
SENATE BILL NO. 42—COMMITTEE ON JUDICIARY

PREFILED JANUARY 30, 2003

Referred to Committee on Finance

SUMMARY—Enacts provisions pertaining to problem gambling.
(BDR 41-73)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included
in Executive Budget.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to gaming; revising the membership of the Gaming Policy Committee to include a representative of the Nevada Council on Problem Gambling; requiring the State Board of Education to adopt regulations regarding the establishment and applicability of a course of study concerning the prevention of problem gambling; creating the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling; making an appropriation to the Account; providing for the establishment by a district court of a program for the treatment of offenders suffering from problem gambling; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 463.021 is hereby amended to read as follows:
2 463.021 1. The Gaming Policy Committee, consisting of the
3 Governor as Chairman and ~~10~~ *11* members, is hereby created.
4 2. The Committee must be composed of:
5 (a) One member of the Commission, designated by the
6 Chairman of the Commission;
7 (b) One member of the Board, designated by the Chairman of
8 the Board;



- 1 (c) One member of the Senate appointed by the Legislative
- 2 Commission;
- 3 (d) One member of the Assembly appointed by the Legislative
- 4 Commission;
- 5 (e) One enrolled member of a Nevada Indian tribe appointed by
- 6 the Inter-Tribal Council of Nevada, Inc.; ~~and~~
- 7 (f) *One nonvoting member who is a representative of the*
- 8 *Nevada Council on Problem Gambling, designated by the*
- 9 *Council; and*
- 10 (g) Five members appointed by the Governor for terms of 2
- 11 years as follows:
 - 12 (1) Two representatives of the general public;
 - 13 (2) Two representatives of nonrestricted gaming licensees;
 - 14 and
 - 15 (3) One representative of restricted gaming licensees.
- 16 3. Members who are appointed by the Governor serve at the
- 17 pleasure of the Governor.
- 18 4. Members who are Legislators serve terms beginning when
- 19 the Legislature convenes and continuing until the next regular
- 20 session of the Legislature is convened.
- 21 5. Except as otherwise provided in subsection 6, the Governor
- 22 may call meetings of the Gaming Policy Committee for
- 23 the exclusive purpose of discussing matters of gaming policy. The
- 24 recommendations concerning gaming policy made by the
- 25 Committee pursuant to this subsection are advisory and not binding
- 26 on the Board or the Commission in the performance of their duties
- 27 and functions.
- 28 6. An appeal filed pursuant to NRS 463.3088 may be
- 29 considered only by a review panel of the Committee. The review
- 30 panel must consist of the members of the Committee who are
- 31 identified in paragraphs (a), (b) and (e) of subsection 2 and
- 32 subparagraph (1) of paragraph ~~(f)~~ (g) of subsection 2.
- 33 **Sec. 2.** NRS 176A.500 is hereby amended to read as follows:
34 176A.500 1. The period of probation or suspension of
- 35 sentence may be indeterminate or may be fixed by the court and
- 36 may at any time be extended or terminated by the court, but the
- 37 period, including any extensions thereof, must not be more than:
 - 38 (a) Three years for a:
 - 39 (1) Gross misdemeanor; or
 - 40 (2) Suspension of sentence pursuant to NRS 176A.260 ~~for~~
 - 41 ~~453.3363;~~, 453.3363 or *section 17 of this act; or*
 - 42 (b) Five years for a felony.
 - 43 2. At any time during probation or suspension of sentence, the
 - 44 court may issue a warrant for violating any of the conditions of
 - 45 probation or suspension of sentence and cause the defendant to be



1 arrested. Except for the purpose of giving a dishonorable discharge
2 from probation, and except as otherwise provided in this subsection,
3 the time during which a warrant for violating any of the conditions
4 of probation is in effect is not part of the period of probation. If the
5 warrant is canceled or probation is reinstated, the court may include
6 any amount of that time as part of the period of probation.

