

Mr. Dan Seaton, Clark County District Attorney's Office, wanted the committee to know that Mr. Miller was wholeheartedly behind the amendment as it now stands. Chairman Hayes suggested that we wait on AB 192 until we receive the amendment.

ASSEMBLY BILL 200

Authorizes district courts to grant certain grandparents right to visit grandchild.

ASSEMBLY BILL 231

Authorizes district courts to grant certain relatives of deceased parent right to visit that parent's unmarried minor child.

As it now stands the grandparent cannot go to court or enforce any visitation rights. Chairman Hayes stated that these two bills would be held until further notice.

ASSEMBLY BILL 251

Revises provisions on compensation to victims of crimes.

ASSEMBLY BILL 273

Revises law on compensation for victims of crime.

Mr. Brady is doing research on these two similar bills, will have more information very soon.

ASSEMBLY BILL 267

Provides additional penalty for certain crimes against blind and aged persons.

Mr. Coulter stated that he was getting more information on this particular bill. The difference between this bill and other statutes in other states is that they require physical harm to victim and that it must be obvious that the person is aged or blind. Mr. Malone felt that this was a good bill with the exception that larceny should be added.

Mr. Coulter said that no amendment had yet been requested, he wanted to find out the feelings of the committee. Chairman Hayes requested that Mr. Coulter take care of the amendment.

AB 267

Mr. Malloy, Washoe County District Attorney, stated that the most common crime committed against elderly people was purse snatching and felt this should be included in the bill. Mr. Malloy also felt that this bill should include all handicapped people. The amendment should exclude blind people and add voluntary manslaughter, larceny from person, and arson. In addition, one other difference to physical bodily harm had to be obvious to person committing crime. Chairman Hayes requested that an amendment be requested.

ASSEMBLY BILL 314

Specifies period within which actions for taking private property without compensation must be brought.

Mr. Steve McMorris, stated that this bill originated in Clark County. Mr. McMorris said that there are several states that have Statute of Limitation for inverse condemnation actions. The one that the Association proposed would be 5 years. In Section 49, a special statute of limitation provides for imminent domain. The proceedings customarily provide much shorter period of limitation than ordinary civil actions. Mr. McMorris said that after checking NRS 11.070 thru 11.160, real property actions, all limits are 5 years based on this minimum time period. This time frame also makes it long enough to make the person aware of what damages have accrued. The major project should be completed, under way and all impacts visible within 5 years. Mr. McMorris urged the committee to pass this bill.

Mr. Malone made the motion to Do Pass AB 314; Mr. Stewart seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter,
Fielding, Horn, Malone, Polish, Sena - 10

Nay - Prengaman - 1

ASSEMBLY BILL 316

Reclassifies certain batteries as to type of crime.

Mr. Steve McMorris stated that AB 316 makes sure that there is no crime committed that falls between gross and misdemeanor; by adding "substantial bodily harm" would make sure there are no cracks between the two provisions of this district attorney sponsored bill.

Mr. Brady made the motion to Do Pass AB 316; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter, Fielding,
Horn, Malone, Prengaman, Sena - 10

Nay - Polish - 1

ASSEMBLY BILL 318

Provides for forfeiture of personal property used in commission of felony.

Mr. McMorris stated that this was not a district attorney or law enforcement bill. Mr. McMorris recommended that the committee not pass that bill as it is too broad.

Mr. Stewart made the motion to Indefinitely Postpone this bill; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 319

Clarifies the burden of proving circumstances amounting to manslaughter.

Mr. McMorris stated he did not know the origin of the bill. Mr. Malone made the motion to Indefinitely Postpone AB 319; Mr. Stewart seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 334

Extends jurisdiction of district courts in divorce cases to adjudication of rights in property held in joint tenancy.

Mr. Steve McMorris, Douglas County District Attorney, stated that in this situation, the court does not have jurisdiction over the situation, a joint tenancy property, and usually do not to avoid probate. If the court does not have jurisdiction and it turns into a family dispute the sheriff is called who in turn calls the district attorney. Mr. McMorris felt that without this amendment there will be no solution to the problem.

Mr. Horn made the motion to Do Pass AB 334; seconded by Mr. Malone. The Committee unanimously approved the motion.

ASSEMBLY BILL 335

Removes court's power, on its own motion, to set aside conviction and permit defendant to withdraw plea of guilty.

Mr. Steve McMorris, Douglas County District Attorney, stated that this was not one of their bills and felt that this bill was meaningless.

