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Nevada Concerned Citizens

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May 6, 2003

To: Senate Judiciary Committee

From: Lucille Lusk

RE: AB 337 1st Reprint, including proposed amendments

AB 337 is called the "ex-felons rights" bill, but several sections have a very broad scope that also excuses from consequences *current felons*. We are particularly concerned about those who have a high public trust, such as elected officials and school administrators or teachers who are role models for our children and set much of the tone for what is acceptable behavior in our society. There is also much to be discussed with regard to what constitutes appropriate grounds for discipline in the licensed professions. What must be considered is not the common sense interpretation of these statutes, but how a smart lawyer and a *court* could interpret such words, because court is surely where some of these decisions about discipline or denial of a license will end up.

Sec. 11: A public officer who is convicted of a felony will not forfeit their office unless the felony was relating to the qualifications, functions or duties of the office. (Would a *court* rule that burglarizing your neighbor's house related to the qualifications, functions or duties of a public office?)

Sec 21 & 23: A school administrator or teacher would no longer be suspended, dismissed or have his license revoked if convicted of a felony unless the felony was "relating to the position" or involved moral turpitude. (Would a *court* interpret selling drugs, if not sold to students or on school property, as "related to the position"? Is it clearly a crime of moral turpitude?)

Sec. 22: Changes the grounds for the procedures that may be followed when a school administrator or teacher is charged with committing a felony.

Throughout this bill, reference to the licensed professions *changes* grounds for discipline, revocation or denial of license from the clearly defined standard of conviction of a felony, to the more murky standard of conviction of a felony "relating to the position" or in some cases "*directly* relating to the position" of the licensee. Again, the issue is how a *court* would interpret such a phrase, and it seems likely that the words would be taken literally.

We do note that there are a few sections where the wording is different. Sec. 24 refers to a felony relating to the applicant's "*fitness* to act as an athletic agent," and Sec. 25 refers to a felony that relates to the applicant's "*suitability* or qualifications to work as" a gaming employee or licensee.

If it is this body's desire to change the standard so that a felony is not an automatic disqualifier for these professional licenses, we respectfully request that you consider using throughout the bill the language "a felony relating to the fitness" for the specified profession. That would give the licensing board more leeway for decisions in the best interests of the people who are relying upon them for the protection of careful licensing decisions, and they may be less likely to end up overturned in court on a technical interpretation of the law.

Attached are requested amendments to address these issues.

Thank you,

Lucille Lusk

May 6, 2003

To: Senate Judiciary Committee

From: Lucille Lusk

Proposed Amendments to AB 337 1st Reprint

1. Delete Section 11, page 8, lines 34-40 (to retain current law for the public officer to forfeit office upon conviction of a felony and to be barred from seeking future public office).

OR

Amend Section 11 as follows (if you want the public officer to forfeit his office upon conviction of a felony, but not be barred from seeking future public office):

Sec. 11. NRS 197.230 is hereby amended to read as follows:

197.230 The conviction of a public officer of any felony ~~relating to the qualifications, functions or duties of the public office~~ or malfeasance in office shall entail, in addition to such other penalty as may be imposed, the forfeiture of his office, ~~and shall disqualify him from ever afterward holding any public office in this state.~~

2. Delete Sections 21-23, pages 14-17 (for the disciplinary & employment status of licensed school employees to remain as it is under current law related to being charged with or convicted of a felony).
3. Delete Sections 20-72, pages 13-64 (for the disciplinary & employment status of all licensees to remain as it is under current law related to conviction of a felony).

OR

Change the language in all sections of the bill related to licensed professions to "relating to his fitness" for the specified profession.

Lucille Lusk
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