

Amendment No. 391

Assembly Amendment to Assembly Bill No. 136	(BDR 14-708)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DP/BAW



Date: 4/22/2017

A.B. No. 136—Revises provisions governing bail in certain criminal cases.
(BDR 14-708)



ASSEMBLY BILL NO. 136—ASSEMBLYWOMAN NEAL

PREFILED FEBRUARY 10, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing bail in certain criminal cases.
(BDR 14-708)

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; ~~providing that certain defendants must be admitted to bail on an unsecured bond;~~ ***revising provisions governing factors to be considered by the court in deciding whether to release a person without bail; prohibiting a court from relying solely on a bail schedule in setting the amount of bail after a personal appearance by a defendant;*** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[The Nevada Constitution and existing law provide that all persons arrested for offenses other than murder of the first degree must be admitted to bail unless certain circumstances apply. (Nev. Const. Art. 1, § 7; NRS 178.484) Existing law also provides, with certain exceptions, that if a defendant can be admitted to bail without appearing personally before a magistrate, the defendant must be so admitted with the least possible delay and must be required to appear before a magistrate at the earliest convenient time thereafter. (NRS 171.178)]~~

~~— This bill provides that a defendant who can be admitted to bail without appearing before a magistrate must be admitted on an unsecured bond if the defendant: (1) was arrested for a misdemeanor which does not involve an act of violence; (2) was not arrested while on bail; and (3) does not have a record of failing to appear after release on bail or without bail. This bill defines an “unsecured bond” as a bond which does not require advance payment and is a monetary sum that the defendant agrees to pay at a later time if the defendant, without good cause, fails to appear when the defendant’s presence in court is lawfully required.]~~ ***Existing law sets forth certain factors which the court must consider in deciding whether there is good cause to release a person without bail. (NRS 178.4853) Section 2 of this bill includes in those factors the consideration of whether one or more conditions can be imposed on the person to mitigate the risk of failure to appear or the risk to public safety and authorizes the court to use an evidence-based risk assessment tool, if available.***

Existing law sets forth certain factors for consideration by the magistrate in setting the amount of bail. (NRS 178.498) Section 3 of this bill provides that after the defendant has personally appeared before the magistrate, the magistrate may not rely solely on a standardized bail schedule to set the amount of bail.

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

1 **Section 1.** ~~[Chapter 178 of NRS is hereby amended by adding thereto a new~~
2 ~~section to read as follows:~~

3 ~~1. If pursuant to subsection 5 of NRS 171.178, a defendant can be admitted~~
4 ~~to bail without appearing personally before a magistrate, the defendant must be~~
5 ~~admitted to bail on an unsecured bond if the defendant:~~

6 ~~(a) Was arrested for a misdemeanor which does not involve an act of~~
7 ~~violence;~~

8 ~~(b) Was not arrested while on bail; and~~

9 ~~(c) Does not have a record of failing to appear after release on bail or~~
10 ~~without bail.~~

11 ~~2. As used in this section, "unsecured bond" means a bond which does not~~
12 ~~require any advance payment and is a monetary sum that a defendant agrees to~~
13 ~~pay at a later time if the defendant, without good cause, fails to appear when the~~
14 ~~defendant's presence in court is lawfully required.~~ (Deleted by amendment.)

15 **Sec. 2.** NRS 178.4853 is hereby amended to read as follows:

16 178.4853 In deciding whether there is good cause to release a person without
17 bail, the court may use an evidence-based risk assessment tool, if available, but at
18 a minimum shall consider the following factors concerning the person:

19 1. The length of residence in the community;
20 2. The status and history of employment;
21 3. Relationships with the person's spouse and children, parents or other
22 family members and with close friends;

23 4. Reputation, character and mental condition;

24 5. Prior criminal record, including, without limitation, any record of
25 appearing or failing to appear after release on bail or without bail;

26 6. The identity of responsible members of the community who would vouch
27 for the reliability of the person;

28 7. The nature of the offense with which the person is charged, the apparent
29 probability of conviction and the likely sentence, insofar as these factors relate to
30 the risk of not appearing;

31 8. The nature and seriousness of the danger to the alleged victim, any other
32 person or the community that would be posed by the person's release;

33 9. The likelihood of more criminal activity by the person after release; ~~and~~
34 10. Any other factors concerning the person's ties to the community or
35 bearing on the risk that the person may willfully fail to appear. 11. ; and

36 11. Whether one or more conditions can be imposed on the person to
37 mitigate the risk of failure to appear or the risk to public safety, including,
38 without limitation:

39 (a) Restrictions on residence or travel;

40 (b) Restrictions on associations, including, without limitation, requiring the
41 person to avoid contact with alleged victims or potential witnesses;

42 (c) Requiring the person to maintain or actively seek employment;

43 (d) Requiring the person to regularly report to a designated law enforcement
44 agency or the court;

45 (e) Imposing a curfew;

46 (f) Prohibiting the possession of a firearm;

47 (g) Prohibiting the use of alcohol and controlled substances;

(h) Requiring the person to receive medical, psychiatric or psychological treatment, including, without limitation, treatment for alcohol or drug abuse or a mental illness;

(i) Intensive supervision of the person; or

(j) Any other condition reasonably necessary to ensure the appearance of the person or the safety of any person in the community.

Sec. 3. NRS 178.498 is hereby amended to read as follows:

178.498 1. If the defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to:

~~1-1~~ (a) The nature and circumstances of the offense charged;

~~2-1~~ (b) The financial ability of the defendant to give bail;

~~3-1~~ (c) The character of the defendant; and

~~4-1~~ (d) The factors listed in NRS 178.4853.

2. After the defendant has personally appeared before the magistrate, the magistrate may not rely solely on any standardized bail schedule to set the amount of bail.