

Amendment No. 330

Assembly Amendment to Assembly Bill No. 424	(BDR 14-374)
<b>Proposed by:</b> Assembly Committee on Judiciary	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to A.B. 424 (§ 8).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.





## ASSEMBLY BILL NO. 424—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE COMMITTEE TO CONDUCT AN  
INTERIM STUDY OF ISSUES RELATING TO PRETRIAL  
RELEASE OF DEFENDANTS IN CRIMINAL CASES)

MARCH 26, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to pretrial release. (BDR 14-374)

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

CONTAINS UNFUNDED MANDATE (§ 8)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

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

AN ACT relating to criminal procedure; removing the requirement that an arrested person show good cause before being released without bail; requiring courts to conduct a pretrial release hearing to determine the custody status of an arrested person; requiring a pretrial release hearing to be held within ~~[a reasonable amount of time]~~ 24 hours after a person has been taken into custody; removing mandatory amounts of bail for certain offenses; requiring certain pretrial custody determinations to be made in a specific order of priority; requiring courts to consider certain information in making pretrial custody determinations; affording persons certain rights concerning pretrial release hearings; making various changes relating to the standard used by courts in making pretrial release determinations; establishing provisions relating to circumstances under which prosecuting attorneys make certain requests relating to pretrial release determinations; requiring courts to make specific findings of fact concerning ~~[the denial of bail or]~~ the imposition of bail or conditions of release ~~[; creating a mechanism to bring a person back to court if such a person cannot afford the imposed amount of bail or costs associated with conditions of release;]~~ under certain circumstances; revising provisions relating to persons who fail to comply with a condition of release; revising provisions relating to the disposition of money deposited as bail; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Nevada Constitution prohibits the imposition of excessive bail and requires all persons arrested for offenses other than murder of the first degree to be admitted to bail. (Nev. Const. Art. 1, §§ 6, 7)

Recently, the Nevada Supreme Court held that a provision of law requiring an arrested person to show good cause before being released without bail violated his or her constitutional right to nonexcessive bail. Specifically, the Nevada Supreme Court held that the provision of law was unconstitutional because it: (1) did not require the court to consider less restrictive conditions of release before determining that the imposition of bail was necessary; and (2) effectively relieved the State from its burden of proving that the imposition of bail was necessary to protect the safety of the community and to ensure the appearance of the person in court. (*Valdez-Jimenez v. Eighth Jud. Dist. Court*, 136 Nev. 155 (2020); Nev. Const. Art. 1, §§ 6, 7; NRS 178.4851) **Section 8** of this bill removes the provision of law that was found unconstitutional and **section 9** of this bill makes a conforming change.

Existing law sets forth separate procedures for releasing persons with bail and releasing persons without bail. (NRS 178.484, 178.4851) **Section 8** consolidates the existing procedures for releasing persons with bail and releasing persons without bail into a standard procedure for courts to follow in making pretrial custody determinations. **Section 8** also requires courts to hold a pretrial release hearing, in open court or telephonically, to determine the custody status of a person within ~~a reasonable amount of time~~ **24 hours** after the person has been taken into custody. Finally, **section 8** prohibits the use of standardized bail schedules. **Sections 1, 2 and 10**, ~~11 and 12~~, **11 and 12** of this bill make conforming changes.

Existing law authorizes certain governmental entities, other than a court, to admit a person to bail if the person has been arrested for a felony while released on parole or probation, after being released on a suspended sentence or while serving a term of residential confinement. (NRS 178.484) **Section 7** of this bill removes the authority for such entities to make admissions to bail and instead requires courts to determine the custody status of such persons at a pretrial release hearing pursuant to **section 8**.

Existing law mandates the imposition of specific amounts of bail for persons arrested for offenses involving domestic violence and violations of certain orders for protection. (NRS 178.484) **Section 7** removes the mandatory amounts of bail and instead requires courts to determine the custody status of persons arrested for such offenses at a pretrial release hearing pursuant to **section 8**.

Existing law authorizes a court to admit a person arrested for murder of the first degree to bail unless proof is evident and the presumption is great. (NRS 178.484) **Section 8** establishes a uniform standard for pretrial release determinations, regardless of the underlying offense. Specifically, section 8 provides that a court may only impose bail or a condition of release, or both, on a person if the imposition is necessary to protect the community and to ensure the appearance of the person in court.

