

ASSEMBLY BILL NO. 121—COMMITTEE ON JUDICIARY

(ON BEHALF OF LAS VEGAS MUNICIPAL COURT)

FEBRUARY 4, 1999

Referred to Committee on Judiciary

SUMMARY—Authorizes court to enter judgment of conviction and impose sentence if person who is issued traffic citation violates his written promise to appear. (BDR 14-842)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to traffic laws; authorizing a court to enter a judgment of conviction and impose a sentence if a person who is issued a traffic citation violates his written promise to appear; requiring traffic citations to contain certain information; providing a penalty; 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.** Chapter 176 of NRS is hereby amended by adding thereto
2 a new section to read as follows:
3 ***If a person voluntarily violates his written promise to appear in court***
4 ***in person or by counsel which he made by signing a copy of a written***
5 ***traffic citation issued pursuant to NRS 484.799, the court may enter a***
6 ***judgment of conviction against the person and impose a sentence for the***
7 ***underlying misdemeanor for which the citation was issued.***
8 **Sec. 2.** NRS 176.015 is hereby amended to read as follows:
9 176.015 1. Sentence must be imposed without unreasonable delay.
10 Pending sentence, the court may commit the defendant or continue or alter
11 the bail.
12 2. ~~Before~~ ***Except as otherwise provided in NRS 178.388 and section***
13 ***1 of this act, before*** imposing sentence, the court shall:
14 (a) Afford counsel an opportunity to speak on behalf of the defendant;
15 and

1 (b) Address the defendant personally and ask him if he wishes to make
2 a statement in his own behalf and to present any information in mitigation
3 of punishment.

4 3. Before imposing sentence, the court shall afford the victim an
5 opportunity to:

6 (a) Appear personally, by counsel or by personal representative; and

7 (b) Reasonably express any views concerning the crime, the person
8 responsible, the impact of the crime on the victim and the need for
9 restitution.

10 4. The prosecutor shall give reasonable notice of the hearing to impose
11 sentence to:

12 (a) The person against whom the crime was committed;

13 (b) A person who was injured as a direct result of the commission of the
14 crime;

15 (c) The surviving spouse, parents or children of a person who was killed
16 as a direct result of the commission of the crime; and

17 (d) Any other relative or victim who requests in writing to be notified of
18 the hearing.

19 Any defect in notice or failure of such persons to appear are not grounds
20 for an appeal or the granting of a writ of habeas corpus. All personal
21 information, including, but not limited to, a current or former address,
22 which pertains to a victim or relative and which is received by the
23 prosecutor pursuant to this subsection is confidential.

24 5. For the purposes of this section:

25 (a) "Relative" of a person includes:

26 (1) A spouse, parent, grandparent or stepparent;

27 (2) A natural born child, stepchild or adopted child;

28 (3) A grandchild, brother, sister, half brother or half sister; or

29 (4) A parent of a spouse.

30 (b) "Victim" includes:

31 (1) A person, including a governmental entity, against whom a crime
32 has been committed;

33 (2) A person who has been injured or killed as a direct result of the
34 commission of a crime; and

35 (3) A relative of a person described in subparagraph (1) or (2).

36 6. This section does not restrict the authority of the court to consider
37 any reliable and relevant evidence at the time of sentencing.

38 **Sec. 3.** NRS 484.799 is hereby amended to read as follows:

39 484.799 1. Whenever a person is halted by a peace officer for any
40 violation of this chapter punishable as a misdemeanor and is not taken
41 before a magistrate as required or permitted by NRS 484.793 and 484.795,
42 the peace officer may prepare a written traffic citation in the form of a
43 complaint issuing in the name of "The State of Nevada," containing a

1 notice to appear in court, the name and address of the person, the state
2 registration number of his vehicle, if any, the number of his driver's
3 license, if any, the offense charged, including a brief description of the
4 offense and the NRS citation, the time and place when and where the
5 person is required to appear in court, *the statements set forth in subsection*
6 *2*, and such other pertinent information as may be necessary. The citation
7 must be signed by the peace officer.

8 2. *A written traffic citation prepared pursuant to subsection 1 must*
9 *include the following statements:*

10
11 *I hereby swear or affirm that the information I have provided*
12 *on this citation is true under penalty of providing false*
13 *information;*

14 *Without admitting to having committed the offense charged, I*
15 *promise to appear in court at the time and place set forth in this*
16 *notice and waive my right to be taken immediately before a*
17 *magistrate; and*

18 *I understand that I have a right to be present in court at the*
19 *time and place set forth in this notice, and understand and agree*
20 *that if I fail to appear in person or by counsel in court at the time*
21 *and place set forth in this notice concerning the offense charged,*
22 *the court may proceed without me, enter a judgment of conviction*
23 *against me and impose a sentence upon me.*

24
25 3. The time specified in the notice to appear must be at least 5 days
26 after the alleged violation unless the person charged with the violation
27 demands an earlier hearing.

28 ~~3.~~ 4. The place specified in the notice to appear must be before a
29 magistrate, as designated in NRS 484.803.

30 ~~4.~~ 5. The person charged with the violation may give his written
31 promise to appear in court by signing at least one copy of the written
32 traffic citation prepared by the peace officer, in which event the peace
33 officer shall deliver a copy of the citation to the person, and thereupon the
34 peace officer shall not take the person into physical custody for the
35 violation. A copy of the citation signed by the person charged shall suffice
36 as proof of service.

37 6. *A person who knowingly attests falsely or provides incorrect*
38 *information concerning a written traffic citation prepared pursuant to*
39 *this section is guilty of a misdemeanor.*

40 **Sec. 4.** NRS 484.805 is hereby amended to read as follows:

41 484.805 Whenever any person is taken into custody by a peace officer
42 for the purpose of taking him before a magistrate or court as authorized or
43 required in this chapter upon any charge other than a felony or the offenses

1 enumerated in paragraphs (a) to (d), inclusive, of subsection 1 of NRS
2 484.791, and no magistrate is available at the time of arrest, and there is no
3 bail schedule established by the magistrate or court and no lawfully
4 designated court clerk or other public officer who is available and
5 authorized to accept bail upon behalf of the magistrate or court, the person
6 must be released from custody upon the issuance to him of a written
7 ~~{misdemeanor citation or}~~ traffic citation and his signing a promise to
8 appear, as provided in NRS ~~{171.1773 or 484.799, respectively.}~~ **484.799.**
9 **Sec. 5.** The amendatory provisions of this act do not apply to persons
10 who were issued traffic citations before October 1, 1999.

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