

SENATE BILL NO. 273—SENATOR NEAL (BY REQUEST)

MARCH 1, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing bail. (BDR 14-527)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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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 criminal procedure; revising the provisions governing bail; revising the provisions governing the forfeiture of bail and the exoneration of a surety; requiring that notification be provided to the local agent of a surety under certain circumstances; requiring that an arrest warrant be issued under certain circumstances for a defendant who fails to appear; increasing the penalties for a defendant who fails to appear; 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 171.178 is hereby amended to read as follows:
2 171.178 1. Except as otherwise provided in subsections 5 and 6, a
3 peace officer making an arrest under a warrant issued upon a complaint or
4 without a warrant shall take the arrested person without unnecessary delay
5 before the magistrate who issued the warrant or the nearest available
6 magistrate empowered to commit persons charged with offenses against the
7 laws of the State of Nevada.
8 2. A private person making an arrest without a warrant shall take the
9 arrested person without unnecessary delay before the nearest available
10 magistrate empowered to commit persons charged with offenses against the
11 laws of the State of Nevada or deliver the arrested person to a peace
12 officer.
13 3. If an arrested person is not brought before a magistrate within 72
14 hours after arrest, excluding nonjudicial days, the magistrate:
15 (a) Shall give the prosecuting attorney an opportunity to explain the
16 circumstances leading to the delay; and

1 (b) May release the arrested person if he determines that the person was
2 not brought before a magistrate without unnecessary delay.

3 4. When a person arrested without a warrant is brought before a
4 magistrate, a complaint must be filed forthwith.

5 5. Except as otherwise provided in NRS 178.484 and 178.487 ~~where~~
6 ~~where~~ **and section 4 of this act, if** the defendant can be admitted to bail
7 without appearing personally before a magistrate, he must be so admitted
8 with the least possible delay, and required to appear before a magistrate at
9 the earliest convenient time thereafter.

10 6. A peace officer may immediately release from custody without any
11 further proceedings any person he arrests without a warrant if the peace
12 officer is satisfied that there are insufficient grounds for issuing a criminal
13 complaint against the person arrested. Any record of the arrest of a person
14 released pursuant to this subsection must also include a record of the
15 release. A person so released shall be deemed not to have been arrested but
16 only detained.

17 **Sec. 2.** NRS 171.1845 is hereby amended to read as follows:

18 171.1845 1. If a person is brought before a magistrate under the
19 provisions of NRS 171.178 or 171.184, and it is discovered that there is a
20 warrant for his arrest outstanding in another county of this state, the
21 magistrate may release him in accordance with the provisions of NRS
22 178.484 or 178.4851 if:

23 (a) The warrant arises out of a public offense which constitutes a
24 misdemeanor; and

25 (b) The person provides a suitable address where the magistrate who
26 issued the warrant in the other county can notify him of a time and place to
27 appear.

28 2. If a person is released under the provisions of this section, the
29 magistrate who releases him shall transmit the cash, bond, notes or
30 agreement submitted under the provisions of NRS 178.502 or 178.4851,
31 together with his address, to the magistrate who issued the warrant. Upon
32 receipt of the cash, bonds, notes or agreement and address, the magistrate
33 who issued the warrant shall notify the person of a time and place to
34 appear.

35 3. Any bail set under the provisions of this section must be in addition
36 to and apart from any bail set for any public offense with which a person is
37 charged in the county in which a magistrate is setting bail. In setting bail
38 under the provisions of this section, a magistrate shall set the bail in an
39 amount which is sufficient to induce a reasonable person to travel to the
40 county in which the warrant for the arrest is outstanding.

41 4. ~~If the public offense out of which the warrant arises is punishable~~
42 ~~by imprisonment in the county jail, a~~ **A** person who fails to appear in the
43 other county as ordered is guilty of ~~a misdemeanor~~ **failing to appear and**

1 *shall be punished as provided in NRS 199.335.* A sentence of
2 imprisonment imposed ~~under~~ *for failing to appear in violation of* this
3 section must be imposed consecutively to a sentence of imprisonment for
4 the offense out of which the warrant arises.

5 **Sec. 3.** Chapter 178 of NRS is hereby amended by adding thereto the
6 provisions set forth as sections 4, 5 and 6 of this act.

