

The meeting was called to order at 9:02 a.m. Senator Close was in the chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Don Ashworth
Senator Dodge
Senator Ford
Senator Raggio
Senator Sloan

AB 183 Permits witness to acknowledge receipt of district attorney's subpoena and provides for disobedience.

David Small, District Attorney, Carson City stated that having your witnesses show up is the biggest thing that keeps lawyers and District Attorneys awake at night. Quite often the witnesses are worse than the defendants. Paragraph 2 of this bill is of the most concern to the District Attorneys in light of Proposition 6, and some other things that authorize delivery by mail or by hand with acknowledgement, in lieu of a formal service which costs money.

Senator Raggio stated that historically this has only been contempt. It is an order of the court and he doesn't know it it ought to be made a criminal offense.

Senator Dodge stated it seemed to him that it was just the mechanics of how a person is given a subpoena. It would still remain an order of the court, even if it were acknowledged.

Mr. Small stated this was not issued by the clerk of the court, in the name of the court. It is issued by the District Attorney.

Senator Raggio stated the D.A.'s subpoena form contains the same language as a regular subpoena. It provides for contempt or punishment by fines of up to \$100.

Mike Malloy, Washoe County Assistant District Attorney stated that his office had gone through the NRS sections subsequent to NRS 174.315, which this bill would amend. NRS 174.385 just provides a general contempt for all subpoenas. He feels it should be clarified to include this one as well as any other type.

Mr. Small stated one thing that bothers him is that subpoenas issued in the name of the court are punishable as contempt. The Court's caption is used in issuing the subpoenas. The main reason we suggested the misdemeanor penalty is to be able to put "the fear of god into folks." To make sure that subpoenas are not ignored.

Mr. Malloy stated that quite often you have hostile or adverse witnesses, especially in criminal cases. Often times the threat of \$100 contempt is entirely meaningless. He didn't know if a misdemeanor would be that much more meaningful, than what is already in the law.

Mr. Small stated that in some cases it might be meaningful, such as the occasion where you take the less serious offender of a particular crime and get him to turn states evidence as part of the plea bargain.

Senator Ashworth asked if this then would mean that the person would have to sign the face of the subpoena and return it.

Mr. Small stated his office had given some thought to the mechanics, if AB 183 should become law. They felt either a postcard inside with the acknowledgement on it, or a section of the subpoena with perforations that would be returned, could be used.

Senator Ashworth asked if in other words there could be a service of subpoena without the acknowledgement? They could take it and not return the acknowledgement.

Mr. Small stated this is an either/or situation. We may serve by mail or the sheriff. Obviously we would not use this method if the defendant's best friend was being called as a material witness.

Mr. Malloy stated they already have subpoenas which do not provide for actual physical service in Washoe County. They really aren't subpoenas; that is a misnomer because this bill hasn't passed. They are used for police officers whom we assume are going to show up anyway. We then have a record that they were given a subpoena.

Senator Ashworth stated he had some trepidation about people outside of the state. If you serve them outside the state, and they don't come into the state, you are saying they committed a misdemeanor as far as the state is concerned. He felt that was a little harsh.

Mr. Malloy stated that that would be hard to enforce as a practical matter. If it was a hostile witness out of state, we would process through the Inter State Compact.

Senator Close stated he had a problem with the language. The word "acknowledge" is used many times, and this could mean, under the statutes, that a notary is required.