Mr. Sena made the motion to Indefinitely Postpone; Mr. Brady seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Banner, Brady, Coulter, Fielding, Horn,
Malone, Polish, Prengaman, Sena - 10

Nay - Stewart - 1

ASSEMBLY BILL 336

Limits requirement for separate penalty hearings in murder trials.

Mr. Malloy, Washoe County District Attorney's Office, stated that defendant goes through guilt phase and penalty phase. If the defendant is found guilty the court will continue penalty phase for 3 days. This bill would take sentencing function

AB 336

away from the jury where prosecution is not seeking the death penalty and would stay with the jury where prosecution is seeking the death penalty. Mr. Malloy felt that this bill should be amended to require notice be given to defendant of intent to seek death penalty at a certain date. This is a district attorney sponsored bill. Mr. Malloy felt that 30 days prior to trial date would be good. If prior notice is not given it could be argued that you can still seek the death penalty. Mr. Malloy stated that in Washoe County they give notice of intent to seek death penalty as a matter of practice.

Mr. Dan Seaton, Clark County District Attorney's Office, stated that their office does not give notice but felt they should. Mr. Seaton stated that in Las Vegas trials, they must choose from one of two methods of questioning the jury, either for death penalty cases or non-death penalty cases. Mr. Seaton felt for all purposes at the moment of questioning they are letting the defense counsel know what they are going to do. Mr. Seaton said it would not be objectional to their office to have language written in to require the prior notification and 30 days would be fair. This would give defense counsel time enough to gear up for defense for their portion of the trial. Mr. Seaton felt that one other area needed touching upon, Page 2, line 27; this was that without appropriate language when penalty hearing the jury has determined that there shall not be imposed arguments. When the judge makes the ruling as to whether life with or without, that the defense and perhaps prosecution, would ask for an opportunity to have further argument. Mr. Seaton's suggestions would include the district judge who conducted the trial or his successor in office, without further hearing or arguments, specify whether the imprisonment is with or without possibility of parole.

When asked why this bill was needed at all, Mr. Malloy stated that as prosecutor you will be more consistent and better results for prosecution. This also saves time and you don't have another date after guilt phase is over; it also saves money.

Mr. Dan Seaton stated that giving of penalty by jury has always been kept away from them. The judge normally does that in all cases. This would get more uniformity of sentencing through the judge giving sentences rather than the jury who is only being inflamed by counsel. Under this bill you would have separate penalty phase and just have a single judge who presided over the trial.

Chairman Hayes requested that Mr. Malloy provide the Committee with suggested amendments to this bill.

ASSEMBLY BILL 337

Clarifies power of court without jury to establish degree of murder.

Mr. Malloy stated that if plea does not specify degree, that is plea to open murder, the judge shall designate degree. Mr. Malloy also stated that he did not see any problems with the bill and that it did clarify the issue.

ASSEMBLY BILL 338

Limits privilege of husband or wife to prevent testimony of other to testimony regarding events occurring after marriage.

Mr. Steve McMorris stated that the husband and wife privilege eliminated gamesmanship of having people get married just so they can avoid testimony. Mr. McMorris pointed out that the State of California does not provide for husband and wife privilege. If the spouse wants to testify against the other, they may. The rationale in California is to protect and promote marital situations but if the marriage has gone so far down hill that one spouse wants to testify against the other there's really not much to protect. Mr. McMorris felt that it is the fundamental thing that needs to be done.

Mr. Malone made the motion to Do Pass AB 338; Mr. Stewart seconded the motion. The Committee unanimously approved the motion.

Mr. Sena made the motion to adjourn the meeting at 10:50 a.m., Mr. Horn seconded the motion.

Respectfully submitted,

Sharon L. Day

Sharon L. Day
Secretary

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January 30, 1979

M E M O R A N D U M

TO: Assemblyman Jack F. Fielding
FROM: Andrew P. Grose, Research Director
SUBJECT: A.B. 174 - Penalties for Damage to cable TV

As the Judiciary Committee heard, NRS 205.470 was passed to cover the situation that is addressed in A.B. 174. In terms of coverage of the offenses in question, it is not clear what A.B. 174 would provide that NRS 205.470 does not.

The major difference between the bill and the existing law seems to be that under NRS 205.470, tapping or diverting a signal in an unauthorized manner is a misdemeanor. It does not fall under the "public offense proportionate to the value of the property" provision of NRS 193.155. The damage or destruction provision of NRS 205.470 does trigger NRS 193.155 but the unauthorized diversion provision does not.