7 **Sec. 4. 1.** *If a peace officer or the court has reasonable cause to*
8 *believe that a person who is in custody is under the influence of*
9 *intoxicating liquor or a controlled substance:*

10 *(a) The person must not be admitted to bail or released without bail*
11 *until there is reasonable cause to believe that the person is no longer*
12 *under the influence of intoxicating liquor or a controlled substance.*

13 *(b) The peace officer or the court may order the person to submit to a*
14 *test of his blood, urine, breath or other bodily substance to determine the*
15 *alcoholic content of his blood or breath or to detect the presence of a*
16 *controlled substance in his body.*

17 *2. If a person who is in custody fails to submit to a test of his blood,*
18 *urine, breath or other bodily substance pursuant to subsection 1, a peace*
19 *officer or the court may direct that reasonable force be used to the extent*
20 *necessary to obtain samples of blood from the person who is in custody.*

21 **Sec. 5.** *The court or a sheriff or chief of police shall not release a*
22 *person in custody without bail pursuant to NRS 178.4851 if:*

23 *1. The person was taken into custody while admitted to bail or on*
24 *release without bail in connection with a criminal proceeding pending*
25 *against the person in this state or any other jurisdiction;*

26 *2. Within the 5 years immediately preceding the date on which the*
27 *person was taken into custody, the person failed to appear in any*
28 *criminal proceeding pending against the person in this state or any other*
29 *jurisdiction;*

30 *3. Within the 5 years immediately preceding the date on which the*
31 *person was taken into custody, the person was convicted in this state or*
32 *any other jurisdiction of an offense that:*

33 *(a) Was punishable as a felony; and*

34 *(b) Involved the use or threatened use of force or violence against the*
35 *victim or the use or threatened use of a firearm or a deadly weapon; or*

36 *4. Within the 2 years immediately preceding the date on which the*
37 *person was taken into custody, the person was convicted in this state or*
38 *any other jurisdiction of an offense that:*

39 *(a) Was punishable as a gross misdemeanor pursuant to the laws of*
40 *this state or by imprisonment for more than 6 months but not more than*
41 *1 year pursuant to the laws of any other jurisdiction; and*

42 *(b) Involved the use or threatened use of force or violence against the*
43 *victim or the use or threatened use of a firearm or a deadly weapon.*

1 **Sec. 6. 1. If the defendant is admitted to bail on a surety bond and**
2 **an officer of the law enforcement agency from whose custody the**
3 **defendant was admitted to bail, the district attorney of the county where**
4 **the defendant was admitted to bail or the court in which the original**
5 **charge against the defendant is pending is notified or otherwise acquires**
6 **knowledge that the defendant, while admitted to bail, has been taken into**
7 **custody within another jurisdiction:**

8 **(a) The officer, district attorney or court shall immediately:**

9 **(1) Give notice of the location of the defendant to the local agent of**
10 **the surety by telephone and, if available, by facsimile; and**

11 **(2) Make a request to the appropriate official in the other**
12 **jurisdiction to place a hold on the release of the defendant for not fewer**
13 **than 72 hours after notice is given to the local agent of the surety, with**
14 **instructions to release the defendant to the custody of any agent of the**
15 **surety who appears in the jurisdiction during that period and who is**
16 **authorized to arrest the defendant pursuant to the laws of that**
17 **jurisdiction.**

18 **(b) The court shall set aside any forfeiture and exonerate the surety if:**

19 **(1) Timely notice of the location of the defendant is not given to the**
20 **local agent of the surety as required by subparagraph (1) of paragraph**
21 **(a);**

22 **(2) A timely request to place a hold on the release of the defendant**
23 **is not made to the appropriate official in the other jurisdiction as**
24 **required by subparagraph (2) of paragraph (a);**

25 **(3) After timely notice of the location of the defendant is given to**
26 **the local agent of the surety and a timely request to place a hold on the**
27 **release of the defendant is made to the appropriate official in the other**
28 **jurisdiction an agent of the surety is unable to arrest the defendant in the**
29 **other jurisdiction during the period of the hold because:**

