

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

EXEMPT

S.B. 335

SENATE BILL NO. 335—COMMITTEE ON JUDICIARY

MARCH 13, 2001

Referred to Committee on Judiciary

SUMMARY—Enacts provisions pertaining to problem gambling. (BDR 41-1105)

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

~

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 revolving account to support programs for the prevention and treatment of problem gambling; 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 governor
3 as chairman and ~~four~~ *11* members, is hereby created.
4 2. The committee must be composed of:
5 (a) One member of the commission, designated by the chairman of the
6 commission;
7 (b) One member of the board, designated by the chairman of the board;
8 (c) One member of the senate appointed by the legislative commission;
9 (d) One member of the assembly appointed by the legislative
10 commission;
11 (e) One enrolled member of a Nevada Indian tribe appointed by the
12 Inter-Tribal Council of Nevada, Inc.; ~~and~~
13 (f) *One nonvoting member who is a representative of the Nevada*
14 *Council on Problem Gambling, designated by the Council; and*
15 (g) Five members appointed by the governor for terms of 2 years as
16 follows:



* S B 3 3 5 R 1 *

1 (1) Two representatives of the general public;
2 (2) Two representatives of nonrestricted gaming licensees; and
3 (3) One representative of restricted gaming licensees.
4 3. Members who are appointed by the governor serve at the pleasure of
5 the governor.
6 4. Members who are legislators serve terms beginning when the
7 legislature convenes and continuing until the next regular session of the
8 legislature is convened.
9 5. Except as otherwise provided in subsection 6, the governor may call
10 meetings of the gaming policy committee for the exclusive purpose of
11 discussing matters of gaming policy. The recommendations concerning
12 gaming policy made by the committee pursuant to this subsection are
13 advisory and not binding on the board or the commission in the
14 performance of their duties and functions.
15 6. An appeal filed pursuant to NRS 463.3088 may be considered only
16 by a review panel of the committee. The review panel must consist of the
17 members of the committee who are identified in paragraphs (a), (b) and (c)
18 of subsection 2 and subparagraph (1) of paragraph ~~(a)~~ (g) of subsection 2.
19 **Sec. 2.** NRS 176A.500 is hereby amended to read as follows:
20 176A.500 1. The period of probation or suspension of sentence may
21 be indeterminate or may be fixed by the court and may at any time be
22 extended or terminated by the court, but the period, including any
23 extensions thereof, must not be more than:
24 (a) Three years for a:
25 (1) Gross misdemeanor; or
26 (2) Suspension of sentence pursuant to NRS 453.3363 ~~(a)~~ or *section*
27 *17 of this act; or*
28 (b) Five years for a felony.
29 2. At any time during probation or suspension of sentence, the court
30 may issue a warrant for violating any of the conditions of probation or
31 suspension of sentence and cause the defendant to be arrested. Except for
32 the purpose of giving a dishonorable discharge from probation, and except
33 as otherwise provided in this subsection, the time during which a warrant
34 for violating any of the conditions of probation is in effect is not part of the
35 period of probation. If the warrant is canceled or probation is reinstated, the
36 court may include any amount of that time as part of the period of
37 probation.
38 3. Any parole and probation officer or any peace officer with power to
39 arrest may arrest a probationer without a warrant, or may deputize any
40 other officer with power to arrest to do so by giving him a written
41 statement setting forth that the probationer has, in the judgment of the
42 parole and probation officer, violated the conditions of probation. Except
43 as otherwise provided in subsection 4, the parole and probation officer, or
44 the peace officer, after making an arrest shall present to the detaining
45 authorities, if any, a statement of the charges against the probationer. The
46 parole and probation officer shall at once notify the court which granted
47 probation of the arrest and detention or residential confinement of the
48 probationer and shall submit a report in writing showing in what manner
49 the probationer has violated the conditions of probation.



* S B 3 3 5 R 1 *

1 4. A parole and probation officer or a peace officer may immediately
2 release from custody without any further proceedings any person he arrests
3 without a warrant for violating a condition of probation if the parole and
4 probation officer or peace officer determines that there is no probable
5 cause to believe that the person violated the condition of probation.

6 **Sec. 3.** NRS 179.245 is hereby amended to read as follows:
7 179.245 1. Except as otherwise provided in subsection 5 and NRS
8 453.3365, *and section 18 of this act*, a person who has been convicted of:
9 (a) Any felony may, after 15 years from the date of his conviction or, if
10 he is imprisoned, from the date of his release from actual custody;
11 (b) Any gross misdemeanor may, after 10 years from the date of his
12 conviction or release from custody;
13 (c) A violation of NRS 484.379 other than a felony, or a battery which
14 constitutes domestic violence pursuant to NRS 33.018 other than a felony
15 may, after 7 years from the date of his conviction or release from custody;
16 or
17 (d) Any other misdemeanor may, after 5 years from the date of his
18 conviction or release from custody,
19 petition the court in which the conviction was obtained for the sealing of
20 all records relating to the conviction.