Existing law sets forth certain factors that courts are required to consider when determining whether to release persons without bail. (NRS 178.4853) Existing law also sets forth certain factors that courts are required to consider when determining the amount of bail. (NRS 178.498) In addition to the existing factors, **section 8** requires courts to consider the federal poverty guidelines and any financial ~~affidavit~~ **document** of a person when making a pretrial custody determination.

**Section 8** requires a pretrial custody determination to be made in the following order of priority: (1) release without **monetary** bail with no additional conditions of release except the promise of good behavior and the promise to appear in court; (2) release without **monetary** bail with conditions of release; and (3) release with **monetary** bail.

**Section 8** affords a person certain rights concerning his or her pretrial release hearing, including, the right to counsel, the right to review certain documents in the custody of the prosecuting attorney or the court, the right to present evidence and the right to cross-examine witnesses.

**Additionally, section 8 provides that if a prosecuting attorney requests the imposition of bail or a condition of release, or both, on a person at the pretrial release hearing, the prosecuting attorney must prove by clear and convincing evidence that the imposition is necessary to protect the safety of the community and to ensure the appearance of the person in court.**

~~Section 8~~ also requires the court to make certain findings related to the ~~[denial of bail or the]~~ imposition of bail or a condition of release, as applicable.

~~[Section 5 of this bill requires a person to be brought back to court within 24 hours after the imposition of bail or a condition of release, or both, if the person remains in jail because of his or her inability to pay the imposed amount of bail or costs associated with a condition of release. Section 5 requires the court to review the original imposition and authorizes the court to modify the imposition, if necessary.]~~

Existing law authorizes a court to deem a person in contempt or increase the amount of monetary bail if the person fails to comply with a condition of release. (NRS 178.484) Section 8 authorizes a court to deem the person in contempt or impose additional conditions of release if the person fails to comply with a condition of release.

Existing law requires money deposited as bail to be applied towards the payment of fines and costs assessed against the defendant. (NRS 178.528) Section 11.5 of this bill prohibits money deposited as bail from being applied to such fines or costs if the bail was posted by a pretrial release organization.

Existing law prohibits a court from admitting a person to bail in an amount less than the amount of certain fines if the person is arrested for a violation of certain laws relating to vehicles. (NRS 484D.680, 706.756) **Sections 13 and 14** of this bill remove the provisions tying the amount of bail to the amount of the fines, meaning that a court is required to determine the amount of bail, if applicable, at a pretrial release hearing pursuant to **section 8**.

**Section 4** of this bill expresses the intent of the Legislature to discourage courts from imposing bail or a condition of release, or both, on a person in a manner that would cause the person to remain detained because of his or her inability to pay the amount of bail or costs associated with the condition of release.

---

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

**Section 1.** NRS 171.178 is hereby amended to read as follows:

171.178 1. Except as otherwise provided in ~~[subsections]~~ **subsection 5**, ~~[and 6]~~ a peace officer making an arrest under a warrant issued upon a complaint or without a warrant shall take the arrested person without unnecessary delay before the magistrate who issued the warrant or the nearest available magistrate empowered to commit persons charged with offenses against the laws of the State of 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]~~ **subsection 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.

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.** NRS 171.1845 is hereby amended to read as follows:

171.1845 1. If a person is brought before a magistrate under the provisions of NRS 171.178 or 171.184, and it is discovered that there is a warrant for the person's arrest outstanding in another county of this State, the magistrate may release the person in accordance with the provisions of NRS ~~[178.484 or]~~ 178.4851 if:

(a) The warrant arises out of a public offense which constitutes a misdemeanor; and

(b) The person provides a suitable address where the magistrate who issued the warrant in the other county can notify the person of a time and place to appear.

2. If a person is released under the provisions of this section, the magistrate who releases the person shall transmit the cash, bond, notes or agreement submitted under the provisions of NRS 178.502 or 178.4851, together with the person's address, to the magistrate who issued the warrant. Upon receipt of the cash, bonds, notes or agreement and address, the magistrate who issued the warrant shall notify the person of a time and place to appear.