Senator Raggio stated that perhaps he could shed some light. Under NRS 174.385, the first subsection "failure by any person without adequate excuse to obey a subpoena served upon him"; that is either type of subpoena, "may be deemed in contempt of the court from which the subpoena was issued." That raises a question of whether the D.A.'s subpoena is a subpoena issued by the court. This seems to be an area that ought to be clarified. Subsection 2 states "a witness disobeying a subpoena issued on the part of the defendant shall also forfeit to the defendant the sum of \$100 which may be recovered in a civil action unless good cause can be shown." So there is only a penalty where the subpoena is issued. There is a penalty of \$100 which is forfeited to the defendant. If you go back to punishment for contempt, and NRS 22.010 is the provision for failure to respond to the subpoena, it states, "it shall be punishable in the same manner and form as in cases of contempt not committed in the presence of the court." The penalty for contempt is in NRS 22.100 which says in essence, "if a person is found guilty of contempt a fine may be imposed on him not exceeding \$500 or he may be imprisoned not exceeding 25 days, or both, but no imprisonment shall exceed 25 days except as provided in NRS 22.110." That deals with imprisonment if the contempt is the omission to perform an act of some kind. In that case they can hold you in prison until you have pleaded and I think that would include failure to respond to a subpoena. However, it ought to be made clear that this applies to D.A.'s subpoenas as well. He stated he felt there shouldn't be a different penalty for District Attorney's subpoenas vis a vis a Court subpoena.

Senator Dodge asked if there was a policy question if this subpoena were considered in the same light as the court subpoena.

Mr. Small stated that the D.A.'s are in charge of a misdemeanor, and that is why the association wanted that.

Senator Close asked Mr. Malloy and Mr. Small to take a look at the statutes that Senator Raggio mentioned, and see if those are adequate to their needs and then the Committee would process the bill.

Mr. Small stated that on line 14 take out "acknowledge"; add "may by personal signature give notice of receipt"; Subsection 3, put in the same language after "served" as above and add "shall be deemed contempt under NRS 174.385.

Senator Hernstadt moved that AB 183 be passed out of Committee with an "amend and do pass" recommendation.

Seconded by Senator Dodge.

Motion carried unanimously.

AB 153 Modifies rules of evidence concerning related crimes and contents of missing original documents.

Senator Close stated that on line 6 there was a hand correction in the bill. The word "consideration" should be "considerations."

Senator Raggio stated this bill allows for precautionary instruction. This deals with what is called the "Evidence Chapter", Chapter 52. The major heading deals with contents of writings, recordings and photographs. The preceding section, NRS 52.255 deals with the admissibility of other evidence and contents. Contents has reference to the prior section, NRS 52.485 (contents of official record or the documents); 52.275 increases the discretion of the district court and says the contents of voluminous writings, recordings or photographs may be brought in the form of charts, summaries or calculations. In this section they have made a separate section that says "if your contents may be proved by the testimony or deposition." I imagine that the judge's point was that since this section is standing alone, that they are trying to avoid having to refer to these other sections that we are talking about. I think this does clarify it.

Mr. Malloy stated he would approve of Subsection 3 because, as a District Attorney, if the defense isn't interested in precautionary instruction neither is he.

Senator Raggio moved that AB 153 be passed out of Committee with a "do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously.

AB 155 Broadens scope of examination of adverse witnesses.

Mr. Malloy stated that if there is one thing a law student learns is that the state can't call a defendant in a criminal case. That is the 5th amendment. He stated that Subsection 3 would be supported by the prosecutors. When there is an adverse witness, he felt it just clarified what is already being done.

Senator Raggio moved that AB 155 be passed out of Committee with a "do pass" recommendation.

Seconded by Senator Ashworth.

Motion carried unanimously.

AB 156 Broadens cases in which inquiry may be made during trials into specific instances of conduct.

Mr. Malloy stated that occasionally the defendant in a criminal case brings all kinds of friends and relatives to get on the stand and say what a nice guy he is. As it is now they are confined to using opinion and reputation testimony. Many times we have all kinds of examples of what a bad guy he is, and this bill would permit cross-examination on those specific subjects. The possible effect would be to cut down on the use of character evidence at the trial. If the defendant knew that if he produces a certain number of witnesses in his favor and the D.A. will be able to bring up specific instances of when he is not such a nice guy, they probably won't put the guy on the stand in the first place.