7 3. Any parole and probation officer or any peace officer with
8 power to arrest may arrest a probationer without a warrant, or may
9 deputize any other officer with power to arrest to do so by giving
10 him a written statement setting forth that the probationer has, in the
11 judgment of the parole and probation officer, violated the conditions
12 of probation. Except as otherwise provided in subsection 4, the
13 parole and probation officer, or the peace officer, after making an
14 arrest shall present to the detaining authorities, if any, a statement of
15 the charges against the probationer. The parole and probation officer
16 shall at once notify the court which granted probation of the arrest
17 and detention or residential confinement of the probationer and shall
18 submit a report in writing showing in what manner the probationer
19 has violated the conditions of probation.

20 4. A parole and probation officer or a peace officer may
21 immediately release from custody without any further proceedings
22 any person he arrests without a warrant for violating a condition of
23 probation if the parole and probation officer or peace officer
24 determines that there is no probable cause to believe that the person
25 violated the condition of probation.

26 **Sec. 3.** NRS 179.245 is hereby amended to read as follows:

27 179.245 1. Except as otherwise provided in subsection 5 and
28 NRS 176A.265, 179.259 and 453.3365, *and section 18 of this act*, a
29 person may petition the court in which he was convicted for the
30 sealing of all records relating to a conviction of:

31 (a) A category A or B felony after 15 years from the date of his
32 release from actual custody or discharge from parole or probation,
33 whichever occurs later;

34 (b) A category C or D felony after 12 years from the date of his
35 release from actual custody or discharge from parole or probation,
36 whichever occurs later;

37 (c) A category E felony after 10 years from the date of his
38 release from actual custody or discharge from parole or probation,
39 whichever occurs later;

40 (d) Any gross misdemeanor after 7 years from the date of his
41 release from actual custody or discharge from probation, whichever
42 occurs later;

43 (e) A violation of NRS 484.379 other than a felony, or a battery
44 which constitutes domestic violence pursuant to NRS 33.018 other
45 than a felony, after 7 years from the date of his release from actual



1 custody or from the date when he is no longer under a suspended
2 sentence, whichever occurs later; or

3 (f) Any other misdemeanor after 3 years from the date of his
4 release from actual custody or from the date when he is no longer
5 under a suspended sentence, whichever occurs later.

6 2. A petition filed pursuant to subsection 1 must:

7 (a) Be accompanied by current, verified records of the
8 petitioner's criminal history received from:

9 (1) The Central Repository for Nevada Records of Criminal
10 History; and

11 (2) The local law enforcement agency of the city or county in
12 which the conviction was entered;

13 (b) Include a list of any other public or private agency,
14 company, official or other custodian of records that is reasonably
15 known to the petitioner to have possession of records of the
16 conviction and to whom the order to seal records, if issued, will be
17 directed; and

18 (c) Include information that, to the best knowledge and belief of
19 the petitioner, accurately and completely identifies the records to be
20 sealed.

21 3. Upon receiving a petition pursuant to this section, the court
22 shall notify the law enforcement agency that arrested the petitioner
23 for the crime and:

24 (a) If the person was convicted in a district court or justice's
25 court, the prosecuting attorney for the county; or

26 (b) If the person was convicted in a municipal court, the
27 prosecuting attorney for the city.

28 The prosecuting attorney and any person having relevant evidence
29 may testify and present evidence at the hearing on the petition.

30 4. If, after the hearing, the court finds that, in the period
31 prescribed in subsection 1, the petitioner has not been charged with
32 any offense for which the charges are pending or convicted of any
33 offense, except for minor moving or standing traffic violations, the
34 court may order sealed all records of the conviction which are in the
35 custody of the court, of another court in the State of Nevada or of a
36 public or private agency, company or official in the State of Nevada,
37 and may also order all such criminal identification records of the
38 petitioner returned to the file of the court where the proceeding was
39 commenced from, including, but not limited to, the Federal Bureau
40 of Investigation, the California Bureau of *Criminal* Identification
41 and Information, sheriffs' offices and all other law enforcement
42 agencies reasonably known by either the petitioner or the court to
43 have possession of such records.

44 5. A person may not petition the court to seal records relating
45 to a conviction of a crime against a child or a sexual offense.