A.B. 174 would make diversion of a signal (or tapping) as serious an offense as damaging or destroying equipment. In addition, and very significantly, A.B. 174 provides for civil penalties for either destruction and damage on the one hand or diversion and tapping on the other. In either case, in addition to a fine and/or jail, a violator can be sued by the cable company and have to pay triple the damage or loss caused by illegal activities.

A.B. 174 follows the pattern found in NRS 704.800 which provides the same penalties regarding water, gas, electricity or irrigation utilities.

Exhibit A

Page 2

A.B. 174 is, then, different from NRS 205.470 which is what now covers cable TV companies and is substantially the same as the existing law for other utilities. A final observation is that if A.B 174 is passed, perhaps NRS 205.470 should be repealed. It is a question that should at least be discussed with the Assembly Bill Draft Adviser.

APG/jld
Encl.

EXHIBIT A 5

2. The commission shall collect a fee not to exceed \$200, which fee shall be used to defray the cost of conducting any investigation under the provisions of subsection 1.

3. The provisions of subsections 1 and 2 shall not apply in any case where:

(a) The person to furnish the water supply or sewer service has already been granted a certificate of public convenience and necessity by the commission to serve the area described in the application.

(b) Any county, municipality or other form of local government, including but not limited to districts formed under the provisions of chapter 318 of NRS, will furnish the water supply or sewer service to the area described in the application.

(Added to NRS by 1971, 1209)

704.681 Suppliers of water, sewer services to subdivisions, land development projects: Regulation by county; exceptions. The board of county commissioners of any county may regulate by ordinance any person or firm furnishing water for compensation to persons within such county except those persons or firms regulated by the commission, the service furnished to its residents by a political subdivision, and services furnished to its members by a nonprofit association in which the rights and interests of all its members are equal.

(Added to NRS by 1971, 1209)

TELEPHONE COMPANIES

704.691 Telephone companies must assist peace officers in investigating obscene, threatening telephone calls.

1. Every public utility furnishing telephone service in this state shall provide any lawful assistance requested by any sheriff or his deputy, or chief of police or policeman, in tracing any person who uses obscene language, representations or suggestions in addressing any person by telephone, or addresses to such person any threat to inflict injury to the person or property of the person addressed, when such request is made in writing to such public utility.

2. Good faith reliance by the public utility on such request shall constitute a complete defense to any civil or criminal suit against the public utility on account of assistance rendered by such utility in responding to such request.

3. The provisions of subsection 1 shall not be construed to permit wiretapping, which may be engaged in only pursuant to the provisions of NRS 179.410 to 179.515, inclusive.

(Added to NRS by 1971, 856; A 1973, 1750)

INJURY TO PUBLIC UTILITY PROPERTY

704.800 Unlawful acts against public utilities; what is prima facie evidence; criminal, civil penalties.

1. Every person who willfully, and with intent to injure or defraud:

(a) Opens, breaks into, taps or connects with any pipe, flume, ditch, conduit, reservoir, wire, meter or other apparatus belonging to or used by any water, gas, irrigation, electric or power company or corporation, or belonging to or used by any other person, persons or association, or by the state, or by any county, city, district or municipality, and takes and removes therefrom or allows to flow or be taken or be removed therefrom any water, gas, electricity or power belonging to another; or

(b) Connects a pipe, tube, flume, conduit, wire or other instrument or appliance with any pipe, conduit, tube, flume, wire, line, pole, lamp, meter or other apparatus belonging to or used by any water, irrigation, gas, electric or power company or corporation, or belonging to or used by any other person, persons or association, in such manner as to take therefrom water, gas, electricity or power for any purpose or use, without passing through the meter or instrument or other means provided for registering the quantity consumed or used; or

(c) Destroys, detaches, disconnects, alters, injures or prevents the action of a headgate, meter or other instrument or means used to measure or register the quantity of water, gas, electricity or power consumed or supplied; or

(d) Injures or destroys, or interferes with the efficiency or use of, or suffers to be injured or destroyed, any pipe, conduit, flume, wire, pole, line, lamp, fixture, hydrant or other attachment or apparatus belonging to or used by any water, irrigation, gas, electric or power company or corporation, or belonging to or used by any other person, persons or association,

is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property removed, destroyed, altered or damaged and in no event less than a misdemeanor; and such person shall also be liable to the person, persons, association or corporations, or the owner or user whose property is injured, in a sum equal to treble the amount of actual damages sustained thereby.