Senator Dodge stated that he wouldn't want this to interfere with the law of evidence that we now have.

Mr. Malloy stated that he doesn't feel there would be a change in that. That would still be reasonably interpreted in the context of those statutes now in effect. In most cases you are talking about things other than prior crimes.

Senator Dodge stated that in talking about conduct, that could cover criminal conduct.

Mr. Malloy stated this would only be in a case of "offer of proof" and the judge has been satisfied that it is relevant to intent, opportunity, lack of mistake, or accident, and identity.

Senator Hernstadt moved that AB 156 be passed out of Committee with a "do pass" recommendation.

Seconded by Senator Dodge.

Motion carried unanimously.

SB 129 Eliminates appeals from the granting or denial of writs of habeas corpus.

See minutes of January 31 and February 2 for previous testimony and action.

Senator Close stated he had brought this back to make sure the amendments were the way the Committee had wanted them. He stated that on page 2, there is a bracket on line 48 and then the rest of the language on page 3 is eliminated.

Senator Raggio stated that to do away with an appeal of a habeas decision in these extradition matters was a policy question.

Date: Feb. 22, 1979

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Senator Close stated that we have always given everyone the right of a review. The plaintiff or the prosecution has the right of review immediately by writ of habeas corpus. The defendant ultimately has the right of review by appeal if he is convicted. If we permit this language to be taken out then there is no appeal. So perhaps we should take the bracket out.

Senator Raggio asked "do we have the right to allow an appeal of the office of habeas corpus in this situation and deny it in the other more usual situation.

Senator Close stated he would talk to Frank Daykin as he feels that there should be a review by somebody in extradition hearings. He would get an amendment if it was consistent, if that was the consensus of the Committee.

The Committee agreed that Senator Close should talk with Mr. Daykin.

SB 9

Revises criminal penalties.

See minutes of January 18, February 12, and February 20 for testimony and discussion.

Senator Close stated that he had given all the Committee members a copy of the letter from Frank Daykin (see attachment A). This is Mr. Daykin's workup of the last meeting of this Committee on this bill. He asked that they all look it over, including the District Attorneys in attendance to make sure that all the repealers were covered.

Geno Menchetti, Deputy Attorney General stated that Ed Taylor's letter of February 9 (see minutes of Feb. 12, attachment A), was the final analysis of what the Attorney General's Office wanted in the bill.

Terry Reynolds, Judicial Planning, stated that the only problem he had with Mr. Daykin's letter was the arson statute. He does not feel that NRS 206.310 covers that. He stated that since the last time he appeared before this Committee, the Supreme Court upheld Judge McKibbon's ruling that the statute does not cover forrest lands.

Senator Close stated that he would pursue that question also when he talked with Mr. Daykin. He then asked the Committee to go through the proposed amendments that he had received from Greg Millspau (see attachment B). He felt that if Mr. Millspau had made substantive changes in the law, he personally was not too anxious to incorporate them into this bill.

After going through everything they had in front of them the Committee concurred to have Senator Close and Mr. Daykin work up some amendments to this Bill. They also asked

Mr. Menchetti to work up what he wants and get it back to Senator Close by Monday so they could take the bill up then.

There being no further business at this time the Committee adjourned.

Respectfully submitted,


Virginia C. Letts, Secretary

APPROVED

Senator Melvin D. Close, Chairman

TO: Senate Committee on Judiciary

FROM: Edwin E. Taylor, Jr. ~~ET~~
Deputy Attorney General
Criminal Division

DATE: February 9, 1979

SUBJECT: Senate Bill No. 9

EXHIBIT A

Senate Bill No. 9 addresses some two hundred and forty sections of the Nevada Revised Statutes relating to crimes and punishments and, aside from grammatical changes, appears to be a comprehensive attempt to standardize fines and terms of imprisonment in all categories of crimes in the following manner: (A) fines are raised to \$250, \$500, \$5,000 and \$10,000 levels; and, (B) three classes of felonies are created, one imposing a 1-6 year term of imprisonment and a \$5,000 fine, the second imposing a term of 2-10 years or a term of 1-10 years and a \$10,000 fine, and the last imposing a term of 2-20 years and a \$20,000 fine -- additionally, certain minimum fines are removed in misdemeanor and gross misdemeanor crimes.