3. Any bail set under the provisions of this section must be in addition to and apart from any bail set for any public offense with which a person is charged in the county in which a magistrate is setting bail. In setting bail under the provisions of this section, a magistrate shall set the bail in an amount which is sufficient to induce a reasonable person to travel to the county in which the warrant for the arrest is outstanding.

4. A person who fails to appear in the other county as ordered is guilty of failing to appear and shall be punished as provided in NRS 199.335. A sentence of imprisonment imposed for failing to appear in violation of this section must be imposed consecutively to a sentence of imprisonment for the offense out of which the warrant arises.

**Sec. 3.** ~~[Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.]~~ **(Deleted by amendment.)**

**Sec. 4.** Chapter 178 of NRS is hereby amendment by adding thereto a new section to read as follows:

The Legislature hereby finds and declares that:

*1. Bail must only be imposed on persons in a manner that is consistent with the United States Constitution and to the extent permitted by the Nevada Constitution.*

*2. A central tenet in our criminal justice system is that persons are innocent until proven guilty and, therefore, the detention of persons who have not been convicted is generally disfavored.*

*3. If the imposition of bail or a condition of release, or both, on a person is necessary, courts are encouraged to make the imposition in a manner that ensures that the person will not remain detained because of his or her inability to pay the amount of bail or any costs associated with the condition of release.*

**Sec. 5.** ~~[If a court imposes bail or a condition of release, or both, on a person pursuant to NRS 178.4851 and the person remains in jail because of his or her inability to pay the amount of bail or any costs associated with the condition, or both, the person shall be brought before a court within 24 hours after the imposition and the court shall review and may modify the original~~

~~imposition in the manner prescribed in NRS 178.4851.] (Deleted by amendment.)~~

**Sec. 6.** NRS 178.483 is hereby amended to read as follows:

178.483 As used in NRS 178.483 to 178.548, inclusive, ~~and [sections]~~ section 4 [and 5] of this act unless the context otherwise requires, “electronic transmission,” “electronically transmit” or “electronically transmitted” means any form or process of communication not directly involving the physical transfer of paper or another tangible medium which:

1. Is suitable for the retention, retrieval and reproduction of information by the recipient; and

2. Is retrievable and reproducible in paper form by the recipient through an automated process used in conventional commercial practice.

**Sec. 7.** NRS 178.484 is hereby amended to read as follows:

178.484 1. ~~[Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.~~

~~—2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:~~

~~—(a) A court issues an order directing that the person be admitted to bail;~~

~~—(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or~~

~~—(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.~~

~~—3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:~~

~~—(a) A court issues an order directing that the person be admitted to bail; or~~

~~—(b) A department of alternative sentencing directs the detention facility to admit the person to bail.~~

~~—4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.~~

~~—5.] A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be [admitted to bail or released on the person’s own recognizance] brought before a court for a pretrial release hearing pursuant to NRS 178.4851 unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person’s breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.~~

~~[6.] 2. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be [admitted to bail or released on the person’s own recognizance] brought before a court for a pretrial release hearing pursuant to NRS 178.4851 sooner than 12 hours after arrest.~~

~~[7.] 3. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be [admitted to bail] brought before a court for a~~

1 *pretrial release hearing pursuant to NRS 178.4851* sooner than 12 hours after  
2 arrest. ~~If the person is admitted to bail more than 12 hours after arrest, without~~  
3 ~~appearing personally before a magistrate or without the amount of bail having been~~  
4 ~~otherwise set by a magistrate or a court, the amount of bail must be:~~

5 ~~— (a) Three thousand dollars, if the person has no previous convictions of battery~~  
6 ~~that constitute domestic violence pursuant to NRS 33.018 and there is no reason to~~  
7 ~~believe that the battery for which the person has been arrested resulted in~~  
8 ~~substantial bodily harm or was committed by strangulation;~~

9 ~~— (b) Five thousand dollars, if the person has:~~

10 ~~— (1) No previous convictions of battery that constitute domestic violence~~  
11 ~~pursuant to NRS 33.018, but there is reason to believe that the battery for which the~~  
12 ~~person has been arrested resulted in substantial bodily harm or was committed by~~  
13 ~~strangulation; or~~