30 **(I) The arrest would be unlawful in the other jurisdiction; or**

31 **(II) Other circumstances beyond the control of the agent of the**
32 **surety prevent the arrest; or**

33 **(4) The district attorney does not seek extradition or rendition of the**
34 **defendant from the appropriate official in the other jurisdiction in a**
35 **timely manner.**

36 **2. As used in this section, “another jurisdiction” and “other**
37 **jurisdiction” mean a jurisdiction that is not within the jurisdiction of the**
38 **court in which the original charge against the defendant is pending,**
39 **whether or not such other jurisdiction is located within or outside of this**
40 **state.**

1 **Sec. 7.** NRS 178.484 is hereby amended to read as follows:

2 178.484 1. Except as otherwise provided in this section ~~§~~ **and**
3 **section 4 of this act**, a person arrested for an offense other than murder of
4 the first degree must be admitted to bail.

5 2. A person arrested for a felony who has been released on probation
6 or parole for a different offense must not be admitted to bail unless:

7 (a) A court issues an order directing that the person be admitted to bail;

8 (b) The state board of parole commissioners directs the detention facility
9 to admit the person to bail; or

10 (c) The division of parole and probation of the department of motor
11 vehicles and public safety directs the detention facility to admit the person
12 to bail.

13 3. A person arrested for a felony whose sentence has been suspended
14 pursuant to NRS 4.373 or 5.055 for a different offense or who has been
15 sentenced to a term of residential confinement pursuant to NRS 4.3762 or
16 5.076 for a different offense must not be admitted to bail unless:

17 (a) A court issues an order directing that the person be admitted to bail;
18 or

19 (b) A department of alternative sentencing directs the detention facility
20 to admit the person to bail.

21 4. A person arrested for murder of the first degree may be admitted to
22 bail unless the proof is evident or the presumption great by any competent
23 court or magistrate authorized by law to do so in the exercise of discretion,
24 giving due weight to the evidence and to the nature and circumstances of
25 the offense.

26 5. A person arrested for a battery upon his spouse, former spouse, a
27 person to whom he is related by blood, a person with whom he is or was
28 actually residing or with whom he has a child in common, his minor child
29 or a minor child of that person, must not be admitted to bail sooner than 12
30 hours after his arrest. If the person is admitted to bail more than 12 hours
31 after his arrest, pursuant to subsection 5 of NRS 171.178, without
32 appearing personally before a magistrate, the amount of bail must be:

33 (a) Three thousand dollars, if the person has no previous convictions of
34 battery upon a person listed in this subsection and there is no reason to
35 believe that the battery for which he has been arrested resulted in
36 substantial bodily harm;

37 (b) Five thousand dollars, if the person has:

38 (1) No previous convictions of battery upon a person listed in this
39 subsection, but there is reason to believe that the battery for which he has
40 been arrested resulted in substantial bodily harm; or

41 (2) One previous conviction of battery upon a person listed in this
42 subsection, but there is no reason to believe that the battery for which he
43 has been arrested resulted in substantial bodily harm; or

1 (c) Fifteen thousand dollars, if the person has:

2 (1) One previous conviction of battery upon a person listed in this
3 subsection and there is reason to believe that the battery for which he has
4 been arrested resulted in substantial bodily harm; or

5 (2) Two or more previous convictions of battery upon one or more
6 persons listed in this subsection.

7 The provisions of this subsection do not affect the authority of a magistrate
8 or a court to set the amount of bail when the person personally appears
9 before the magistrate or the court.

10 6. The court may, before releasing a person arrested for an offense
11 punishable as a felony, require the surrender to the court of any passport the
12 person possesses.

13 7. Before releasing a person arrested for any crime, the court may
14 impose such reasonable conditions on the person as it deems necessary to
15 protect the health, safety and welfare of the community and to ensure that
16 the person will appear at all times and places ordered by the court,
17 including, without limitation:

18 (a) Requiring the person to remain in this state or a certain county within
19 this state;

20 (b) Prohibiting the person from contacting or attempting to contact a
21 specific person or from causing or attempting to cause another person to
22 contact that person on his behalf;

23 (c) Prohibiting the person from entering a certain geographic area; or

24 (d) Prohibiting the person from engaging in specific conduct that may be
25 harmful to his own health, safety or welfare, or the health, safety or welfare
26 of another person.