The Bill also makes changes in substantive areas by changes in language, or by elimination and repeal of numerous provisions of the Nevada Revised Statutes. Changes of substance are listed in Appendix A attached to this memorandum for the Committee's convenience.

To the extent that Senate Bill No. 9 is intended to bring uniformity to penalties in the sections it does address, it is not wholly successful. For example, NRS 212.090(1)(a) imposes a 2-20 year term of imprisonment but no provision is made for a corresponding fine (S.B. No. 9, page 43, lines 7-14). Other such examples are included in Appendix B attached to this memorandum. The Committee may wish to address these omissions and inconsistencies if complete standardization is deemed appropriate.

Lastly, some penal provisions of the Nevada Revised Statutes are not included in the Bill. Again, to the extent that the Bill is intended to be a comprehensive review of all crimes, it is not wholly successful. One such example is NRS 453.321 (sale of controlled substances) where a minimum term of 1-10 years and a \$2,500 fine remains unaltered. Thus, a defendant convicted of sales of LSD would be subject to a lesser fine than an 18-year-old defendant convicted of first offense possession of less than one ounce of marijuana (S.B. No. 9, page 58, line 17, raising the fine from \$2,000 to \$5,000). The Committee may wish to address such omissions.

Thank you for your consideration.

EET:sz

Bills Repealed

Some forty provisions of the Nevada Revised Statutes relating to substantive crimes are repealed by Senate Bill No. 9 [page 81, lines 41-47]. To a great extent the bill has eliminated numerous specific provisions concerning damage or destruction of personal property, I suppose now to be punished under the provisions of Nevada Revised Statutes Chapter 206, entitled Malicious Mischief, and, in particular, NRS 206.310, Injury to Other Property.

1. NRS 1.280 relates to penalties of judges or justices of the peace who steal, alter or deface any document, etc., which belongs to a public body and the punishment therefore.
2. NRS 200.420 deals with the punishment and disfranchisement for dueling.
3. NRS 200.800 deals with penalties for the use of explosives for the purpose of damaging or destroying state property and the penalties imposed therefore.
4. NRS 202.850 deals with prohibitions for tampering with fire-alarm apparatus and transmitting a false alarm penalty provision.
5. NRS 206.015 deals with the definition and punishment prescribed for destruction of crop, trees, etc., belonging to another person or to the state.
6. NRS 206.025 deals with destruction of buildings or outer buildings, fences, etc., and the punishment appropriate thereto.
7. NRS 206.060 deals with the destruction or damage to fences or gates, etc., and the punishments appropriate thereto.
8. NRS 206.090 deals with the crime of placing a building on property without the consent of the owner and the punishments appropriate thereto.
9. NRS 206.100 deals with the crime of removing soil or stone from any property without consent and the punishments appropriate thereto.
10. NRS 206.110 deals with the crime of damage or destruction of sewers and drains and the punishment appropriate thereto.
11. NRS 206.120 deals with the crime of destruction of utility mains, insulators and cables, including shooting, destroying electric power line insulators and punishment appropriate thereto.