21 2. A petition filed pursuant to subsection 1 must be accompanied by
22 current, verified records of the petitioner's criminal history received from:
23 (a) The central repository for Nevada records of criminal history; and
24 (b) The local law enforcement agency of the city or county in which the
25 conviction was entered.

26 3. Upon receiving a petition pursuant to this section, the court shall
27 notify:
28 (a) The prosecuting attorney for the county; or
29 (b) If the person was convicted in a municipal court, the prosecuting
30 attorney for the city.

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

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

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

47 6. As used in this section:
48 (a) "Crime against a child" has the meaning ascribed to it in NRS
49 179D.210.



* S B 3 3 5 R 1 *

1 (b) “Sexual offense” has the meaning ascribed to it in NRS 179D.410.

2 **Sec. 4.** NRS 179.275 is hereby amended to read as follows:

3 179.275 Where the court orders the sealing of a record pursuant to
4 NRS 179.245, 179.255 or 453.3365, *or section 18 of this act*, a copy of the
5 order must be sent to:

6 1. The central repository for Nevada records of criminal history; and

7 2. Each public or private company, agency or official named in the
8 order, and that person shall seal the records in his custody which relate to
9 the matters contained in the order, shall advise the court of his compliance,
10 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 court
13 orders a record sealed pursuant to NRS 179.245, 179.255 or 453.3365, *or*
14 *section 18 of this act*, all proceedings recounted in the record are deemed
15 never to have occurred, and the person to whom it pertains may properly
16 answer accordingly to any inquiry concerning the arrest, conviction or
17 acquittal and the events and proceedings relating to the arrest, conviction or
18 acquittal.

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

20 179.295 1. The person who is the subject of the records that are
21 sealed pursuant to NRS 179.245, 179.255 or 453.3365 *or section 18 of this*
22 *act* may petition the court that ordered the records sealed to permit
23 inspection of the records by a person named in the petition, and the court
24 may order such inspection. Except as otherwise provided in this section
25 and NRS 179.301, the court may not order the inspection of the records
26 under any other circumstances.

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

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

37 **Sec. 7.** NRS 389.0185 is hereby amended to read as follows:

38 389.0185 The state board shall adopt regulations establishing courses
39 of study and the grade levels for which the courses of study apply for:

40 1. The academic subjects set forth in NRS 389.018.

41 2. Citizenship and physical training for pupils enrolled in high school.

42 3. Physiology, hygiene and cardiopulmonary resuscitation.

43 4. The prevention of suicide.

44 5. Instruction relating to child abuse.

45 6. The economics of the American system of free enterprise.

46 7. *The prevention of problem gambling.*

47 8. American Sign Language.

48 ~~18-~~ 9. Environmental education.

49 ~~19-~~ 10. Adult roles and responsibilities.



* S B 3 3 5 R 1 *

1 A course of study established for subsection 1 may include one or more of
2 the subjects listed in subsections 2 to ~~9~~ 10, inclusive.

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

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

9 **Sec. 10.** *"Account" means the revolving account to support*
10 *programs for the prevention and treatment of problem gambling.*

11 **Sec. 11.** *"Director" means the director of the department of human*
12 *resources.*

13 **Sec. 12.** *The revolving account to support programs for the*
14 *prevention and treatment of problem gambling is hereby created in the*
15 *state general fund.*

16 **Sec. 13. 1.** *The director shall administer the account.*

17 **2.** *The money in the account must be expended only to make grants*
18 *to qualified organizations or persons that provide programs for the*
19 *prevention and treatment of problem gambling.*

20 **3.** *The existence of the account does not create a right in any person*
21 *to receive money from the account.*

22 **4.** *On or before January 31 of each year, the director shall submit to*
23 *the director of the legislative counsel bureau a written report concerning*
24 *any grants made during the previous year to qualified organizations or*
25 *persons that provide programs for the prevention and treatment of*
26 *problem gambling.*

27 **Sec. 14. 1.** *The director may apply for and accept any gift,*
28 *donation, bequest, grant or other source of money. Any money so*
29 *received must be deposited in the account.*

30 **2.** *The interest and income earned on money in the account from any*
31 *gift, donation or bequest, after deducting any applicable charges, must be*
32 *credited to the account.*