27 In determining whether a condition is reasonable, the court shall consider
28 the factors listed in NRS 178.4853.

29 8. If a person fails to comply with a condition imposed pursuant to
30 subsection 7, the court may, after providing the person with reasonable
31 notice and an opportunity for a hearing:

32 (a) Deem such conduct a contempt pursuant to NRS 22.010; or

33 (b) Increase the amount of bail pursuant to NRS 178.499.

34 9. An order issued pursuant to this section that imposes a condition on
35 a person admitted to bail must include a provision ordering any law
36 enforcement officer to arrest the person if he has probable cause to believe
37 that the person has violated a condition of his bail.

38 10. Before a person may be admitted to bail, he must sign a document
39 stating that:

40 (a) He will appear at all times and places as ordered by the court
41 releasing him and as ordered by any court before which the charge is
42 subsequently

heard;

1 (b) He will comply with the other conditions which have been imposed
2 by the court and are stated in the document; and

3 (c) If he fails to appear when so ordered and is taken into custody
4 outside of this state, he waives all his rights relating to extradition
5 proceedings.

6 The signed document must be filed with the clerk of the court of competent
7 jurisdiction as soon as practicable, but in no event later than the next
8 business day.

9 11. If a person admitted to bail fails to appear as ordered by a court
10 and the jurisdiction incurs any cost in returning the person to the
11 jurisdiction to stand trial, the person who failed to appear is responsible for
12 paying those costs as restitution.

13 **Sec. 8.** NRS 178.4851 is hereby amended to read as follows:

14 178.4851 1. ~~{Upon a showing of good cause,}~~ *Except as otherwise*
15 *provided in sections 4 and 5 of this act,* a court may , *upon a showing of*
16 *good cause,* release without bail any person entitled to bail if it appears to
17 the court that it can impose conditions on the person that will adequately
18 protect the health, safety and welfare of the community and ensure that he
19 will appear at all times and places ordered by the court.

20 2. In releasing a person without bail the court may impose such
21 conditions as it deems necessary to protect the health, safety and welfare of
22 the community and to ensure that he will appear at all times and places
23 ordered by the court, including, without limitation, any condition set forth
24 in subsection 7 of NRS 178.484.

25 3. ~~{Upon a showing of good cause,}~~ *Except as otherwise provided in*
26 *sections 4 and 5 of this act,* a sheriff or chief of police may , *upon a*
27 *showing of good cause,* release without bail any person charged with a
28 misdemeanor pursuant to standards established by a court of competent
29 jurisdiction.

30 4. Before a person may be released without bail, he must file with the
31 clerk of the court of competent jurisdiction a signed document stating that:

32 (a) He will appear at all times and places as ordered by the court
33 releasing him and as ordered by any court before which the charge is
34 subsequently heard;

35 (b) He will comply with the other conditions which have been imposed
36 by the court and are stated in the document;

37 (c) If he fails to appear when so ordered and is taken into custody
38 outside of this state, he waives all his rights relating to extradition
39 proceedings; and

40 (d) He understands that any court of competent jurisdiction may revoke
41 the order of release without bail and may order him into custody or require
42 him to furnish bail or otherwise ensure the protection of the health, safety
43 and welfare of the community or his appearance.

5. If a jurisdiction incurs any costs in returning a person to the jurisdiction to stand trial, the person failing to appear is responsible for paying those costs as restitution.

6. An order issued pursuant to this section that imposes a condition on a person who is released without bail must include a provision ordering a law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his release.

Sec. 9. NRS 178.506 is hereby amended to read as follows:

178.506 If there is a breach of condition of a bond, the court shall declare a forfeiture of the bail, subject to the provisions of NRS 178.508 and 178.509 ~~and section 6 of this act.~~

Sec. 10. NRS 178.508 is hereby amended to read as follows:

178.508 1. If the defendant fails to appear when his presence in court is lawfully required, ~~and not excused,~~ the court shall ~~direct the fact of such failure to appear to be entered~~ :

(a) Enter upon its minutes ~~that the defendant failed to appear;~~

(b) *Not later than 30 days after the date on which the defendant failed to appear, issue a warrant for the arrest of the defendant; and*