12. NRS 206.170 deals with the crime of damage to tools, engines, etc., and the punishment appropriate thereto.
13. NRS 206.180 deals with the crime of the destruction or removal of works of art or literature, etc., and the punishment appropriate thereto.
14. NRS 206.190 deals with the crime of the removal or destruction of monuments in parks or cemeteries, etc., and the punishment appropriate thereto.
15. NRS 206.230 deals with the removal or destruction of monuments on property other than public property and the punishment appropriate thereto.
16. NRS 206.240 deals with the crime of injury to baggage by a person or corporation engaged in the transportation of baggage and the punishment appropriate thereto.
17. NRS 206.250 deals with the crime of destruction or removal of any wood or lumber or watercraft, including boats, etc., belonging to another and the punishment appropriate thereto.
18. NRS 213.170 deals with the crime of perjury or subornation of perjury in connection with application for pardon, parole and the penalty therefore.
19. NRS 246.080 deals with the crime of a county clerk who falsifies or steals any record and the punishment appropriate thereto.
20. NRS 247.400 deals with the crime of any county recorder who steals or alters any public record and appropriate penalty thereto.
21. NRS 248.070 deals with the crime of a sheriff who allows a prisoner to leave incarceration and it shall be deemed an escape and the sheriff shall be fined up to \$10,000, e.g., allows to go free with reason.
22. NRS 248.080 deals with the crime and the punishment for inhumanity to prisoners by sheriff or a jailer.
23. NRS 248.260 deals with the crime of any sheriff who shall steal or embezzle or alter any public records and the penalty appropriate thereto.
24. NRS 253.130 deals with the crime of any public administrator who steals or alters any public document and the punishment appropriate thereto.

APPENDIX APage three

25. NRS 281.200 deals with the crime of any public officer who shall steal or alter any public document and the penalties appropriate thereto.
26. NRS 350.053 makes it a perjury to falsely swear before the board of examiners, penalties are the same as for criminal perjury.
27. NRS 360.290 deals with county officers or witnesses who refuse summons relating to census or taxation, who are guilty of a misdemeanor for first offense, gross misdemeanor for the second offense and if they falsely swear shall be guilty of perjury.
28. NRS 361.270 deals with the crime of a person who gives a false statement concerning taxable property, that person is deemed guilty of perjury and punished according to the criminal statutes.
29. NRS 361.440 deals with any county officer who neglects or fails to comply with the provisions of NRS 361.375 to NRS 361.435 and the penalties applicable thereto.
30. NRS 361.785 deals with the crime of an officer who fails to comply with the requirements concerning lost tax receipts and the penalty applicable thereto.
31. NRS 412.586 deals with the crime of perjury committed by an individual who makes a false statement upon enlistment to the state militia.
32. NRS 422.330 deals with the crime of an individual who makes a false statement concerning the receipt of financial assistance from the state welfare administration for another person.
33. NRS 452.280 deals with the crime of destruction of any monument, gravestone, etc., in a cemetery and the penalties appropriate thereto.
34. NRS 467.175 deals with the crime of any promoter, etc., of a boxing or wrestling match who makes a false statement shall be guilty of perjury.
35. NRS 475.040 deals with the destruction of timber or crops, etc., and refers to NRS 193.155 as the reference criminal provision, in addition to any civil action.
36. NRS 483.540 deals with the crime of any person who makes a false statement on a drivers license application, etc., shall be guilty of the crime of perjury.

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37. NRS 535.120 deals with any person who causes injury to a dam, bridge or other structure similar in nature and the punishment appropriate thereto.
38. NRS 536.110 deals with the crime of any person who injures or destroys any canal, aqueduct, etc., and the punishment thereto.
39. NRS 647.095 deals with any junk dealer who receives property he reasonably should know belongs to a public utility or a city or county government or other governmental agency is guilty of receiving stolen property and the punishment appropriate thereto.
40. NRS 647.145 deals with any secondhand dealer, etc., who receives property he should reasonably know belongs to a public utility or governmental agency is guilty of receiving stolen property and the punishments appropriate thereto.
41. NRS 664.035 deals with the crime of any clerk or bank employee who upon issuance of a certified check fails to insure that there is sufficient money in the bank to cover the certified check as issued and the penalties appropriate thereto.
42. NRS 704.810 deals with the unlawful removal of or damage to public utility property and refers to NRS 193.155 as the appropriate criminal penalty provision.
43. NRS 705.470 deals with the crime of the unlawful destruction or damage to railroad cars, etc., and the references to NRS 193.155 as the appropriate penalty provision in the criminal provisions.

