

ASSEMBLY BILL NO. 327—ASSEMBLYMEN GIUNCHIGLIANI, LESLIE,
ANDERSON, ARBERRY, BACHE, OCEGUERA AND WILLIAMS

MARCH 13, 2001

JOINT SPONSOR: SENATOR NEAL

Referred to Committee on Judiciary

SUMMARY—Revises order in which arguments must be presented during penalty hearing in cases where death penalty is sought. (BDR 14-1082)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 capital punishment; revising the order in which the arguments must be presented during the penalty hearing in cases where the death penalty is sought; 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 175.141 is hereby amended to read as follows:
2 175.141 The jury having been impaneled and sworn, the trial ~~shall~~
3 *must* proceed in the following order:
4 1. If the indictment or information be for a felony, the clerk must read
5 it and state the plea of the defendant to the jury. In all other cases this
6 formality may be dispensed with.
7 2. The district attorney, or other counsel for the state, must open the
8 cause. The defendant or his counsel may then either make his opening
9 statement or reserve it to be made immediately ~~prior to~~ *before* the
10 presentation of evidence in his behalf.
11 3. The state must then offer its evidence in support of the charge, and
12 the defendant may then offer evidence in his defense.
13 4. The parties may then respectively offer rebutting testimony only,
14 unless the court, for good reasons, in furtherance of justice, permit them to
15 offer evidence upon their original cause.
16 5. ~~When~~ *Except as otherwise provided in NRS 175.554, when* the
17 evidence is concluded, unless the case is submitted to the jury on either



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1 side, or on both sides, without argument, the district attorney, or other
2 counsel for the state, must open and must conclude the argument.
3 **Sec. 2.** NRS 175.554 is hereby amended to read as follows:
4 175.554 In cases in which the death penalty is sought:
5 1. *The penalty hearing must be conducted as follows:*
6 (a) *The district attorney, or other counsel for the state, must open the*
7 *argument;*
8 (b) *The defendant or his counsel may then respond, and the state may*
9 *then argue in rebuttal; and*
10 (c) *The defendant must conclude the argument in surrebuttal.*
11 2. If the penalty hearing is conducted before a jury, the court shall
12 instruct the jury at the end of the hearing, and shall include in its
13 instructions the aggravating circumstances alleged by the prosecution upon
14 which evidence has been presented during the trial or at the hearing. The
15 court shall also instruct the jury as to the mitigating circumstances alleged
16 by the defense upon which evidence has been presented during the trial or
17 at the hearing.
18 ~~12-1~~ 3. The jury or the panel of judges shall determine:
19 (a) Whether an aggravating circumstance or circumstances are found to
20 exist;
21 (b) Whether a mitigating circumstance or circumstances are found to
22 exist; and
23 (c) Based upon these findings, whether the defendant should be
24 sentenced to life imprisonment with the possibility of parole, life
25 imprisonment without the possibility of parole or death.
26 ~~13-1~~ 4. The jury or the panel of judges may impose a sentence of death
27 only if it finds at least one aggravating circumstance and further finds that
28 there are no mitigating circumstances sufficient to outweigh the
29 aggravating circumstance or circumstances found.
30 ~~14-1~~ 5. If a jury or a panel of judges imposes a sentence of death, the
31 court shall enter its finding in the record, or the jury shall render a written
32 verdict signed by the foreman. The finding or verdict must designate the
33 aggravating circumstance or circumstances which were found beyond a
34 reasonable doubt, and must state that there are no mitigating circumstances
35 sufficient to outweigh the aggravating circumstance or circumstances
36 found.
37 **Sec. 3.** The amendatory provisions of this act do not apply to offenses
38 committed before October 1, 2001.

