

CHAPTER.....

AN ACT relating to proceedings; allowing a witness to testify at a preliminary examination or before the grand jury through the use of audiovisual technology 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:

Section 1. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a witness resides more than 500 miles from the place of a preliminary examination or is unable to attend the preliminary examination because of his medical condition, a party may, not later than 14 days before the preliminary examination, file a request that the magistrate allow the witness to testify at the preliminary examination through the use of audiovisual technology. A party who requests that the magistrate allow a witness to testify through the use of audiovisual technology shall provide written notice of the request to the opposing party at or before the time of filing the request.

2. Not later than 7 days after receiving notice of a request that the magistrate allow a witness to testify at the preliminary examination through the use of audiovisual technology, the opposing party may file an objection to the request. If the opposing party fails to file a timely objection to the request, the opposing party shall be deemed to have consented to the granting of the request.

3. Regardless of whether or not the opposing party files an objection to a request that the magistrate allow a witness to testify at the preliminary examination through the use of audiovisual technology, the magistrate may allow the witness to testify at the preliminary examination through the use of audiovisual technology only if the magistrate finds that good cause exists to grant the request based upon the specific facts and circumstances of the case.

4. If the magistrate allows a witness to testify at the preliminary examination through the use of audiovisual technology:

(a) The testimony of the witness must be:

(1) Taken by a certified videographer who is in the physical presence of the witness. The certified videographer shall sign a written declaration, on a form provided by the magistrate, which states that the witness does not have in his possession any notes or other materials to assist in his testimony.

(2) Recorded and preserved through the use of a videotape or other means of audiovisual recording technology.

(3) Transcribed by a certified court reporter.

(b) Before giving his testimony, the witness must be sworn and must sign a written declaration, on a form provided by the magistrate, which acknowledges that the witness understands that he is subject to the jurisdiction of the courts of this state and may be subject to criminal prosecution for the commission of any crime in connection with his testimony, including, without limitation, perjury, and that he consents to such jurisdiction.

(c) During the preliminary examination, the witness must not be asked to identify the defendant, but the witness may be asked to testify regarding the facts and circumstances surrounding any previous identification of the defendant.

(d) The original recorded testimony of the witness must be filed with the district court, and copies of the recorded testimony of the witness must be provided to each party.

(e) The testimony of the witness may not be used by any party upon the trial of the cause or in any proceeding therein in lieu of the direct testimony of the witness, but the court may allow the testimony of the witness to be used for any other lawful purpose.

5. Audiovisual technology used pursuant to this section must ensure that the witness may be:

(a) Clearly heard and seen; and

(b) Examined and cross-examined.

6. As used in this section, "audiovisual technology" includes, without limitation, closed-circuit video and videoconferencing.

Sec. 2. Chapter 172 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a witness resides more than 500 miles from the place of a grand jury proceeding or is unable to attend the grand jury proceeding because of his medical condition, upon the request of the district attorney, the district judge supervising the proceedings of the grand jury may allow a witness to testify before the grand jury through the use of audiovisual technology.

2. The district judge supervising the proceedings of the grand jury may allow a witness to testify before the grand jury through the use of audiovisual technology only if the district judge finds that good cause exists to grant the request based upon the specific facts and circumstances of the grand jury proceeding.

3. If the district judge supervising the proceedings of the grand jury allows a witness to testify at the grand jury proceeding through the use of audiovisual technology:

(a) The testimony of the witness must be:

(1) Taken by a certified videographer who is in the physical presence of the witness. The certified videographer shall sign a written declaration, on a form provided by the district judge, which states that the witness does not have in his possession any notes or other materials to assist in his testimony.

(2) Recorded and preserved through the use of a videotape or other means of audiovisual recording technology.

(3) Transcribed by a certified court reporter appointed pursuant to NRS 172.215 in accordance with the provisions of NRS 172.225.

(b) Before giving his testimony, the witness must be sworn and must sign a written declaration, on a form provided by the district judge, which acknowledges that the witness understands that he is subject to the jurisdiction of the courts of this state and may be subject to criminal prosecution for the commission of any crime in connection with his testimony, including, without limitation, perjury, and that he consents to such jurisdiction.

(c) The original recorded testimony of the witness must be delivered to the certified court reporter.

(d) The testimony of the witness may not be used by any party upon the trial of the cause or in any proceeding therein in lieu of the direct testimony of the witness, but the court may allow the testimony of the witness to be used for any other lawful purpose.

4. Audiovisual technology used pursuant to this section must ensure that the witness may be:

(a) Clearly heard and seen; and

(b) Examined.

5. As used in this section, “audiovisual technology” includes, without limitation, closed-circuit video and videoconferencing.

Sec. 3. The amendatory provisions of this act apply to any criminal offense that is the subject of a preliminary examination or grand jury proceeding commenced on or after the effective date of this act, regardless of when the offense was committed.

Sec. 4. This act becomes effective upon passage and approval.