Changes of Substance Within Senate Bill No. 9

Senate Bill No. 9, within its pages, changes or eliminates certain provisions of the Nevada Revised Statutes to include:

(a) NRS 199.460 [page 7, lines 47-48] -- an officer is subject to possible misdemeanor prosecution if he fails to permit an arrested to communicate with friends or an attorney "at reasonable times and intervals". What would constitute "reasonable" visitation is probably so vague as to constitute inadequate notice of the prohibited conduct and be unconstitutional. This is a change of substance.

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(b) NRS 206.040 [page 39, line 24] -- the change of language to "real property of another" is a change of substance with the danger that this section, creating a misdemeanor, supplants the burglary statute, a felony, in certain instances.

(c) NRS 705.200(2) [page 79, lines 38-48] -- an entire crime carrying 1-10 years and a \$5,000 fine is eliminated. Another change of substance for no apparent reason.

(d) NRS 707.130 [page 81, lines 37-40] -- eliminates reparation to telegraph company of 100 times actual damage, when the cost of repair or placement of a \$4 component may through labor and transportation costs well exceed that multiple.

(e) NRS 206.220 [pages 39-40] -- makes state protected from removal of boundary markers and corner stones.

(f) NRS 207.080 [pages 40-41] -- removes junk dealers and secondhand dealers from certain specific receiving stolen property penalties.

(g) NRS 475.100 [page 66, lines 35-48] -- substantial change in language which now makes false alarm equivalent to voluntary manslaughter if death or serious bodily harm results from the false alarm.

(h) NRS 539.780 [page 71, lines 13-27] -- eliminates destruction and damage portion of the statute which deals with canals, reservoirs, construction work, etc.; also NRS 704.800 [pages 78-79] -- amendments eliminate similar destruction provisions, and NRS 707.130 [page 81, lines 14-40] which related to damage to telegraph equipment.

APPENDIX B

1. NRS 200.480(2)(c)(3) [page 11, lines 34-37] -- 1-6 years, but a \$10,000 fine.
2. NRS 202.820(2)(b) [page 21, lines 13-14] -- no \$10,000 fine imposed on 2-20 year term.
3. NRS 207.250(3)(a) [page 42, lines 23-25] -- reduces term from 1-10 years to 1-6 years instead of raising the fine level from \$5,000 to \$10,000. This is the reverse of the changes elsewhere where the fine is raised, lowered or added to correspond to the term of years.
4. NRS 212.090(1)(a) [page 43, lines 7-14] -- 2-20 year term, but no provision for \$10,000 fine.
5. NRS 119.330(2)(b) [page 45, lines 31-33] -- 1-6 year term, but \$10,000 fine.
6. NRS 453.411(3)(a) [page 60, lines 15-16] -- leaves \$2,000 fine on 1-6 year term.
7. NRS 453.411(3)(b) [page 60, lines 18-19] -- increases \$1,000 fine to \$5,000 while leaving a 1-year county jail sentence. Consistency would indicate that the \$1,000 fine on a gross misdemeanor punishment should be retained.
8. NRS 692C.480(3) [pages 77-78] -- retains 2-year maximum term and \$10,000 fine.
9. NRS 695A.580 [page 78, line 17] -- retains minimum fine while elsewhere they have been eliminated, e.g., NRS 212.180, NRS 4.220, NRS 392.400 and NRS 704.640.
10. NRS 200.220 [page 9, lines 17-18] -- 1-6 year term but \$20,000 fine.
11. NRS 453.316(2) [page 57, lines 3-12] -- no provision for fine on a 2-20 year term.

The bill does not address numerous sections of the Nevada Revised Statutes to include for example:

(a) NRS 196.010 [Treason] -- no fine imposed on 10 year to life sentence.