(c) If the undertaking exceeds \$50 or money deposited instead of bail bond exceeds \$500, ~~the court shall~~ direct that ~~the sureties~~ *each surety* and the local agent of each surety, or the depositor if he is not the defendant, be given notice that the defendant has failed to appear, by certified mail within ~~15~~ 20 days after the ~~failure~~ *date on which the defendant failed* to appear. ~~and~~ *The court* shall execute an affidavit of such mailing to be kept as an official public record of the court ~~The~~ *and shall direct that a copy of the notice be transmitted to the district attorney at the same time that notice is given to each surety or the depositor.*

2. *Except as otherwise provided in subsection 3, NRS 178.509 and section 6 of this act, the* undertaking or money *deposited* instead of bail bond is forfeited ~~upon the expiration of~~ 180 days after *the date on which* the notice is mailed ~~except as otherwise provided in NRS 178.509. A copy of the notice must be transmitted to the district attorney at the time notice is given to the sureties or the depositor.~~ *pursuant to subsection 1.*

3. *The court may extend the date of the forfeiture for:*

(a) *Not more than 180 days, if the surety or depositor submits an application for an extension and the court finds that the surety or the depositor is making reasonable and ongoing efforts to bring the defendant before the court; or*

(b) *Any reasonable period set by the court, if the surety or depositor submits an application for an extension on the ground that the defendant is temporarily prevented from appearing before the court because the defendant:*

1 (1) *Is ill;*
2 (2) *Is insane;*
3 (3) *Is receiving medical or psychological treatment or treatment for*
4 *substance abuse as an inpatient at a facility approved or licensed to*
5 *provide such treatment by the jurisdiction in which the facility is located;*
6 *or*
7 (4) *Is being detained by civil or military authorities,*
8 *and the court, upon hearing the matter, determines that one or more of*
9 *the grounds described in this paragraph exist and that the surety did not*
10 *in any way cause or aid the absence of the defendant.*
11 **Sec. 11.** NRS 178.509 is hereby amended to read as follows:
12 178.509 ~~{1.—The}~~ *If the defendant fails to appear when his presence*
13 *in court is lawfully required, the* court shall ~~{not}~~ exonerate the surety
14 ~~{before the expiration of 180 days after mailing the notice of intent to~~
15 ~~forfeit unless:~~
16 ~~—(a)}~~ *if:*
17 1. *The court does not issue a warrant for the arrest of the defendant*
18 *within 30 days after the date on which the defendant failed to appear as*
19 *required by paragraph (b) of subsection 1 of NRS 178.508;*
20 2. *The surety and the local agent of the surety are not each given*
21 *timely notice by certified mail that the defendant has failed to appear as*
22 *required by paragraph (c) of subsection 1 of NRS 178.508; or*
23 3. *Before the date of forfeiture prescribed in NRS 178.508:*
24 (a) *The defendant, by surrender or arrest, is taken into custody within*
25 *the jurisdiction of the court and subsequently is released from custody*
26 *before an appearance before the court;*
27 (b) *The defendant appears before the court* ~~{and the court, upon hearing~~
28 ~~the matter, determines that the defendant has presented a satisfactory~~
29 ~~excuse or that}~~ *voluntarily or in custody after surrender or arrest and* the
30 *surety has not consented, in writing, to a reinstatement of the*
31 *undertaking and* did not in any way cause or aid the absence of the
32 defendant; or
33 ~~{(b)}~~ (c) *The surety submits an application for exoneration on the*
34 *ground that the defendant is unable to appear because* ~~{:~~
35 ~~—(1) He is}~~ *the defendant:*
36 (1) *Is* dead;
37 (2) ~~{He is}~~ *Is* ill;
38 (3) ~~{He is insane; or~~
39 ~~—(4) He is}~~ *Is insane;*
40 (4) *Is receiving medical or psychological treatment or treatment for*
41 *substance abuse as an inpatient at a facility approved or licensed to*
42 *provide such treatment by the jurisdiction in which the facility is located;*
43 (5) *Is* being detained by civil or military authorities ~~{}~~ ; or

1 ***(6) Has been deported,***

2 and the court, upon hearing the matter, determines that one or more of the
3 grounds described in this paragraph exist and that the surety did not in any
4 way cause or aid the absence of the defendant.

