

SENATE BILL NO. 32—SENATOR CARE

PREFILED JANUARY 22, 2001

Referred to Committee on Judiciary

SUMMARY—Allows witness to testify at preliminary examination or before grand jury through use of audiovisual technology under certain circumstances. (BDR 14-637)

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 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:

- 1     **Section 1.** Chapter 171 of NRS is hereby amended by adding thereto a  
2     new section to read as follows:  
3     1. *If a witness resides more than 500 miles from the place of a*  
4     *preliminary examination or is unable to attend the preliminary*  
5     *examination because of his medical condition, a party may, not later*  
6     *than 14 days before the preliminary examination, file a request that the*  
7     *magistrate allow the witness to testify at the preliminary examination*  
8     *through the use of audiovisual technology. A party who requests that the*  
9     *magistrate allow a witness to testify through the use of audiovisual*  
10    *technology shall provide written notice of the request to the opposing*  
11    *party at or before the time of filing the request.*  
12    2. *Not later than 7 days after receiving notice of a request that the*  
13    *magistrate allow a witness to testify at the preliminary examination*  
14    *through the use of audiovisual technology, the opposing party may file*  
15    *an objection to the request. If the opposing party fails to file a timely*  
16    *objection to the request, the opposing party shall be deemed to have*  
17    *consented to the granting of the request.*  
18    3. *Regardless of whether or not the opposing party files an objection*  
19    *to a request that the magistrate allow a witness to testify at the*  
20    *preliminary examination through the use of audiovisual technology, the*  
21    *magistrate may allow the witness to testify at the preliminary*



\* S B 3 2 R 1 \*

- 1 *examination through the use of audiovisual technology only if the*  
2 *magistrate finds that good cause exists to grant the request based upon*  
3 *the specific facts and circumstances of the case.*  
4 *4. If the magistrate allows a witness to testify at the preliminary*  
5 *examination through the use of audiovisual technology:*  
6 *(a) The testimony of the witness must be:*  
7 *(1) Taken by a certified videographer who is in the physical*  
8 *presence of the witness. The certified videographer shall sign a written*  
9 *declaration, on a form provided by the magistrate, which states that the*  
10 *witness does not have in his possession any notes or other materials to*  
11 *assist in his testimony.*  
12 *(2) Recorded and preserved through the use of a videotape or other*  
13 *means of audiovisual recording technology.*  
14 *(3) Transcribed by a certified court reporter.*  
15 *(b) Before giving his testimony, the witness must be sworn and must*  
16 *sign a written declaration, on a form provided by the magistrate, which*  
17 *acknowledges that the witness understands that he is subject to the*  
18 *jurisdiction of the courts of this state and may be subject to criminal*  
19 *prosecution for the commission of any crime in connection with his*  
20 *testimony, including, without limitation, perjury, and that he consents to*  
21 *such jurisdiction.*  
22 *(c) During the preliminary examination, the witness must not be*  
23 *asked to identify the defendant, but the witness may be asked to testify*  
24 *regarding the facts and circumstances surrounding any previous*  
25 *identification of the defendant.*  
26 *(d) The original recorded testimony of the witness must be filed with*  
27 *the district court, and copies of the recorded testimony of the witness*  
28 *must be provided to each party.*  
29 *(e) The testimony of the witness may not be used by any party upon*  
30 *the trial of the cause or in any proceeding therein in lieu of the direct*  
31 *testimony of the witness, but the court may allow the testimony of the*  
32 *witness to be used for any other lawful purpose.*  
33 *5. Audiovisual technology used pursuant to this section must ensure*  
34 *that the witness may be:*  
35 *(a) Clearly heard and seen; and*  
36 *(b) Examined and cross-examined.*  
37 *6. As used in this section, "audiovisual technology" includes, without*  
38 *limitation, closed-circuit video and videoconferencing.*  
39 **Sec. 2.** Chapter 172 of NRS is hereby amended by adding thereto a  
40 new section to read as follows:  
41 *1. If a witness resides more than 500 miles from the place of a grand*  
42 *jury proceeding or is unable to attend the grand jury proceeding because*  
43 *of his medical condition, upon the request of the district attorney, the*  
44 *district judge supervising the proceedings of the grand jury may allow a*  
45 *witness to testify before the grand jury through the use of audiovisual*  
46 *technology.*  
47 *2. The district judge supervising the proceedings of the grand jury*  
48 *may allow a witness to testify before the grand jury through the use of*  
49 *audiovisual technology only if the district judge finds that good cause*



1 exists to grant the request based upon the specific facts and  
2 circumstances of the grand jury proceeding.  
3 3. If the district judge supervising the proceedings of the grand jury  
4 allows a witness to testify at the grand jury proceeding through the use of  
5 audiovisual technology:  
6 (a) The testimony of the witness must be:  
7 (1) Taken by a certified videographer who is in the physical  
8 presence of the witness. The certified videographer shall sign a written  
9 declaration, on a form provided by the district judge, which states that  
10 the witness does not have in his possession any notes or other materials  
11 to assist in his testimony.  
12 (2) Recorded and preserved through the use of a videotape or other  
13 means of audiovisual recording technology.  
14 (3) Transcribed by a certified court reporter appointed pursuant to  
15 NRS 172.215 in accordance with the provisions of NRS 172.225.  
16 (b) Before giving his testimony, the witness must be sworn and must  
17 sign a written declaration, on a form provided by the district judge, which  
18 acknowledges that the witness understands that he is subject to the  
19 jurisdiction of the courts of this state and may be subject to criminal  
20 prosecution for the commission of any crime in connection with his  
21 testimony, including, without limitation, perjury, and that he consents to  
22 such jurisdiction.  
23 (c) The original recorded testimony of the witness must be delivered to  
24 the certified court reporter.  
25 (d) The testimony of the witness may not be used by any party upon  
26 the trial of the cause or in any proceeding therein in lieu of the direct  
27 testimony of the witness, but the court may allow the testimony of the  
28 witness to be used for any other lawful purpose.  
29 4. Audiovisual technology used pursuant to this section must ensure  
30 that the witness may be:  
31 (a) Clearly heard and seen; and  
32 (b) Examined.  
33 5. As used in this section, "audiovisual technology" includes, without  
34 limitation, closed-circuit video and videoconferencing.  
35 Sec. 3. The amendatory provisions of this act apply to any criminal  
36 offense that is the subject of a preliminary examination or grand jury  
37 proceeding commenced on or after the effective date of this act, regardless  
38 of when the offense was committed.  
39 Sec. 4. This act becomes effective upon passage and approval.