33 **3.** *Money from any gift, donation or bequest that remains in the*
34 *account at the end of the fiscal year does not revert to the state general*
35 *fund, and the balance in the account must be carried forward to the next*
36 *fiscal year.*

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

39 **2.** *The regulations adopted by the director must include, without*
40 *limitation:*

41 *(a) The procedure by which qualified organizations or persons may*
42 *apply for a grant of money from the account;*

43 *(b) The criteria that the director will consider in determining whether*
44 *to award such a grant of money from the account; and*

45 *(c) Procedures to distribute the money in the account in a fair and*
46 *equitable manner.*

47 **Sec. 16.** *A district court may establish an appropriate program for*
48 *the treatment of problem gambling to which it may assign a defendant*
49 *pursuant to section 17 of this act. The assignment must include the terms*



* S B 3 3 5 R 1 *

1 *and conditions for successful completion of the program and provide for*
2 *progress reports at intervals set by the court to ensure that the defendant*
3 *is making satisfactory progress towards completion of the program.*

4 **Sec. 17.** 1. *Except as otherwise provided in subsection 2, if a*
5 *defendant who suffers from problem gambling tenders a plea of guilty,*
6 *guilty but mentally ill or nolo contendere to, or is found guilty of, any*
7 *offense for which the suspension of sentence or the granting of probation*
8 *is not prohibited by statute, the court may, without entering a judgment*
9 *of conviction and with the consent of the defendant, suspend further*
10 *proceedings and place the defendant on probation upon terms and*
11 *conditions that must include attendance and successful completion of a*
12 *program established pursuant to section 16 of this act.*

13 2. *If the offense committed by the defendant involved the use or*
14 *threatened use of force or violence against a victim or if the defendant*
15 *was previously convicted in this state or in any other jurisdiction of a*
16 *felony that involved the use or threatened use of force or violence against*
17 *a victim, the court may not assign the defendant to the program.*

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

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

21 (b) *Notwithstanding the provisions of paragraph (e) of subsection 2 of*
22 *NRS 193.130, the court may order the defendant to the custody of the*
23 *department of prisons if the offense is punishable by imprisonment in the*
24 *state prison.*

25 4. *Upon fulfillment of the terms and conditions, the court shall*
26 *discharge the defendant and dismiss the proceedings against him. Except*
27 *as otherwise provided in subsection 5, discharge and dismissal pursuant*
28 *to this section is without adjudication of guilt and is not a conviction for*
29 *purposes of this section or for purposes of employment, civil rights or any*
30 *statute or regulation or license or questionnaire or for any other public*
31 *or private purpose, but is a conviction for the purpose of additional*
32 *penalties imposed for second or subsequent convictions or the setting of*
33 *bail. Discharge and dismissal restores the defendant, in the*
34 *contemplation of the law, to the status occupied before the arrest,*
35 *indictment or information. The defendant may not be held thereafter*
36 *under any law to be guilty of perjury or otherwise giving a false*
37 *statement by reason of failure to recite or acknowledge that arrest,*
38 *indictment, information or trial in response to an inquiry made of him*
39 *for any purpose.*

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

45 **Sec. 18.** 1. *Except as otherwise provided in subsection 3, 3 years*
46 *after a defendant is discharged from probation pursuant to section 17 of*
47 *this act, the court shall order sealed all documents, papers and exhibits*
48 *in the defendant's record, minute book entries and entries on dockets,*
49 *and other documents relating to the case in the custody of such other*



1 *agencies and officers as are named in the court's order if the defendant*
2 *fulfills the terms and conditions imposed by the court and the division of*
3 *parole and probation of the department of motor vehicles and public*
4 *safety. The court shall order those records sealed without a hearing*
5 *unless the division of parole and probation of the department of motor*
6 *vehicles and public safety petitions the court, for good cause shown, not*
7 *to seal the records and requests a hearing thereon.*

8 *2. If the court orders sealed the record of a defendant discharged*
9 *pursuant to section 17 of this act, the court shall send a copy of the order*
10 *to each agency or officer named in the order. Each such agency or*
11 *officer shall notify the court in writing of its compliance with the order.*

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

16 **Sec. 19.** There is hereby appropriated from the state general fund to
17 the revolving account to support programs for the prevention and treatment
18 of problem gambling created pursuant to section 12 of this act the sum of
19 \$250,000.

20 **Sec. 20.** The amendatory provisions of this act do not apply to
21 offenses committed before July 1, 2001.

22 **Sec. 21.** 1. This section and section 19 of this act become effective
23 upon passage and approval.

24 2. Sections 1 to 18, inclusive, and 20 of this act become effective on
25 July 1, 2001.

