

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 the forfeiture of bail and the exoneration of a surety; revising various other provisions governing bail; 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 171.1845 is hereby amended to read as follows:
2 171.1845 1. If a person is brought before a magistrate under the
3 provisions of NRS 171.178 or 171.184, and it is discovered that there is a
4 warrant for his arrest outstanding in another county of this state, the
5 magistrate may release him in accordance with the provisions of NRS
6 178.484 or 178.4851 if:
7 (a) The warrant arises out of a public offense which constitutes a
8 misdemeanor; and
9 (b) The person provides a suitable address where the magistrate who
10 issued the warrant in the other county can notify him of a time and place to
11 appear.
12 2. If a person is released under the provisions of this section, the
13 magistrate who releases him shall transmit the cash, bond, notes or
14 agreement submitted under the provisions of NRS 178.502 or 178.4851,
15 together with his address, to the magistrate who issued the warrant. Upon
16 receipt of the cash, bonds, notes or agreement and address, the magistrate
17 who issued the warrant shall notify the person of a time and place to
18 appear.

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

4. ~~{If the public offense out of which the warrant arises is punishable by imprisonment in the county jail, a}~~ A person who fails to appear in the other county as ordered is guilty of ~~{a misdemeanor.}~~ *failing to appear and shall be punished as provided in NRS 199.335.* A sentence of imprisonment imposed ~~{under}~~ *for failing to appear in violation of* this section must be imposed consecutively to a sentence of imprisonment for the offense out of which the warrant arises.

Sec. 2. NRS 178.509 is hereby amended to read as follows:

178.509 1. The court shall not exonerate the surety before the expiration of 180 days after mailing the notice of intent to forfeit unless:

(a) The defendant appears before the court and the court, upon hearing the matter, determines that the defendant has presented a satisfactory excuse or that the surety did not in any way cause or aid the absence of the defendant; or

(b) The surety submits an application for exoneration on the ground that the defendant is unable to appear because ~~{~~:

~~(1) He is}~~ *the defendant:*

(1) Is dead;

(2) {He is} Is ill;

(3) {He is insane; or

~~(4) He is}~~ *Is insane;*

(4) Is being detained by civil or military authorities ~~{~~; *or*

(5) Has been deported,

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

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

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

(a) He is ill;

(b) He is insane; or

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

1 and the court, upon hearing the matter, determines that one or more of the
2 grounds described in this subsection exist and that the surety did not in any
3 way cause or aid the absence of the defendant. If the requirements of this
4 subsection are met, the court may exclude from the 180-day period such
5 time as it determines to be necessary and just. The court may include, as
6 part of the total time excluded from the running of the 180 days, a
7 reasonable period for the defendant's return to the court upon termination
8 of the temporary disability if it determines that the additional period is
9 necessary.

10 **Sec. 3.** NRS 178.512 is hereby amended to read as follows:

11 178.512 The court shall not set aside a forfeiture unless:

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

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

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

18 (c) Was unable to appear before the court before the date of the
19 forfeiture because of his illness or his insanity, but the surety did not know
20 and could not reasonably have known of his illness or insanity before that
21 date; ~~for~~

22 (d) Was unable to appear before the court before the date of the
23 forfeiture because he was being detained by civil or military authorities, but
24 the surety did not know and could not reasonably have known of his
25 detention before that date ~~for~~; or

26 *(e) Was unable to appear before the court before the date of the*
27 *forfeiture because he was deported, but the surety did not know and*
28 *could not reasonably have known of his deportation before that*
29 *date,*

30 and the court, upon hearing the matter, determines that one or more of the
31 grounds described in this subsection exist and that the surety did not in any
32 way cause or aid the absence of the defendant; and

33 2. The court determines that justice does not require the enforcement of
34 the forfeiture.

35 **Sec. 4.** NRS 178.526 is hereby amended to read as follows:

36 178.526 1. For the purpose of surrendering a defendant, a surety, at
37 any time before ~~the~~ *the defendant* is finally discharged, and at any place
38 within ~~the~~ *this* state, may, by ~~the~~:

39 *(a) Written authorization for the arrest of the defendant attached to a*
40 *copy of the undertaking; or*

41 *(b) A* written authority endorsed on a certified copy of the
42 undertaking,

1 cause the defendant to be arrested by a bail agent or bail enforcement agent
2 who is licensed pursuant to chapter 697 of NRS.

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

6 **Sec. 5.** NRS 199.335 is hereby amended to read as follows:

7 199.335 ~~{A person who is}~~

8 **1. If a person:**

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

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

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

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

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

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

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

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

27 **(1) A gross misdemeanor; or**

28 **(2) If the person left this state with the intent to avoid prosecution, a**
29 **category D felony and shall be punished as provided in NRS 193.130.**

30 **(c) One or more misdemeanors but no felonies or gross**
31 **misdemeanors, the person is guilty of:**

32 **(1) A misdemeanor; or**

33 **(2) If the person left this state with the intent to avoid prosecution, a**
34 **category D felony and shall be punished as provided in NRS 193.130.**

35 **Sec. 6.** The amendatory provisions of this act do not apply to:

36 1. A defendant who is admitted to bail before October 1, 1999;

37 2. A surety who provides the bail bond or undertaking for a defendant
38 who is admitted to bail before October 1, 1999; or

39 3. A depositor who provides money instead of a bail bond for a
40 defendant who is admitted to bail before October 1, 1999.