14 ~~— (2) One previous conviction of battery that constitutes domestic violence~~  
15 ~~pursuant to NRS 33.018, but there is no reason to believe that the battery for which~~  
16 ~~the person has been arrested resulted in substantial bodily harm or was committed~~  
17 ~~by strangulation; or~~

18 ~~— (c) Fifteen thousand dollars, if the person has:~~

19 ~~— (1) One previous conviction of battery that constitutes domestic violence~~  
20 ~~pursuant to NRS 33.018 and there is reason to believe that the battery for which the~~  
21 ~~person has been arrested resulted in substantial bodily harm or was committed by~~  
22 ~~strangulation; or~~

23 ~~— (2) Two or more previous convictions of battery that constitute domestic~~  
24 ~~violence pursuant to NRS 33.018.~~

25 ~~➔ The provisions of this subsection do not affect the authority of a magistrate or a~~  
26 ~~court to set the amount of bail when the person personally appears before the~~  
27 ~~magistrate or the court, or when a magistrate or a court has otherwise been~~  
28 ~~contacted to set the amount of bail. For the purposes of this subsection, a person~~  
29 ~~shall be deemed to have a previous conviction of battery that constitutes domestic~~  
30 ~~violence pursuant to NRS 33.018 if the person has been convicted of such an~~  
31 ~~offense in this State or has been convicted of violating a law of any other~~  
32 ~~jurisdiction that prohibits the same or similar conduct.~~

33 ~~— 8.] 4.~~ A person arrested for violating a temporary or extended order for  
34 protection against domestic violence issued pursuant to NRS 33.017 to 33.100,  
35 inclusive, or for violating a restraining order or injunction that is in the nature of a  
36 temporary or extended order for protection against domestic violence issued in an  
37 action or proceeding brought pursuant to title 11 of NRS, or for violating a  
38 temporary or extended order for protection against stalking, aggravated stalking or  
39 harassment issued pursuant to NRS 200.591, or for violating a temporary or  
40 extended order for protection against sexual assault pursuant to NRS 200.378 must  
41 not be ~~admitted to bail~~ *brought before a court for a pretrial release hearing*  
42 *pursuant to NRS 178.4851* sooner than 12 hours after arrest if:

43 (a) The arresting officer determines that such a violation is accompanied by a  
44 direct or indirect threat of harm;

45 (b) The person has previously violated a temporary or extended order for  
46 protection of the type for which the person has been arrested; or

47 (c) At the time of the violation or within 2 hours after the violation, the person  
48 has:

49 (1) A concentration of alcohol of 0.08 or more in the person's blood or  
50 breath; or

51 (2) An amount of a prohibited substance in the person's blood or urine, as  
52 applicable, that is equal to or greater than the amount set forth in subsection 3 or 4  
53 of NRS 484C.110.



1       ~~9. If a person is admitted to bail more than 12 hours after arrest, pursuant to~~  
2 ~~subsection 8, without appearing personally before a magistrate or without the~~  
3 ~~amount of bail having been otherwise set by a magistrate or a court, the amount of~~  
4 ~~bail must be:~~

5       ~~— (a) Three thousand dollars, if the person has no previous convictions of~~  
6 ~~violating a temporary or extended order for protection against domestic violence~~  
7 ~~issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining~~  
8 ~~order or injunction that is in the nature of a temporary or extended order for~~  
9 ~~protection against domestic violence issued in an action or proceeding brought~~  
10 ~~pursuant to title 11 of NRS, or of violating a temporary or extended order for~~  
11 ~~protection against stalking, aggravated stalking or harassment issued pursuant to~~  
12 ~~NRS 200.591, or of violating a temporary or extended order for protection against~~  
13 ~~sexual assault pursuant to NRS 200.378;~~

14       ~~— (b) Five thousand dollars, if the person has one previous conviction of~~  
15 ~~violating a temporary or extended order for protection against domestic violence~~  
16 ~~issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining~~  
17 ~~order or injunction that is in the nature of a temporary or extended order for~~  
18 ~~protection against domestic violence issued in an action or proceeding brought~~  
19 ~~pursuant to title 11 of NRS, or of violating a temporary or extended order for~~  
20 ~~protection against stalking, aggravated stalking or harassment issued pursuant to~~  
21 ~~NRS 200.591, or of violating a temporary or extended order for protection against~~  
22 ~~sexual assault pursuant to NRS 200.378; or~~

