

ASSEMBLY BILL NO. 376—ASSEMBLYMAN OHRENSCHALL

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal procedure.
(BDR 14-1075)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to criminal procedure; revising provisions governing the filing of a complaint after an arrest without a warrant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires a complaint to be filed forthwith when a person arrested
2 without a warrant is brought before a magistrate. (NRS 171.178) **Section 1** of this
3 bill requires the complaint to be filed within 72 hours after the person is arrested,
4 excluding Saturdays, Sundays and legal holidays, unless the magistrate extends the
5 time up to an additional 72 hours for good cause shown. Thereafter, the magistrate
6 may order an additional extension of up to 72 hours for good cause shown. An
7 extension must not be ordered if the person is to remain in custody unless counsel is
8 appointed. The sole remedy for a violation of these provisions is release from
9 custody.

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

1 **Section 1.** NRS 171.178 is hereby amended to read as follows:
2 171.178 1. Except as otherwise provided in subsections 5 and
3 6, a peace officer making an arrest under a warrant issued upon a
4 complaint or without a warrant shall take the arrested person
5 without unnecessary delay before the magistrate who issued the
6 warrant or the nearest available magistrate empowered to commit
7 persons charged with offenses against the laws of the State of
8 Nevada.



2. A private person making an arrest without a warrant shall deliver the arrested person without unnecessary delay to a peace officer. Except as otherwise provided in subsections 5 and 6 and NRS 171.1772, the peace officer shall take the arrested person without unnecessary delay before the nearest available magistrate empowered to commit persons charged with offenses against the laws of the State of Nevada.

3. If an arrested person is not brought before a magistrate within 72 hours after arrest, excluding nonjudicial days, the magistrate:

(a) Shall give the prosecuting attorney an opportunity to explain the circumstances leading to the delay; and

(b) May release the arrested person if the magistrate determines that the person was not brought before a magistrate without unnecessary delay.

4. When a person arrested without a warrant is brought before a magistrate, a complaint must be filed ~~forthwith.~~ *within 72 hours after the person is arrested, excluding Saturdays, Sundays and legal holidays, unless the magistrate extends the time up to an additional 72 hours, excluding legal holidays, for good cause shown. Thereafter, the magistrate may order an additional extension of up to 72 hours, excluding legal holidays, for good cause shown. An extension must not be ordered pursuant to this subsection if the person arrested is to remain in custody during the extension unless counsel has been appointed. Release from custody is the sole remedy for a violation of this subsection.*

5. Except as otherwise provided in NRS 178.484 and 178.487, where the defendant can be admitted to bail without appearing personally before a magistrate, the defendant must be so admitted with the least possible delay, and required to appear before a magistrate at the earliest convenient time thereafter.

6. A peace officer may immediately release from custody without any further proceedings any person the peace officer arrests without a warrant if the peace officer is satisfied that there are insufficient grounds for issuing a criminal complaint against the person arrested. Any record of the arrest of a person released pursuant to this subsection must also include a record of the release. A person so released shall be deemed not to have been arrested but only detained.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)



* A B 3 7 6 R 2 *

- 1 **Sec. 8.** (Deleted by amendment.)
- 2 **Sec. 9.** (Deleted by amendment.)
- 3 **Sec. 10.** (Deleted by amendment.)
- 4 **Sec. 11.** (Deleted by amendment.)
- 5 **Sec. 12.** (Deleted by amendment.)