2. In any prosecution under subsection 1, proof that any of the acts therein forbidden were done on or about the premises occupied by the defendant charged with the commission of such an offense, or that he received the use or benefit of such water, gas, electricity or power by reason of the commission of any such acts, shall be prima facie evidence of the guilt of such defendant.

[1911 C&P § 467; RL § 6732; NCL § 10416] + [1911 C&P § 468; RL § 6733; NCL § 10417]—(NRS A 1967, 656)

~~704.810 Unlawful removal, damage or destruction of public utility property; penalty. Every person who shall willfully and maliciously remove, damage or destroy:~~

~~1. A telegraph, telephone or electric transmission line or any part thereof, or any appurtenance thereto, or apparatus connected with the operation thereof; or~~

~~2. A fence, gate, cattle guard, bridge, water tank, milepost, car, engine, motor or other useful structure on the line of any railway.~~

~~193.140 Punishment of gross misdemeanors. Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty. [1911 C&P § 19; RL § 6284; NCL § 9968]—(NRS A 1967, 459)~~

~~193.150 Punishment of misdemeanors. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$500, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty. [1911 C&P § 20; RL § 6285; NCL § 9969]—(NRS A 1967, 459)~~

~~193.155 Penalty for public offense proportionate to value of property affected or loss resulting from offense. Every person who is guilty of a public offense proportionate to the value of the property affected or the loss resulting from such offense shall be punished as follows:~~

- ~~1. Where the value of such loss is \$5,000 or more or where the damage results in impairment of public communication, transportation or police and fire protection, by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.~~
- ~~2. Where the value of such loss is \$250 or more but less than \$5,000, for a gross misdemeanor.~~
- ~~3. Where the value of such loss is \$25 or more but less than \$250, for a misdemeanor.~~
- ~~4. Where the value of such loss is less than \$25, by a fine of not more than \$500.~~

~~(Added to NRS by 1967, 459)~~

~~193.160 Penalty for misdemeanor by corporations when not fixed by statute. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable as for a misdemeanor, and there is no other punishment prescribed by law, such corporation is punishable by a fine not exceeding \$500.~~

~~[1911 C&P § 21; RL § 6286; NCL § 9970]~~

~~193.165 Additional penalty when firearm, deadly weapon used in commission of crime.~~

~~1. Any person who uses a firearm or other deadly weapon in the commission of a crime shall be punished by imprisonment in the state prison for a term equal to and in addition to the term of imprisonment prescribed by statute for such crime. The sentence prescribed by this section shall run consecutively with the sentence prescribed by statute for such crime.~~

~~2. This section does not create any separate offense but provides an~~

3. Subsection 1 does not:

(a) Preclude the adoption by a city or county of an ordinance prohibiting the possession of any such document.

(b) Prohibit the possession or use of such documents by officers of local police, sheriff and metropolitan police departments and by agents of the investigation and narcotics division of the department of law enforcement assistance while engaged in undercover narcotics or prostitution investigations.

(Added to NRS by 1975, 1460)

**UNAUTHORIZED TAMPERING WITH TELEVISION,
MICROWAVE RADIO SYSTEMS**

205.470 Unlawful use of, injury to television or radio signals and equipment. Any person who:

1. Willfully and maliciously breaks, injures or otherwise destroys, damages or interferes with any of the posts, wires, towers or other materials or fixtures employed in the construction or use of any line of a television coaxial cable, a microwave radio system, or a community antenna television system is guilty of a public offense proportionate to the value of the property damaged or destroyed.

2. Without authority leads or attempts to lead from its uses or make use of the electrical signal or any portion thereof from any posts, wires, towers or other materials or fixtures employed in the construction or use of any line of a television coaxial cable, a microwave radio system, or a community antenna television system is guilty of a misdemeanor.

(Added to NRS by 1963, 9; A 1965, 63; 1967, 507)

UNLAWFUL USE OF TELEPHONE, TELEGRAPH SERVICE

205.480 Obtaining telephone, telegraph service with attempt to avoid payment; penalties.

1. It is unlawful to obtain or attempt to obtain telephone or telegraph service with intent to avoid payment therefor by:

(a) Charging the service to an existing telephone number without authority of the subscriber, to a nonexistent telephone number or to a number associated with telephone service which is suspended or terminated after notice of suspension or termination has been given to the subscriber; or

(b) Charging the service to a credit card without authority of the lawful holder, to a nonexistent credit card or to a revoked or canceled (as distinguished from expired) credit card after notice of revocation or cancellation has been given to the holder; or

(c) Using a code, prearranged scheme or other similar device to send or receive information; or

(1975)

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