

SENATE BILL NO. 482—COMMITTEE ON JUDICIARY

(ON BEHALF OF WASHOE COUNTY PUBLIC
DEFENDER’S OFFICE)

MARCH 18, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing proceedings before grand jury. (BDR 14-1639)

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; requiring a district attorney to provide copies of certain materials to a person before his arraignment if the person is indicted by a grand jury without receiving prior notice of its proceedings; requiring a district attorney to provide certain persons who are the targets of proceedings before a grand jury with a summary of the evidence that the district attorney intends to present to the grand jury; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 172 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a grand jury finds an indictment against a defendant pursuant to NRS 172.255 and notice of the proceeding of the grand jury was withheld from the defendant pursuant to NRS 172.241, the district attorney shall, not less than 2 judicial days before the arraignment of the defendant, provide the defendant with copies of any:

(a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness, or any reports of statements or confessions, or copies thereof, within the possession or custody of the district attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular

1 *case, or copies thereof, within the possession or custody of the district*
2 *attorney; and*

3 *(c) Books, papers, documents or tangible objects that the district*
4 *attorney intends to introduce in evidence during the case in chief of the*
5 *state, or copies thereof, within the possession or custody of the district*
6 *attorney.*

7 *2. The defendant is not entitled, pursuant to the provisions of this*
8 *section, to the discovery or inspection of:*

9 *(a) An internal report, document or memorandum that is prepared by*
10 *or on behalf of the district attorney in connection with the investigation*
11 *or prosecution of the case.*

12 *(b) A statement, report, book, paper, document, tangible object or any*
13 *other type of item or information that is privileged or protected from*
14 *disclosure or inspection pursuant to the constitution or laws of this state*
15 *or the Constitution of the United States.*

16 *3. The provisions of this section are not intended to affect any*
17 *obligation placed upon the district attorney by the constitution of this*
18 *state or the Constitution of the United States to disclose exculpatory*
19 *evidence to the defendant.*

20 *4. The court shall not postpone an arraignment at the request of a*
21 *party based solely on the failure of the district attorney to permit the*
22 *defendant to inspect, copy or photograph material as required in this*
23 *section, unless the court finds that the defendant has been prejudiced by*
24 *such failure.*

25 **Sec. 2.** NRS 172.241 is hereby amended to read as follows:

26 172.241 1. A person whose indictment the district attorney intends to
27 seek or the grand jury on its own motion intends to return, but who has not
28 been subpoenaed to appear before the grand jury, may testify before the
29 grand jury if he requests to do so and executes a valid waiver in writing of
30 his constitutional privilege against self-incrimination.

31 2. A district attorney or a peace officer shall serve reasonable notice
32 upon a person whose indictment is being considered by a grand jury unless
33 the court determines that adequate cause exists to withhold notice. The
34 notice is adequate if it:

35 (a) Is given to the person, his attorney of record or an attorney who
36 claims to represent the person and gives the person not less than 5 judicial
37 days to submit his request to testify to the district attorney; ~~and~~

38 (b) Advises the person that he may testify before the grand jury only if
39 he submits a written request to the district attorney and includes an address
40 where the district attorney may send a notice of the date, time and place of
41 the scheduled proceeding of the grand jury ~~to~~ ; and

42 *(c) Includes a summary of the evidence that the district attorney*
43 *intends to present to the grand jury.*

- 1 3. The district attorney may apply to the court for a determination that
- 2 adequate cause exists to withhold notice if he:
- 3 (a) Determines that the notice may result in the flight of the person
- 4 whose indictment is being considered, on the basis of:
- 5 (1) A previous failure of the person to appear in matters arising out of
- 6 the subject matter of the proposed indictment;
- 7 (2) The fact that the person is a fugitive from justice arising from
- 8 charges in another jurisdiction;
- 9 (3) Outstanding local warrants pending against the person; or
- 10 (4) Any other objective factor;
- 11 (b) Determines that the notice may endanger the life or property of other
- 12 persons; or
- 13 (c) Is unable, after reasonable diligence, to notify the person.
- 14 4. If a district attorney applies to the court for a determination that
- 15 adequate cause exists to withhold notice, the court shall hold a closed
- 16 hearing on the matter. Upon a finding of adequate cause, the court may
- 17 order that no notice be given.

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