(b) NRS 200.330 [Kidnapping] -- no fine imposed for second degree kidnapping carrying a 1-15 year term.

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(c) NRS 200.380 [Robbery] -- no fine imposed on a 1-15 year term.

(d) NRS 200.390 [Attempt to Kill by Poisoning] -- no fine imposed for 1-20 year term.

(e) NRS 205.750 [Burglary with Explosives] -- no fine imposed for 1-20 year term.

(f) NRS 453.321 [Sale of Controlled Substance] -- remains unaltered and unstandardized in some particulars.

(g) NRS 205.010, 205.015, 205.020 and 205.030 [Arson] -- no fines imposed for first, second and third degree arson or for arson with intent to defraud insurer carrying 1-15 years, 1-10 years and 1-6 years terms of imprisonment. NRS 205.025, fourth degree arson, is singled out in the bill for the imposition of fines [page 24, lines 9-10].

SB 9

Las Vegas, Nevada
February 8, 1979

Re: SB9 - Proposed Amendments

Senator Don Ashworth
Nevada State Senate
Carson City, Nevada 89701

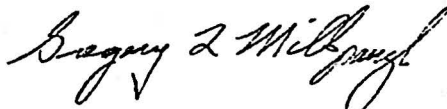
Dear Senator:

I am concerned that a major revision of the state's criminal code such as that proposed by SB9 (Original Draft) may often times come to reflect the philosophy of well intentioned, but unrepresentative, support staff within the legislature.

Accordingly, I have enclosed a set of proposed amendments to SB9, by bill section number, with a short reason for each of my recommendations.

I hope that this format will facilitate your comparison of philosophical perspectives and aid in identifying necessary adjustments to balance SB9 in committee.

Sincerely,



Gregory L. Millspaugh
P. O. Box 11124
Las Vegas, Nevada 89111

/GL

Encls: As stated

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Proposed Amendments to SB9 - (Original Draft):

Parentheses denotes deletion, underscore denotes insertion.

Sec. 17: Amend paragraph to read: "not less than 1 year nor more than (6) 10 years, and may be further punished by a fine of not more than (\$5,000) \$10,000."

Reason: make intimidation of witness punishable by at least as severe a penalty as bribery of a witness, Sec. 18.

Sec. 27: Delete proposed phrase: An officer or person having the custody and control of the body or liberty of any person under arrest shall not refuse permission to the arrested person to communicate (at reasonable times and intervals) with his friends or with an attorney,

Reason: Who is to define "reasonable" under these circumstances, the U.S. Supreme Court?

Sec. 30;
31;33;40;
and 55:

Willful manslaughter of an unborn child; willful mayhem; unlawful abortion; poisoning:

Make punishable by a minimum of 3 years.

Reason: The acts described in these sections require premeditation, and a vicious disregard for human life. Any person convicted of such heinous crimes needs to be removed from society for as long as possible to protect innocent citizens from subsequent acts by the criminal. Also, simple "Assault With a Deadly Weapon"- - not resulting in a death is already punishable by a minimum of 2 years. Make the punishment fit the crime.

Sec. 36
and 37:

Delete these sections from the bill.

Reason: The voters have expressed their desire to remove antiquated provisions from our State Constitution regarding the subject, and pursuing the original draft of the bill would be in direct contradiction to the expressed will of the citizens.

- Sec. 38: Amend paragraph 1 (b.):
1. As used in this section:
 - (b.) "Child" means a person less than (18) 16 years of age.

Reason: Society has too many cases of hardened juvenile delinquents who initiate disturbances, especially in public schools and recreational facilities, and then hide behind this one definition.

Amend paragraph 2. (c) by deleting sub-paragraph (3).

Reason: Since an officer is paid to accept the risks necessary to protect private citizens, the protection given a paid professional should at most be equal to a private citizen's protection, but never in excess of the protection afforded to a private citizen.