5 ~~[2.—If the requirements of subsection 1 are met, the court may exonerate~~
6 ~~the surety upon such terms as may be just.~~

7 ~~—3.—The court shall not exclude any period of time from the running of~~
8 ~~the 180 days following mailing of the notice of intent to forfeit unless the~~
9 ~~defendant or the surety submits an application for the exclusion of time~~
10 ~~from that 180-day period on the ground that the defendant is temporarily~~
11 ~~prevented from appearing before the court because:~~

12 ~~—(a) He is ill;~~

13 ~~—(b) He is insane; or~~

14 ~~—(c) He is being detained by civil or military authorities,~~

15 ~~and the court, upon hearing the matter, determines that one or more of the~~
16 ~~grounds described in this subsection exist and that the surety did not in any~~
17 ~~way cause or aid the absence of the defendant. If the requirements of this~~
18 ~~subsection are met, the court may exclude from the 180-day period such~~
19 ~~time as it determines to be necessary and just. The court may include, as~~
20 ~~part of the total time excluded from the running of the 180 days, a~~
21 ~~reasonable period for the defendant's return to the court upon termination~~
22 ~~of the temporary disability if it determines that the additional period is~~
23 ~~necessary.]~~

24 **Sec. 12.** NRS 178.512 is hereby amended to read as follows:

25 178.512 The court shall not set aside a forfeiture unless:

26 1. The surety submits an application to set it aside on the ground that
27 the defendant:

28 (a) Has appeared before the court since the date of the forfeiture and has
29 presented a satisfactory excuse for his absence;

30 (b) Was dead before the date of the forfeiture but the surety did not
31 know and could not reasonably have known of his death before that date;

32 (c) Was unable to appear before the court before the date of the
33 forfeiture because of his illness or his insanity, but the surety did not know
34 and could not reasonably have known of his illness or insanity before that
35 date; ~~or~~

36 (d) ***Was unable to appear before the court before the date of the***
37 ***forfeiture because he was receiving medical or psychological treatment***
38 ***or treatment for substance abuse as an inpatient at a facility approved or***
39 ***licensed to provide such treatment by the jurisdiction in which the facility***
40 ***is located, but the surety did not know and could not reasonably have***
41 ***known of his treatment before that date;***

1 (e) Was unable to appear before the court before the date of the
2 forfeiture because he was being detained by civil or military authorities, but
3 the surety did not know and could not reasonably have known of his
4 detention before that date ~~[]~~; or

5 (f) *Was unable to appear before the court before the date of the*
6 *forfeiture because he was deported, but the surety did not know and*
7 *could not reasonably have known of his deportation before that date,*
8 and the court, upon hearing the matter, determines that one or more of the
9 grounds described in this subsection exist and that the surety did not in any
10 way cause or aid the absence of the defendant; and

11 2. The court determines that justice does not require the enforcement of
12 the forfeiture.

13 **Sec. 13.** NRS 178.516 is hereby amended to read as follows:

14 178.516 After entry of such judgment, the court shall not remit it in
15 whole or in part unless the conditions applying to the setting aside of
16 forfeiture in NRS 178.512 *or section 6 of this act* are met.

17 **Sec. 14.** NRS 178.518 is hereby amended to read as follows:

18 178.518 Money collected pursuant to NRS 178.506 to 178.516,
19 inclusive, *and section 6 of this act*, which was collected:

20 1. From a person who was charged with a misdemeanor must be paid
21 over to the county treasurer.

22 2. From a person who was charged with a gross misdemeanor or a
23 felony must be paid over to the state treasurer for deposit in the fund for the
24 compensation of victims of crime.