- 1 6. If the court grants a petition for the sealing of records
- 2 pursuant to this section, upon the request of the person whose
- 3 records are sealed, the court may order sealed all records of the civil
- 4 proceeding in which the records were sealed.
- 5 7. As used in this section:
- 6 (a) "Crime against a child" has the meaning ascribed to it in
- 7 NRS 179D.210.
- 8 (b) "Sexual offense" means:
- 9 (1) Murder of the first degree committed in the perpetration
- 10 or attempted perpetration of sexual assault or of sexual abuse or
- 11 sexual molestation of a child less than 14 years of age pursuant to
- 12 paragraph (b) of subsection 1 of NRS 200.030.
- 13 (2) Sexual assault pursuant to NRS 200.366.
- 14 (3) Statutory sexual seduction pursuant to NRS 200.368, if
- 15 punishable as a felony.
- 16 (4) Battery with intent to commit sexual assault pursuant to
- 17 NRS 200.400.
- 18 (5) An offense involving the administration of a drug to
- 19 another person with the intent to enable or assist the commission of
- 20 a felony pursuant to NRS 200.405, if the felony is an offense listed
- 21 in this paragraph.
- 22 (6) An offense involving the administration of a controlled
- 23 substance to another person with the intent to enable or assist the
- 24 commission of a crime of violence pursuant to NRS 200.408, if the
- 25 crime of violence is an offense listed in this paragraph.
- 26 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
- 27 involved sexual abuse or sexual exploitation.
- 28 (8) An offense involving pornography and a minor pursuant
- 29 to NRS 200.710 to 200.730, inclusive.
- 30 (9) Incest pursuant to NRS 201.180.
- 31 (10) Solicitation of a minor to engage in acts constituting the
- 32 infamous crime against nature pursuant to NRS 201.195.
- 33 (11) Open or gross lewdness pursuant to NRS 201.210, if
- 34 punishable as a felony.
- 35 (12) Indecent or obscene exposure pursuant to NRS 201.220,
- 36 if punishable as a felony.
- 37 (13) Lewdness with a child pursuant to NRS 201.230.
- 38 (14) Sexual penetration of a dead human body pursuant to
- 39 NRS 201.450.
- 40 (15) Annoyance or molestation of a minor pursuant to
- 41 NRS 207.260.
- 42 (16) An attempt to commit an offense listed in subparagraphs
- 43 (1) to (15), inclusive.



1 **Sec. 4.** NRS 179.275 is hereby amended to read as follows:
2 179.275 Where the court orders the sealing of a record
3 pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365,
4 *or section 18 of this act*, a copy of the order must be sent to:

5 1. The Central Repository for Nevada Records of Criminal
6 History; and

7 2. Each public or private company, agency or official named in
8 the order, and that person shall seal the records in his custody which
9 relate to the matters contained in the order, shall advise the court of
10 his compliance, and shall then seal the order.

11 **Sec. 5.** NRS 179.285 is hereby amended to read as follows:

12 179.285 Except as otherwise provided in NRS 179.301, if the
13 court orders a record sealed pursuant to NRS 176A.265, 179.245,
14 179.255, 179.259 or 453.3365 ~~{}~~ *or section 18 of this act*:

15 1. All proceedings recounted in the record are deemed never to
16 have occurred, and the person to whom the order pertains may
17 properly answer accordingly to any inquiry concerning the arrest,
18 conviction, dismissal or acquittal and the events and proceedings
19 relating to the arrest, conviction, dismissal or acquittal.

20 2. The court shall order the civil rights of the person to whom
21 the order pertains to be restored if the person has not been restored
22 to his civil rights.

23 **Sec. 6.** NRS 179.295 is hereby amended to read as follows:

24 179.295 1. The person who is the subject of the records that
25 are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or
26 453.3365 *or section 18 of this act* may petition the court that
27 ordered the records sealed to permit inspection of the records by a
28 person named in the petition, and the court may order such
29 inspection. Except as otherwise provided in this section and NRS
30 179.259 and 179.301, the court may not order the inspection of the
31 records under any other circumstances.

32 2. If a person has been arrested, the charges have been
33 dismissed and the records of the arrest have been sealed, the court
34 may order the inspection of the records by a prosecuting attorney
35 upon a showing that as a result of newly discovered evidence, the
36 person has been arrested for the same or similar offense and that
37 there is sufficient evidence reasonably to conclude that he will stand
38 trial for the offense.