- Sec. 39: "Non support" - Delete Sec. 39.

Reason: Given the offense, a fine of \$5,000. is absurd. The bill would punish "Non-support" as much as conspiracy to commit murder.

- Sec. 41;
42;43: Delete sections 41, 42, 43 of SB9.

Reason: The existing punishments are adequated to the offenses which are not a threat to persons, property or society.

- Sec. 57: Add to section 57 a third subsection:

3. Subsection 1 does not prevent or prohibit the use of any device described by subsection 1 for the prevention, deterrence, detainment or protection from any act of forced or forceable entry into the domicile or residence of any person so long as a state of habitation shall have been maintained for any period of time; and such habitation shall not have been terminated for a period in excess of 1 year.

Reason: Provide reasonable means for people to protect themselves in their homes.

Sec. 61: Amend subsection 3 to read:

3. Any person who violates the provisions of this section shall be punished by imprisonment in the state prison for not less than 1 year nor more than (6) 10 years, and may be further punished by a fine of not more than (15,000) \$10,000.

Reason: A great percentage of violent crimes are committed by previously convicted felons, who should be severely punished for possession of a concealed weapon.

Sec. 62: Amend subsection 2(6):

- (b) For the second or any subsequent offense, by imprisonment in the state prison for not less than (2) 5 years nor more than (20) 25 years.

Reason: SB9 is attempting to reduce the penalty already in the statutes; my recommendation is to retain the existing language of the statute.

Sec.183: Delete phrase: ("or set off fireworks,")

Reason: Does society have so much time and taxpayers' money to waste persecuting someone for celebrating the nation's independence, when this same bill is reducing the penalty for commission of a felony with explosives, e. g. Sec. 62?

Sec.189: Delete subsection 1, paragraph (d).

Reason: The language provided in the bill would prosecute a parent for refusing permission to endanger a child, a guardian for refusing to endanger a ward, a knowledgeable person for protecting the uninformed about the danger of toxic fumes, explosives or radioactive wastes. A citizen must have recourse to recommend and effect evacuation of himself, his family and friends.

Sec.204: Amend subsection 1, paragraph (c):

- (c) To cut, destroy, mutilate, pick or remove any flora declared endangered by the state forester fire warden from any lands, other than state park lands provided for in paragraph "b", owned by or under the control of the State of Nevada (or the United States) without a written permit, therefore, from the State Forester Firewarden or his designate. For the purposes of this subsection, the state forester firewarden may establish

regulations for enforcement, including the issuance of collecting permits and the designation of state (and federal) agencies from which such permits may be obtained.

Amend subsection 3:

3. The state forester firewarden and his representatives, (public officials charged with the administration of reserved and unreserved lands belonging to the United States,) and peace officers shall enforce the provisions of this section.

Reason: The State of Nevada has no jurisdiction to require a permit be granted by any atency, federal or state, when federal lands are involved. Further, the language to be deleted serves only to enable the federal bureaucracy to dump the burden of enforcement of unreasonable federal regulations onto the taxpayers of Nevada. Our citizens have enough financial problems without subsidizing the Bureau of Land Management.

Sec. 217,
218:

Delete sections 217, 218 of SB9.

Reason: The current penalties fit the offenses. Nevada does not need to compete with the neurosis of federal government bureaucrats in harassing our local businessmen.

Sec.237: Proposed deletion of subsection 2 of NRS 705.200 should be dropped. Existing language of NRS 705.200 (2) should be retained.

2. If the owner or owners of animals mentioned in NRS 705.150 shall drive the same upon the track of any such railroad corporation or company with intent thereby to injure or kill it or them, such owner or owners shall be liable for all injury or damage occasioned by reason of such act, and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Reason: SB9 as proposed in original draft would now make it legal to intentionally drive herds onto railroad tracks with no risk of any punishment whatsoever; this would permit an act akin to arson for insurance fraud.