

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 various provisions relating to criminal procedure. (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 ~~for omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; revising the provisions relating to the notice that is provided to a person who is a target of a grand jury proceeding; allowing a person whose property has been taken pursuant to a search warrant to inspect and to copy or photograph such property under certain circumstances; 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 172.241 is hereby amended to read as follows:
2 172.241 1. A person whose indictment the district attorney intends to
3 seek or the grand jury on its own motion intends to return, but who has not
4 been subpoenaed to appear before the grand jury, may testify before the
5 grand jury if he requests to do so and executes a valid waiver in writing of
6 his constitutional privilege against self-incrimination.
7 2. A district attorney or a peace officer shall serve reasonable notice
8 upon a person whose indictment is being considered by a grand jury unless
9 the court determines that adequate cause exists to withhold notice. The
10 notice is adequate if it:
11 (a) Is given to the person, his attorney of record or an attorney who
12 claims to represent the person ~~and gives~~ ;
13 **(b) Gives** the person **and the attorney who represents him** not less than
14 5 judicial days **in which** to submit ~~this~~ **to the district attorney a written**
15 request **for the person** to testify ~~to the district attorney; and~~

~~(b)~~ before the grand jury;

(c) Advises the person that he may testify before the grand jury only if he *or the attorney who represents him* submits a written request to the district attorney and includes an address where the district attorney may send a notice of the date, time and place of the scheduled proceeding of the grand jury ~~(c)~~; and

(d) Includes the following:

(1) A brief allegation of each offense for which the district attorney intends to seek an indictment by the grand jury;

(2) The period during which each such offense is alleged to have occurred; and

(3) If available, any reference numbers from investigative agencies concerning each such offense.

3. The district attorney may apply to the court for a determination that adequate cause exists to withhold notice if he:

(a) Determines that the notice may result in the flight of the person whose indictment is being considered, on the basis of:

(1) A previous failure of the person to appear in matters arising out of the subject matter of the proposed indictment;

(2) The fact that the person is a fugitive from justice arising from charges in another jurisdiction;

(3) Outstanding local warrants pending against the person; or

(4) Any other objective factor;

(b) Determines that the notice may endanger the life or property of other persons; or

(c) Is unable, after reasonable diligence, to notify the person.

4. If a district attorney applies to the court for a determination that adequate cause exists to withhold notice, the court shall hold a closed hearing on the matter. Upon a finding of adequate cause, the court may order that no notice be given.

Sec. 2. NRS 179.075 is hereby amended to read as follows:

179.075 1. The warrant may be executed and returned only within 10 days after its date.

2. The officer taking property under the warrant shall give to the person ~~from whom or~~ from whose *possession or* premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken.

3. The return ~~shall~~ *must* be made promptly and ~~shall~~ *must* be accompanied by a written inventory of any property taken. The inventory ~~shall~~ *must* be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other

1 than the applicant for the warrant or the person from whose possession or
2 premises the property was taken, and ~~{shall}~~ **must** be verified by the officer.

3 4. The magistrate shall upon request deliver a copy of the inventory to
4 the person ~~{from whom or}~~ from whose **possession or** premises the
5 property was taken and to the applicant for the warrant.

6 **5. If the person from whose possession or premises the property was**
7 **taken or his counsel provides reasonable notice, in writing, to the**
8 **prosecuting attorney who represents the applicant for the warrant, the**
9 **prosecuting attorney or the officer who took the property under the**
10 **warrant shall permit the person, his counsel or a designee of the person**
11 **or his counsel to inspect and to copy or photograph any property that:**

12 **(a) Was taken under the warrant;**

13 **(b) Is in the possession, custody or control of the state; and**

14 **(c) Is material to any pending grand jury proceeding or criminal**
15 **action.**

16 **6. Any inspection, copying or photographing of property pursuant to**
17 **subsection 5 must be done:**

18 **(a) Under secure circumstances and only by methods that preserve the**
19 **integrity of the property as evidence; and**

20 **(b) At the expense of the person from whose possession or premises**
21 **the property was taken.**