

SENATE BILL NO. 111—SENATORS JONES,
SEGERBLOM, KIHUEN AND FORD

FEBRUARY 12, 2013

JOINT SPONSORS: ASSEMBLYMEN FRIERSON, FLORES;
CARRILLO, MARTIN AND OHRENSCHALL

Referred to Committee on Judiciary

SUMMARY—Requires production of certain evidence under
certain circumstances. (BDR 3-771)

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 civil actions; requiring a person who owns or controls the premises on which an injury or death allegedly occurred to produce certain evidence under certain circumstances; urging the Nevada Supreme Court to adopt certain rules of civil procedure; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a person who owns or controls the premises on which an injury or death allegedly occurred to produce copies, if any, of any visual evidence of the incident giving rise to a claim for personal injury or death when such visual evidence is requested in writing, accompanied by an affidavit, by a claimant or a claimant's attorney. The provisions of this bill do not apply: (1) if the claimant has already commenced a civil action against the person who owns or controls the premises; (2) to the release of any visual evidence which is otherwise prohibited by federal or state law; or (3) to the owner or lessee of a single-family residence.

Section 2 of this bill urges the Nevada Supreme Court to adopt rules of civil procedure to allow for discovery of certain evidence before the commencement of a civil action.



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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 6, any person against whom a claim is asserted for compensation or damages for personal injury or death that allegedly occurred on any premises under the person's ownership or control shall, upon receipt of a written request which contains an affidavit from the claimant or any attorney representing the claimant stating in reasonable detail the facts upon which the claim is based, including, without limitation, the precise location and time at which the injury occurred, provide to the claimant or the claimant's attorney copies, if any, of any visual evidence of the alleged incident giving rise to the claim within 15 judicial days after receipt of the written request.

2. If a person provides copies of visual evidence pursuant to subsection 1:

(a) The person is not required to provide any such visual evidence depicting a period of time which is more than 1 hour before or 1 hour after the time specified in the affidavit.

(b) The claimant or the claimant's attorney shall reimburse the person for the reasonable costs of providing such copies of visual evidence.

3. A person who is requested to produce visual evidence pursuant to subsection 1 may, within 14 days after receipt of the written request, file a motion to quash the request with the district court of the county where the claim occurred and serve such motion upon the claimant or the claimant's attorney, if the request:

(a) Fails to contain the affidavit required pursuant to subsection 1;

(b) Fails to allow reasonable time for compliance;

(c) Requires the disclosure of privileged or other protected matter and no exception or waiver applies; or

(d) Subjects a person to undue burden.

4. Nothing in this section shall be construed to create an affirmative duty or obligation on the person who owns or controls the premises on which the personal injury or death allegedly occurred to:

(a) Install, operate or use any device that creates visual evidence; or

(b) Retain any visual evidence except as otherwise provided by law.



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1 5. *Visual evidence provided to a claimant or claimant's*
2 *attorney must not:*

3 (a) *Be used for any purpose other than to evaluate the*
4 *allegations of the claimant set forth in an affidavit pursuant to*
5 *subsection 1; or*

6 (b) *Be disclosed by the claimant or claimant's attorney to any*
7 *third party.*

8 6. *This section does not apply:*

9 (a) *If the claimant has commenced a civil action against the*
10 *person who owns or controls the premises on which the personal*
11 *injury or death allegedly occurred.*

12 (b) *To the release of any visual evidence which is otherwise*
13 *prohibited by federal or state law.*

14 (c) *To the owner or lessee of a single-family residence.*

15 7. *As used in this section, "visual evidence" means any still*
16 *or recorded information. The term includes, without limitation,*
17 *any photograph, film, video recording or other visual image.*

18 **Sec. 2.** The Legislature hereby finds and declares that:

19 1. Presuit discovery is an effective means of curbing frivolous
20 litigation that overburdens our court system.

21 2. Under the existing Nevada Rules of Civil Procedure:

22 (a) Rule 27 provides that upon petition to the court, presuit
23 depositions are authorized to perpetuate testimony.

24 (b) Rule 45 provides that a party or an attorney may subpoena a
25 person:

26 (1) To produce and permit inspection and copying of
27 designated books, documents or tangible things in the possession,
28 custody or control of that person; or

29 (2) To permit the inspection of premises.

30 3. The Nevada Rules of Civil Procedure, however, do not
31 provide a means for a party to conduct presuit discovery of books,
32 documents or tangible things, including visual evidence.

33 4. Therefore, the Legislature urges the Supreme Court to adopt
34 appropriate rules of civil procedure to authorize presuit discovery of
35 books, documents or tangible things, including visual evidence.

36 **Sec. 3.** This act expires by limitation on June 30, 2015.