39 3. The court may, upon the application of a prosecuting
40 attorney or an attorney representing a defendant in a criminal action,
41 order an inspection of such records for the purpose of obtaining
42 information relating to persons who were involved in the incident
43 recorded.

44 4. This section does not prohibit a court ~~{form}~~ *from*
45 considering a conviction for which records have been sealed



1 pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365
2 *or section 18 of this act* in determining whether to grant a petition
3 pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365
4 *or section 18 of this act* for a conviction of another offense.

5 **Sec. 7.** NRS 389.0185 is hereby amended to read as follows:
6 389.0185 The State Board shall adopt regulations establishing
7 courses of study and the grade levels for which the courses of study
8 apply for:

- 9 1. The academic subjects set forth in NRS 389.018.
- 10 2. Citizenship and physical training for pupils enrolled in high
- 11 school.
- 12 3. Physiology, hygiene and cardiopulmonary resuscitation.
- 13 4. The prevention of suicide.
- 14 5. Instruction relating to child abuse.
- 15 6. The economics of the American system of free enterprise.
- 16 7. *The prevention of problem gambling.*
- 17 8. American Sign Language.
- 18 ~~8.1~~ 9. Environmental education.
- 19 ~~9.1~~ 10. Adult roles and responsibilities.

20 A course of study established for subsection 1 may include one or
21 more of the subjects listed in subsections 2 to ~~9.1~~ 10, inclusive.

22 **Sec. 8.** Title 40 of NRS is hereby amended by adding thereto a
23 new chapter to consist of the provisions set forth as sections 9 to 18,
24 inclusive, of this act.

25 **Sec. 9.** *As used in sections 10 to 15, inclusive, of this act,*
26 *unless the context otherwise requires, the words and terms defined*
27 *in sections 10 and 11 of this act have the meanings ascribed to*
28 *them in those sections.*

29 **Sec. 10.** *“Account” means the Revolving Account to Support*
30 *Programs for the Prevention and Treatment of Problem*
31 *Gambling.*

32 **Sec. 11.** *“Director” means the Director of the Department of*
33 *Human Resources.*

34 **Sec. 12.** *The Revolving Account to Support Programs for the*
35 *Prevention and Treatment of Problem Gambling is hereby created*
36 *in the State General Fund.*

37 **Sec. 13.** 1. *The Director shall administer the Account.*

38 2. *The money in the Account must be expended only to make*
39 *grants to qualified organizations or persons that provide programs*
40 *for the prevention and treatment of problem gambling.*

41 3. *The existence of the Account does not create a right in any*
42 *person to receive money from the Account.*

43 4. *On or before January 31 of each year, the Director shall*
44 *submit to the Director of the Legislative Counsel Bureau a written*
45 *report concerning any grants made during the previous year to*



1 *qualified organizations or persons that provide programs for the*
2 *prevention and treatment of problem gambling.*

3 **Sec. 14.** 1. *The Director may apply for and accept any gift,*
4 *donation, bequest, grant or other source of money. Any money so*
5 *received must be deposited in the Account.*

6 2. *The interest and income earned on money in the Account*
7 *from any gift, donation or bequest, after deducting any applicable*
8 *charges, must be credited to the Account.*

9 3. *Money from any gift, donation or bequest that remains in*
10 *the Account at the end of the fiscal year does not revert to the*
11 *State General Fund, and the balance in the Account must be*
12 *carried forward to the next fiscal year.*

13 **Sec. 15.** 1. *The Director shall adopt regulations to carry*
14 *out the provisions of sections 13 and 14 of this act.*

15 2. *The regulations adopted by the Director must include,*
16 *without limitation:*

17 (a) *The procedure by which qualified organizations or persons*
18 *may apply for a grant of money from the Account;*

19 (b) *The criteria that the Director will consider in determining*
20 *whether to award such a grant of money from the Account; and*

21 (c) *Procedures to distribute the money in the Account in a fair*
22 *and equitable manner.*

23 **Sec. 16.** *A district court may establish an appropriate*
24 *program for the treatment of problem gambling to which it may*
25 *assign a defendant pursuant to section 17 of this act. The*
26 *assignment must include the terms and conditions for successful*
27 *completion of the program and provide for progress reports at*
28 *intervals set by the court to ensure that the defendant is making*
29 *satisfactory progress towards completion of the program.*

