

ASSEMBLY BILL NO. 499—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to discovery in criminal proceedings. (BDR 14-1158)

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; requiring a prosecutor to provide certain defendants with certain discovery when the defendant is brought before a magistrate after an arrest or at another time not less than 5 days before a preliminary examination; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a prosecutor is required to provide any defendant with
2 copies of certain discovery, including, without limitation, documents, reports, tests,
3 tangible objects and recorded statements, not less than 2 days before a preliminary
4 examination is held. (NRS 171.1965) This bill requires a prosecutor to provide a
5 defendant charged with a felony or a gross misdemeanor with copies of such
6 discovery at the time when the defendant is brought before a magistrate after an
7 arrest pursuant to NRS 171.178, or as soon as practicable thereafter, but in no event
8 less than 5 days before a preliminary examination.

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

1 **Section 1.** NRS 171.1965 is hereby amended to read as
2 follows:

3 171.1965 1. ~~[Not]~~ ***At the time a person is brought before a***
4 ***magistrate pursuant to NRS 171.178, or as soon as practicable***
5 ***thereafter, but not*** less than ~~[2]~~ ***5*** judicial days before a preliminary
6 examination, the prosecuting attorney shall provide ~~[the]~~ ***a***



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defendant *charged with a felony or a gross misdemeanor* with copies of any:

(a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness or witnesses, or any reports of statements or confessions, or copies thereof, within the possession or custody of the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession or custody of the prosecuting attorney; and

(c) Books, papers, documents or tangible objects that the prosecuting attorney intends to introduce in evidence during the case in chief of the State, or copies thereof, within the possession or custody of the prosecuting attorney.

2. The defendant is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

(a) An internal report, document or memorandum that is prepared by or on behalf of the prosecuting attorney in connection with the investigation or prosecution of the case.

(b) A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the Constitution or laws of this State or the Constitution of the United States.

3. The provisions of this section are not intended to affect any obligation placed upon the prosecuting attorney by the Constitution of this State or the Constitution of the United States to disclose exculpatory evidence to the defendant.

4. The magistrate shall not postpone a preliminary examination at the request of a party based solely on the failure of the prosecuting attorney to permit the defendant to inspect, copy or photograph material as required in this section, unless the court finds that the defendant has been prejudiced by such failure.

