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POTENTIAL BILL DRAFT REQUESTS
ASSEMBLY COMMITTEE ON JUDICIARY

February 24, 2002

Bill Draft Requests Recommended by the Chairman of the Committee

The following bill draft requests have been reviewed by Chairman Bernie Anderson and are recommended for the Committee's consideration:

1. **Create an enhanced penalty for person who: (a) is convicted under NRS 453.321 (unlawful actions involving the importing, transporting, selling, giving away, etc... of Schedule I drugs), and (b) failed to assist a person who had a reaction to the drug and died.**

Speaker Richard D. Perkins requested the Committee's consideration of a bill draft on behalf of a constituent whose daughter died from the drug Ecstasy (a Schedule I drug).

2. **Authorize adults over the age of 21 who were molested as children to apply to State's Fund for the Compensation of Victims of Crime.**

Under NRS 217.210, orders for payment for compensation cannot be made unless the application is made within 1 year after the date of injury or death. This limitation does not apply to minors who were sexually abused or involved in the production of pornography. However, such a minor must apply for compensation before reaching 21 years of age.

Mary Jo DiCario, a program counselor with Sexual Assault Response Advocates (S.A.R.A.) requested the Committee's consideration of this bill draft.

3. **Create a new category of public record to be classified as "Homeland Defense Sensitive Documents," to which access is more limited.**

The purpose of this request is to monitor access to certain building plans and other documents of potential use by terrorists. The new category of public record is intended to be less easy to accessed bureaucratically than the current system provides for, but more easy to access than sealed, confidential records. It is the intent of the requested legislation not to delay access to any document by persons employed by the news media, government employees, emergency service workers, architects, or guilty contractors.

A member of the Committee requested consideration of this bill draft.

4. **Draft legislation to adopt a "Comprehensive Model State Anti-Contraband Legislation, which is designed to stop the illicit sale of cigarettes, which include stolen, illegally imported, counterfeit, and untaxed or undertaxed cigarettes that enter into or are**

ASSEMBLY JUDICIARY

DATE: 2/24/03 ROOM 3138 EXHIBIT C

SUBMITTED BY: Chairman Anderson

C 1 of 3

diverted from the supply chain through illegal means. The proposed legislation includes licensing of all tobacco manufacturers at the state level, licensing of wholesalers and retailers, reporting and recording transactions, traceable tax stamps, recording large retail sales, and tougher penalties.

In addition, include legislation to enhance the enforcement of the Chapter 370A (the model act adopted by the Legislature in response to the tobacco Master Settlement Agreement). The "Model Complementary Legislation" is recommended by the National Association of Attorneys General and would provide Nevada with additional tools to enforce the escrow payment requirements of Chapter 370A.

5. **Draft legislation to address the Nevada Supreme Court's decision in Washington v. State.** In this case, the Nevada Supreme Court reviewed two existing statutes concerning the sale of an imitation controlled substance. The penalty for this activity under NRS 453.332, which was enacted in 1983, is a *misdemeanor*. The penalty under NRS 453.323, which was enacted in 1977, is a *felony*.

The court indicated that the 1977 statute with the felony penalty was repealed by implication since the later statute, which imposes a misdemeanor penalty, covers its substance. The Legislature may choose to address this decision with one of the following options, as set forth by Risa Lang, Legal Counsel, in the document presented to the Committee on February 4, 2003:

- a. If the Legislature agrees the interpretation of the Nevada Supreme Court, it may wish to officially repeal NRS 453.323 (the statute with the felony penalty).
- b. If the Legislature believes a greater penalty should be imposed, it may wish to:
 - i. Repeal NRS 453.332 (the statute with the misdemeanor penalty) so that only the felony provision of NRS 453.323 remains; or
 - ii. Amend either statute as it deems appropriate.

Bill Draft Requests Rejected by the Chairman of the Committee

The Chairman of the Committee rejected the following bill draft requests:

1. A request from Madelyn Shipman, Washoe County, to address the following two issues relating to a municipal court's lack of jurisdiction over misdemeanors committed outside a city's borders.
 - a. Enforcement of interlocal agreements between Washoe County and the cities of Reno and Sparks to have city industrial waste inspectors do inspections within the unincorporated area to prevent industrial waste from entering into the sewer system; and
 - b. Enforcement by cities of city zoning and building codes outside city boundaries, as authorized under NRS 278.02788.

The Chairman rejected this request because there are concerns of whether the Committee has jurisdiction over these issues, and the Committee already has a very heavy workload.

2. A request from Jim Spoo to adopt a Nevada "Religious Freedom Restoration Act" (RFRA).

Congress adopted RFRA in 1993 to mandate that government must have a "compelling interest" before it can impose limits on the exercise of religion. As reported in *State Legislatures*, in 1997, "(T)he United States Supreme Court struck down the federal Religious Freedom Restoration Act on the grounds that Congress had exceeded its authority and intruded into the affairs of state and local governments. The measure would have forced state and local officials to give special deference in claims involving the 'free exercise of religion.' * * * (T)he court adhered to its view that states can enforce 'neutral and generally applicable laws' even when they infringe on someone's religion. While states may give exemptions that are based on religion, they need not do so."

The Chairman rejected this request because the issue has rested for several years since the Supreme Court's decision and there does not appear to be a compelling need to consider such legislation at this time, particularly in light of the Committee's already heavy workload.

3. A request from the Nevada State Bail Agents Association involving the enforcement of the State's bail provisions.

The Chairman rejected this request because of the time the Committee has spent on these issues in the past and due to the heavy workload already before the Committee.