

CHAPTER.....

AN ACT relating to criminal procedure; revising provisions governing the waiver of the right of a criminal defendant to be present during sentencing proceedings; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a criminal defendant to be present during certain criminal proceedings but allows a defendant to waive the right to be present for sentencing proceedings if the offense is not punishable by death and the defendant is incarcerated in another jurisdiction at the time of sentencing. For such a waiver to be valid, it must be made in a certain manner and meet certain requirements. (NRS 178.388) This bill adds the requirement that such a waiver be accompanied by the defendant's waiver of all procedures related to extradition from the other jurisdiction. By waiving these procedures, the defendant will be returned without a warrant to complete any portion of the sentence left to be served in this State upon release from incarceration in the other state.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

**Section 1.** NRS 178.388 is hereby amended to read as follows:

178.388 1. Except as otherwise provided in this title, the defendant must be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence. A corporation may appear by counsel for all purposes.

2. In prosecutions for offenses not punishable by death:

(a) The defendant's voluntary absence after the trial has been commenced in the defendant's presence must not prevent continuing the trial to and including the return of the verdict.

(b) If the defendant was present at the trial through the time the defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill but at the time of sentencing is incarcerated in another jurisdiction, the defendant may waive the right to be present at the sentencing proceedings and agree to be sentenced in this State in his or her absence. The defendant's waiver is valid only if it is:

(1) Made knowingly, intelligently and voluntarily after consulting with an attorney licensed to practice in this State;

(2) Signed and dated by the defendant and notarized by a notary public or judicial officer; ~~and~~



(3) Signed and dated by the defendant's attorney after it has been signed by the defendant and notarized **H**; and

*(4) Accompanied by a waiver of the issuance and service of a warrant of arrest and all other procedures incidental to extradition proceedings.*

3. In prosecutions for offenses punishable by fine or by imprisonment for not more than 1 year, or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence, if the court determines that the defendant was fully aware of the applicable constitutional rights when the defendant gave consent.

4. The presence of the defendant is not required at the arraignment or any preceding stage if the court has provided for the use of a closed-circuit television to facilitate communication between the court and the defendant during the proceeding. If closed-circuit television is provided for, members of the news media may observe and record the proceeding from both locations unless the court specifically provides otherwise.

5. The defendant's presence is not required at the settling of jury instructions.

