

SENATE BILL NO. 400—COMMITTEE ON JUDICIARY

MARCH 12, 1999

Referred to Committee on Judiciary

SUMMARY—Revises jury instruction that defines reasonable doubt in criminal actions.
(BDR 14-1533)

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

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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 actions; revising the jury instruction that defines reasonable doubt in criminal actions; 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 175.211 is hereby amended to read as follows:
2 175.211 1. ~~[A reasonable doubt is one based on reason. It is not mere~~
3 ~~possible doubt, but is such a doubt as would govern or control a person in~~
4 ~~the more weighty affairs of life. If the minds of the jurors, after the entire~~
5 ~~comparison and consideration of all the evidence, are in such a condition~~
6 ~~that they can say they feel an abiding conviction of the truth of the charge,~~
7 ~~there is not a reasonable doubt. Doubt to be reasonable must be actual, not~~
8 ~~mere possibility or speculation.~~
9 ~~—2.— No other definition of reasonable doubt may be given by the court to~~
10 ~~juries in criminal actions in this state.]~~ ***In any criminal action that is tried***
11 ***before a jury to determine the guilt of the defendant:***
12 ***(a) The court is not required to give any instruction that defines or***
13 ***explains reasonable doubt, unless such an instruction is requested by the***
14 ***jury or a party.***
15 ***(b) If the court gives an instruction that defines or explains***
16 ***reasonable doubt, the following instruction must be given to the jury, and***
17 ***the court shall not give any other instruction that defines or explains***
18 ***reasonable doubt:***

1 *The prosecution has the burden of proving the defendant guilty*
2 *beyond a reasonable doubt. Some of you may have served as jurors*
3 *in civil cases, where you were told that it is only necessary to prove*
4 *that a fact is more likely true than not true. In criminal cases, the*
5 *prosecution's proof must be more powerful than that. It must be*
6 *beyond a reasonable doubt.*

7
8 *Proof beyond a reasonable doubt is proof that leaves you firmly*
9 *convinced of the defendant's guilt. There are very few things in this*
10 *world that we know with absolute certainty, and in criminal cases*
11 *the law does not require proof that overcomes every possible doubt.*
12 *If, based on your consideration of the evidence, you are firmly*
13 *convinced that the defendant is guilty of the crime charged, you*
14 *must find the defendant guilty. If, on the other hand, you think there*
15 *is a real possibility that the defendant is not guilty, you must give the*
16 *defendant the benefit of the doubt and find the defendant not guilty.*

17
18 2. *In any penalty hearing conducted before a jury in which the*
19 *prosecution is required by the constitution or laws of this state or the*
20 *Constitution of the United States to prove beyond a reasonable doubt the*
21 *existence of any aggravating circumstance, allegation or other matter:*

22 (a) *The court is not required to give any instruction that defines or*
23 *explains reasonable doubt, unless such an instruction is requested by the*
24 *jury or a party.*

25 (b) *If the court gives an instruction that defines or explains*
26 *reasonable doubt, the instruction that is given to the jury must be, to the*
27 *extent practicable, substantially similar in form and content to the*
28 *instruction set forth in paragraph (b) of subsection 1, and the court shall*
29 *not give any other instruction that defines or explains reasonable doubt.*

30 3. *The provisions of this section apply to all proceedings related to a*
31 *criminal action or penalty hearing in which one or more prospective*
32 *jurors, regular jurors or alternate jurors are examined, selected or*
33 *present.*

34 **Sec. 2.** The amendatory provisions of this act apply to all criminal
35 actions and penalty hearings in which the initial examination of prospective
36 jurors for the criminal action or penalty hearing commences on or after July
37 1, 1999, regardless of when the offense was committed.

38 **Sec. 3.** This act becomes effective on July 1, 1999.