

Amendment No. 756

Senate Amendment to Assembly Bill No. 364

(BDR 14-1303)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

RBL



Date: 5/16/2007

A.B. No. 364—Revises certain provisions relating to the use of a grand jury.

(BDR 14-1303)



ASSEMBLY BILL NO. 364—ASSEMBLYMEN HORNE, PARKS, ALLEN, ARBERRY,
ATKINSON, GERHARDT, GOEDHART, KIHUEN, KOIVISTO, MARVEL,
MCCLAINE, OHRENSCHALL, PIERCE, SEGERBLOM, WEBER AND WOMACK

MARCH 15, 2007

JOINT SPONSORS: SENATORS COFFIN, BEERS, RHOADS,
SCHNEIDER, WIENER AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions relating to ~~the use of~~ **information provided to** a grand jury. (BDR 14-1303)

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 criminal procedure; ~~prohibiting the use of a grand jury in certain circumstances;~~ **authorizing a defendant to submit a statement concerning the results of a preliminary hearing to a grand jury;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill expands the existing limitations on the use of a grand jury so that a district attorney is also prohibited from seeking the indictment of a person if the evidence presented by the district attorney during the preliminary hearing was insufficient to hold the person for trial, unless substantial evidence is discovered that was not available at the time of the preliminary hearing. (NRS 172.107). This bill authorizes a defendant to submit a statement to a grand jury providing whether a preliminary hearing was held and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial. (NRS 172.145)]~~

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

Section 1. ~~NRS 172.107 is hereby amended to read as follows:~~
~~172.107 A district attorney shall not use a grand jury to:~~
~~1. Seek the indictment of a person if the evidence presented by the district attorney during a preliminary examination is insufficient to warrant holding the person for trial, unless substantial evidence that was not available at the time of the preliminary examination is discovered, or~~

~~2. Discover tangible, documentary or testimonial evidence to assist in the prosecution of a defendant who has already been charged with the public offense by indictment or information.~~ (Deleted by amendment.)

Sec. 2. NRS 172.145 is hereby amended to read as follows:

172.145 1. The grand jury is not bound to hear evidence for the defendant ~~¶~~ , except that the defendant is entitled to submit a statement which the grand jury must receive providing whether a preliminary hearing was held concerning the matter and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial. It is their duty, however, to weigh all evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order that evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

2. If the district attorney is aware of any evidence which will explain away the charge, he shall submit it to the grand jury.

3. The grand jury may invite any person, without process, to appear before the grand jury to testify.