25 **Sec. 15.** NRS 178.522 is hereby amended to read as follows:

26 178.522 1. ~~[When the condition of the bond has been satisfied or the~~
27 ~~forfeiture thereof has been set aside or remitted, the]~~ *The* court shall
28 exonerate the ~~[obligors]~~ *surety or other obligor* and release any bail ~~[. The]~~
29 *if:*

30 (a) *The conditions of the bond have been satisfied;*

31 (b) *The surety or other obligor timely surrenders the defendant into*
32 *custody;*

33 (c) *The surety or other obligor deposits cash in the amount of the*
34 *bond;*

35 (d) *Any of the provisions of NRS 178.509 or section 6 of this act*
36 *apply; or*

37 (e) *Any forfeiture has been set aside pursuant to NRS 178.512.*

38 2. *In addition to the reasons set forth in subsection 1, the court may*
39 *exonerate the surety or other obligor and release any bail based upon*
40 *any other reason that the court determines to be just or equitable.*

1 **3. If the court has not exonerated the surety or other obligor**
2 **pursuant to subsection 1 or 2 and the bail has not otherwise been**
3 **forfeited, the** court shall exonerate the ~~{obligors}~~ **surety or other obligor**
4 and release any bail :

5 **(a) At the time that a judgment is entered; or**

6 **(b) Upon the written consent of the surety or other obligor,** at the time
7 of sentencing the defendant, ~~{if the court has not previously done so}~~ unless
8 the money deposited by the defendant as bail must be applied to satisfy a
9 judgment pursuant to NRS 178.528.

10 ~~{2.—A surety may be exonerated by a deposit of cash in the amount of~~
11 ~~the bond or by a timely surrender of the defendant into custody.}~~

12 **Sec. 16.** NRS 178.526 is hereby amended to read as follows:

13 178.526 **1.** For the purpose of surrendering a defendant, a surety, at
14 any time before ~~{he}~~ **the defendant** is finally discharged, and at any place
15 within ~~{the}~~ **this** state, may, by a written authority endorsed on a certified
16 copy of the undertaking, cause the defendant to be arrested by a bail agent
17 or bail enforcement agent who is licensed pursuant to chapter 697 of NRS.

18 **2. A bail agent or bail enforcement agent who arrests a defendant in**
19 **this state or any other jurisdiction is not acting for or on behalf of this**
20 **state or any of its political subdivisions.**

21 **Sec. 17.** NRS 199.335 is hereby amended to read as follows:

22 199.335 ~~{A person who is}~~

23 **1. If a person:**

24 **(a) Is** admitted to bail, whether provided by deposit ~~{,}~~ **or** surety , or
25 ~~{upon his own recognizance, and who is}~~ **released without bail;**

26 **(b) Is** not recommitted to custody ~~{who fails}~~ ; and

27 **(c) Fails** to appear at the time and place required by the order admitting
28 him to bail or **releasing him without bail, or** any modification thereof,
29 **the person is guilty of failing to appear and shall be punished pursuant to**
30 **the provisions of this section,** unless ~~{he}~~ **the person** surrenders himself
31 ~~{within}~~ **not later than** 30 days ~~{or is excused by the court, shall be~~
32 ~~punished:~~

33 ~~—1.—For}~~ **after the date on which the person was required to appear.**

34 **2. If a person who fails to appear in violation of subsection 1 was**
35 **admitted to bail or released without bail incident to prosecution for:**

36 **(a) One or more felonies, the person is guilty of** a category D felony
37 **and shall be punished** as provided in NRS 193.130.

38 ~~{2.—For a misdemeanor, if admitted incident to prosecution for a~~
39 ~~misdemeanor or gross misdemeanor.}~~

40 **(b) One or more gross misdemeanors but no felonies, the person is**
41 **guilty of:**

- 1 *(1) A gross misdemeanor; or*
- 2 *(2) If the person left this state with the intent to avoid prosecution, a*
- 3 *category D felony and shall be punished as provided in NRS 193.130.*
- 4 *(c) One or more misdemeanors but no felonies or gross*
- 5 *misdemeanors, the person is guilty of:*
- 6 *(1) A misdemeanor; or*
- 7 *(2) If the person left this state with the intent to avoid prosecution, a*
- 8 *category D felony and shall be punished as provided in NRS 193.130.*
- 9 **Sec. 18.** The amendatory provisions of this act do not apply to:
- 10 1. A defendant who is admitted to bail before October 1, 1999;
- 11 2. A surety who provides the bail bond or undertaking for a defendant
- 12 who is admitted to bail before October 1, 1999; or
- 13 3. A depositor who provides money instead of a bail bond for a
- 14 defendant who is admitted to bail before October 1, 1999.

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