23       ~~— (c) Fifteen thousand dollars, if the person has two or more previous convictions~~  
24 ~~of violating a temporary or extended order for protection against domestic violence~~  
25 ~~issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining~~  
26 ~~order or injunction that is in the nature of a temporary or extended order for~~  
27 ~~protection against domestic violence issued in an action or proceeding brought~~  
28 ~~pursuant to title 11 of NRS, or of violating a temporary or extended order for~~  
29 ~~protection against stalking, aggravated stalking or harassment issued pursuant to~~  
30 ~~NRS 200.591, or of violating a temporary or extended order for protection against~~  
31 ~~sexual assault pursuant to NRS 200.378.~~

32       ~~➤ The provisions of this subsection do not affect the authority of a magistrate or a~~  
33 ~~court to set the amount of bail when the person personally appears before the~~  
34 ~~magistrate or the court or when a magistrate or a court has otherwise been contacted~~  
35 ~~to set the amount of bail. For the purposes of this subsection, a person shall be~~  
36 ~~deemed to have a previous conviction of violating a temporary or extended order~~  
37 ~~for protection against domestic violence issued pursuant to NRS 33.017 to 33.100,~~  
38 ~~inclusive, or of violating a restraining order or injunction that is in the nature of a~~  
39 ~~temporary or extended order for protection against domestic violence issued in an~~  
40 ~~action or proceeding brought pursuant to title 11 of NRS, or of violating a~~  
41 ~~temporary or extended order for protection against stalking, aggravated stalking or~~  
42 ~~harassment issued pursuant to NRS 200.591, or of violating a temporary or~~  
43 ~~extended order for protection against sexual assault pursuant to NRS 200.378, if the~~  
44 ~~person has been convicted of such an offense in this State or has been convicted of~~  
45 ~~violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

46       ~~10. The court may, before releasing a person arrested for an offense~~  
47 ~~punishable as a felony, require the surrender to the court of any passport the person~~  
48 ~~possesses.~~

49       ~~11. Before releasing a person arrested for any crime, the court may impose~~  
50 ~~such reasonable conditions on the person as it deems necessary to protect the~~  
51 ~~health, safety and welfare of the community and to ensure that the person will~~  
52 ~~appear at all times and places ordered by the court, including, without limitation:~~

1 ~~—(a) Requiring the person to remain in this State or a certain county within this~~  
2 ~~State;~~

3 ~~—(b) Prohibiting the person from contacting or attempting to contact a specific~~  
4 ~~person or from causing or attempting to cause another person to contact that person~~  
5 ~~on the person's behalf;~~

6 ~~—(c) Prohibiting the person from entering a certain geographic area; or~~

7 ~~—(d) Prohibiting the person from engaging in specific conduct that may be~~  
8 ~~harmful to the person's own health, safety or welfare, or the health, safety or~~  
9 ~~welfare of another person.~~

10 ~~➤ In determining whether a condition is reasonable, the court shall consider the~~  
11 ~~factors listed in NRS 178.4853.~~

12 ~~—12. If a person fails to comply with a condition imposed pursuant to~~  
13 ~~subsection 11, the court may, after providing the person with reasonable notice and~~  
14 ~~an opportunity for a hearing:~~

15 ~~—(a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

16 ~~—(b) Increase the amount of bail pursuant to NRS 178.499.~~

17 ~~—13. An order issued pursuant to this section that imposes a condition on a~~  
18 ~~person admitted to bail must include a provision ordering any law enforcement~~  
19 ~~officer to arrest the person if the officer has probable cause to believe that the~~  
20 ~~person has violated a condition of bail.~~

21 ~~—14. Before a person may be admitted to bail, the person must sign a document~~  
22 ~~stating that:~~

23 ~~—(a) The person will appear at all times and places as ordered by the court~~  
24 ~~releasing the person and as ordered by any court before which the charge is~~  
25 ~~subsequently heard;~~

26 ~~—(b) The person will comply with the other conditions which have been imposed~~  
27 ~~by the court and are stated in the document; and~~

