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FIRST REPRINT

A.B. 17

ASSEMBLY BILL NO. 17—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 15, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing bail in criminal cases.
(BDR 14-495)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 provisions governing bail in criminal cases; requiring the exoneration of bail under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, when a defendant is released on bail, the bond or undertaking for the bail must apply to: (1) any action or proceeding instituted against the defendant in a justice, municipal or district court arising from the charge on which the bail was originally given; and (2) under certain circumstances, any action or proceeding instituted against the defendant based on a later charge arising out of the same act or omission supporting the original charge. However, if no formal action or proceeding is instituted against the defendant or if such an action or proceeding is dismissed, existing law provides that the court must exonerate the bail, except that the court is required to hold the bail for 30 days from the date that the bond or undertaking was posted or the date that the order of dismissal was entered, as applicable, unless the defendant requests that the bail be exonerated before the expiration of the 30-day period. Finally, existing law provides that if the bail is not exonerated before the expiration of the 30-day period and, within that period, the defendant is charged with an offense arising out of the same act or omission supporting the original charge, the bail must not be exonerated, but it must be applied to the action or proceeding instituted against the defendant for the later charge. (NRS 178.502)

Section 1 of this bill eliminates this existing statutory framework. In its place, **section 1** provides that when a defendant is released on bail, the bond or undertaking for the bail must apply to any action or proceeding instituted against the defendant in a justice, municipal or district court arising from the charge on which the bail was originally given. **Section 1** also provides that the bail must be exonerated by the court if no formal action or proceeding is instituted against the



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defendant or if such an action or proceeding is dismissed, except that the court may delay exoneration of the bail for a period not to exceed 30 days under certain circumstances.

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

Section 1. NRS 178.502 is hereby amended to read as follows:

178.502 1. A person required or permitted to give bail shall execute a bond for the person's appearance. The magistrate or court or judge or justice, having regard to the considerations set forth in NRS 178.498, may require one or more sureties or may authorize the acceptance of cash or bonds or notes of the United States in an amount equal to or less than the face amount of the bond.

2. Any bond or undertaking for bail must provide that the bond or undertaking:

(a) Extends to any action or proceeding in a justice court, municipal court or district court ~~+~~

~~—(1) Arising~~ **arising** from the charge on which bail was first given in any of these courts; and

~~[(2) Arising from a later charge, filed before the expiration of the periods provided in subsection 4, which is substantially similar to the charge upon which bail was first given and is based upon the same act or omission as that charge; and]~~

(b) Remains in effect until exonerated by the court.

➤ This subsection does not require that any bond or undertaking extend to proceedings on appeal.

3. If an action or proceeding against a defendant who has been admitted to bail is transferred to another trial court, the bond or undertaking must be transferred to the clerk of the court to which the action or proceeding has been transferred.

4. ~~[(1)]~~ **Except as otherwise provided in subsection 5, the court shall exonerate the bond or undertaking for bail if:**

(a) **The** action or proceeding against a defendant who has been admitted to bail is dismissed ~~[-, the bail must not be exonerated until a period of 30 days has elapsed from the entry of the order of dismissal unless the defendant requests that bail be exonerated before the expiration of the 30 day period. If no] ; or~~

(b) **No** formal action or proceeding is instituted against a defendant who has been admitted to bail ~~[-, the bail must not be exonerated until a period of 30 days has elapsed from the day the bond or undertaking is posted unless the defendant requests that bail be exonerated before the expiration of the 30 day period.~~

~~—5. If, within the periods provided in subsection 4, the defendant is charged with a public offense arising out of the same act or~~



~~omission supporting the charge upon which bail was first given, the prosecuting attorney shall forthwith notify the clerk of the court where the bond was posted.]~~

5. The court may delay exoneration of the bond or undertaking for bail for a period not to exceed 30 days if, at the time the action or proceeding against a defendant who has been admitted to bail is dismissed, the defendant:

(a) Has been indicted or is charged with a public offense which is the same or substantially similar to the charge upon which bail was first given and which arises out of the same act or omission supporting the charge upon which bail was first given; or

(b) Requests to remain admitted to bail in anticipation of being later indicted or charged with a public offense which is the same or substantially similar to the charge upon which bail was first given and which arises out of the same act or omission supporting the charge upon which bail was first given.

➤ If the defendant has already been indicted or charged, or is later indicted or charged, with a public offense arising out of the same act or omission supporting the charge upon which bail was first given, the bail must be applied to the public offense for which the defendant has been indicted or charged or is later indicted or charged, and the bond or undertaking must be transferred to the clerk of the appropriate court. Within 10 days after its receipt, the clerk of the court to whom the bail is transferred shall mail or electronically transmit notice of the transfer to the surety on the bond and the bail agent who executed the bond.

6. Bail given originally on appeal must be deposited with the magistrate or the clerk of the court from which the appeal is taken.

