

ASSEMBLY BILL NO. 104—ASSEMBLYWOMAN PARNELL

PREFILED DECEMBER 31, 2008

Referred to Committee on Judiciary

SUMMARY—Revises the provisions governing the failure to appear in court for the commission of certain misdemeanor traffic offenses. (BDR 14-95)

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 bail; revising the provisions governing the failure to appear in court for the commission of certain misdemeanor traffic offenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that when a defendant fails to appear in court, the court is required to: (1) enter in the minutes that the defendant failed to appear; (2) not later than 45 days after the date on which the defendant failed to appear, order the issuance of a warrant for the arrest of the defendant; and (3) if the undertaking exceeds \$50 or the money deposited instead of a bail bond exceeds \$500, direct that notice of the failure to appear be given to certain persons. (NRS 178.508) An order of forfeiture is then prepared by the clerk of court and signed by the court, which becomes effective 180 days later.

This bill provides that if a defendant has been charged with a misdemeanor traffic offense, has deposited bail with the court and has failed to appear, the court may, in its discretion: (1) order the issuance of a warrant for the arrest of the defendant; and (2) sign an order of forfeiture prepared by the clerk of court, to become effective immediately, and promptly transmit a copy of the order of forfeiture to the defendant.

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

Section 1. NRS 178.508 is hereby amended to read as follows:
178.508 1. If the defendant fails to appear when his presence
in court is lawfully required for the commission of a misdemeanor



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1 and the failure to appear is not excused or is lawfully required for
2 the commission of a gross misdemeanor or felony, the court shall:

3 (a) Enter upon its minutes that the defendant failed to appear;

4 (b) ~~Not~~ *Except as otherwise provided in subsection 4, not*
5 later than 45 days after the date on which the defendant failed to
6 appear, order the issuance of a warrant for the arrest of the
7 defendant; and

8 (c) ~~Not~~ *Except as otherwise provided in subsection 4, if* the
9 undertaking exceeds \$50 or money deposited instead of bail bond
10 exceeds \$500, direct that each surety and the local agent of each
11 surety, or the depositor if he is not the defendant, be given notice
12 that the defendant has failed to appear, by certified mail within 20
13 days after the date on which the defendant failed to appear. The
14 court shall execute an affidavit of such mailing to be kept as an
15 official public record of the court and shall direct that a copy of the
16 notice be transmitted to the prosecuting attorney at the same time
17 that notice is given to each surety or the depositor.

18 2. Except as otherwise provided in subsection 3 and NRS
19 178.509, an order of forfeiture of any undertaking or money
20 deposited instead of bail bond must be prepared by the clerk of court
21 and signed by the court. An order of forfeiture must include the date
22 on which the forfeiture becomes effective. If the defendant who
23 failed to appear has been charged with the commission of a gross
24 misdemeanor or felony, a copy of the order must be forwarded to
25 the Office of Court Administrator. ~~The~~ *Except as otherwise*
26 *provided in subsection 4, the* undertaking or money deposited
27 instead of bail bond is forfeited 180 days after the date on which the
28 notice is mailed pursuant to subsection 1.

29 3. The court may extend the date of the forfeiture for any
30 reasonable period set by the court if the surety or depositor submits
31 to the court:

32 (a) An application for an extension and the court determines that
33 the surety or the depositor is making reasonable and ongoing efforts
34 to bring the defendant before the court.

35 (b) An application for an extension on the ground that the
36 defendant is temporarily prevented from appearing before the court
37 because the defendant:

38 (1) Is ill;

39 (2) Is insane; or

40 (3) Is being detained by civil or military authorities,

41 ➔ and the court, upon hearing the matter, determines that one or
42 more of the grounds described in this paragraph exist and that the
43 surety or depositor did not in any way cause or aid the absence of
44 the defendant.



1 4. *If a defendant who has been charged with a misdemeanor*
2 *traffic offense has deposited with the court an undertaking or*
3 *money instead of bail bond, the defendant has failed to appear*
4 *when his presence in court is lawfully required and the failure to*
5 *appear is not excused, the court may, in its discretion:*

6 (a) *Order the issuance of a warrant for the arrest of the*
7 *defendant; and*

8 (b) *Sign an order of forfeiture prepared by the clerk of court,*
9 *to become effective immediately, and promptly transmit a copy of*
10 *the order of forfeiture to the defendant.*

11 5. *As used in this section, "misdemeanor traffic offense"*
12 *means any moving violation that is punishable as a misdemeanor*
13 *pursuant to chapter 484 of NRS or pursuant to any ordinance*
14 *enacted by a local authority, except a violation of NRS 484.379 or*
15 *484.379778.*