30 **Sec. 17.** 1. *Except as otherwise provided in subsection 2, if*
31 *a defendant who suffers from problem gambling tenders a plea of*
32 *guilty or nolo contendere to, or is found guilty of, any offense for*
33 *which the suspension of sentence or the granting of probation is*
34 *not prohibited by statute, the court may, without entering a*
35 *judgment of conviction and with the consent of the defendant,*
36 *suspend further proceedings and place the defendant on probation*
37 *upon terms and conditions that must include attendance and*
38 *successful completion of a program established pursuant to*
39 *section 16 of this act.*

40 2. *If the offense committed by the defendant involved the use*
41 *or threatened use of force or violence against a victim or if the*
42 *defendant was previously convicted in this state or in any other*
43 *jurisdiction of a felony that involved the use or threatened use of*
44 *force or violence against a victim, the court may not assign the*



1 *defendant to the program unless the prosecuting attorney*
2 *stipulates to the assignment.*

3 *3. Upon violation of a term or condition:*

4 *(a) The court may enter a judgment of conviction and proceed*
5 *as provided in the section pursuant to which the defendant was*
6 *charged.*

7 *(b) Notwithstanding the provisions of paragraph (e) of*
8 *subsection 2 of NRS 193.130, the court may order the defendant to*
9 *the custody of the Department of Corrections if the offense is*
10 *punishable by imprisonment in the state prison.*

11 *4. Upon fulfillment of the terms and conditions, the court*
12 *shall discharge the defendant and dismiss the proceedings against*
13 *him. Except as otherwise provided in subsection 5, discharge and*
14 *dismissal pursuant to this section is without adjudication of guilt*
15 *and is not a conviction for purposes of this section or for purposes*
16 *of employment, civil rights or any statute or regulation or license*
17 *or questionnaire or for any other public or private purpose, but is*
18 *a conviction for the purpose of additional penalties imposed for*
19 *second or subsequent convictions or the setting of bail. Discharge*
20 *and dismissal restores the defendant, in the contemplation of the*
21 *law, to the status occupied before the arrest, indictment or*
22 *information. The defendant may not be held thereafter under any*
23 *law to be guilty of perjury or otherwise giving a false statement by*
24 *reason of failure to recite or acknowledge that arrest, indictment,*
25 *information or trial in response to an inquiry made of him for any*
26 *purpose.*

27 *5. A professional licensing board may consider a proceeding*
28 *under this section in determining suitability for a license or*
29 *liability to discipline for misconduct. Such a board is entitled for*
30 *those purposes to a truthful answer from the applicant or licensee*
31 *concerning any such proceeding with respect to him.*

32 **Sec. 18.** *1. Except as otherwise provided in subsection 3, 3*
33 *years after a defendant is discharged from probation pursuant to*
34 *section 17 of this act, the court shall order sealed all documents,*
35 *papers and exhibits in the defendant's record, minute book entries*
36 *and entries on dockets, and other documents relating to the case in*
37 *the custody of such other agencies and officers as are named in*
38 *the court's order if the defendant fulfills the terms and conditions*
39 *imposed by the court and the Division of Parole and Probation of*
40 *the Department of Public Safety. The court shall order those*
41 *records sealed without a hearing unless the Division petitions the*
42 *court, for good cause shown, not to seal the records and requests a*
43 *hearing thereon.*

44 *2. If the court orders sealed the record of a defendant*
45 *discharged from probation pursuant to section 17 of this act, the*



1 *court shall send a copy of the order to each agency or officer*
2 *named in the order. Each such agency or officer shall notify the*
3 *court in writing of its compliance with the order.*

4 *3. A professional licensing board is entitled, for the purpose*
5 *of determining suitability for a license or liability to discipline for*
6 *misconduct, to inspect and to copy from a record sealed pursuant*
7 *to this section.*

8 **Sec. 19.** There is hereby appropriated from the State General
9 Fund to the Revolving Account to Support Programs for the
10 Prevention and Treatment of Problem Gambling created pursuant to
11 section 12 of this act the sum of \$250,000.

12 **Sec. 20.** This act becomes effective on July 1, 2003.