28 ~~—(c) If the person fails to appear when so ordered and is taken into custody~~  
29 ~~outside of this State, the person waives all rights relating to extradition proceedings.~~

30 ~~➤ The signed document must be filed with the clerk of the court of competent~~  
31 ~~jurisdiction as soon as practicable, but in no event later than the next business day.~~

32 ~~—15. If a person admitted to bail fails to appear as ordered by a court and the~~  
33 ~~jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial,~~  
34 ~~the person who failed to appear is responsible for paying those costs as restitution.~~

35 ~~—16.] 5. For the purposes of [subsections 8 and 9,] **subsection 4**, an order or~~  
36 ~~injunction is in the nature of a temporary or extended order for protection against~~  
37 ~~domestic violence if it grants relief that might be given in a temporary or extended~~  
38 ~~order issued pursuant to NRS 33.017 to 33.100, inclusive.~~

39 ~~[17.—As used in this section, "strangulation" has the meaning ascribed to it in~~  
40 ~~NRS 200.481.]~~

41 **Sec. 8.** NRS 178.4851 is hereby amended to read as follows:

42 178.4851 1. ~~[Upon a showing of good cause, a court may release without~~  
43 ~~bail any person entitled to bail if it appears to the court that it can impose conditions~~  
44 ~~on the person that will adequately protect the health, safety and welfare of the~~  
45 ~~community and ensure that the person will appear at all times and places ordered by~~  
46 ~~the court.] Unless a person is released pursuant to subsection 9, and except as~~  
47 ~~otherwise provided in NRS 178.484, a court shall, within ~~[a reasonable amount of~~~~  
48 ~~time] **24 hours** after a person has been taken into custody, hold a pretrial release~~  
49 ~~hearing, **in open court or telephonically,** to determine the custody status of the~~  
50 ~~person.~~

51 2. ~~[In releasing a person without bail, the court may impose such conditions]~~  
52 **Before the pretrial release hearing:**

1 (a) The person ~~shall~~ must be appointed an attorney, free of charge, to  
2 represent the person at the pretrial release hearing; and

3 (b) The person and his or her attorney ~~shall~~ must be granted access to all  
4 arrest, charging and other relevant documents that are accessible to the  
5 prosecuting attorney and the court.

6 3. At the pretrial release hearing ~~the~~ :

7 (a) The person has the right to:

8 ~~[(a)]~~ (1) Present evidence; and

9 ~~[(b)]~~ (2) Cross-examine witnesses who testify for the State ~~the~~ ; and

10 (b) If a prosecuting attorney requests that the court impose bail or a  
11 condition of release, or both, on a person, the prosecuting attorney must prove by  
12 clear and convincing evidence that the request is the least restrictive means  
13 necessary to protect the safety of the community and ensure that the person will  
14 appear at all times and places ordered by the court.

15 4. If a person has been arrested for an offense other than murder of the  
16 first degree, the court shall consider the release of the person in the following  
17 order of priority:

18 (a) Release without monetary bail, with no additional conditions of release  
19 other than the promise of good behavior and the promise to appear in court, as  
20 required.

21 (b) Release without monetary bail with additional conditions of release.

22 (c) Release with monetary bail.

23 5. ~~[Except as otherwise provided in subsection 6, the]~~ A court shall only  
24 impose bail or a condition of release, or both, on a person as it deems necessary to  
25 protect the ~~health,~~ safety ~~and welfare~~ of the community and to ensure that the  
26 person will appear at all times and places ordered by the court, having regard to:

27 (a) The factors set forth in NRS 178.4853 and 178.498, as applicable;

28 (b) The federal poverty guidelines published by the United States Department  
29 of Health and Human Services; and

30 (c) Any ~~affidavit~~ document submitted by the person attesting to his or her  
31 financial circumstances.

32 6. ~~[A person arrested for murder of the first degree may be admitted to bail~~  
33 ~~unless the proof is evident or the presumption great by any competent court or~~  
34 ~~magistrate authorized by law to do so in the exercise of discretion, giving due~~  
35 ~~weight to the evidence and to the nature and circumstances of the offense.~~

36 ~~7.] A court may, after conducting an individualized hearing, impose any~~  
37 ~~reasonable condition of release, [pursuant to subsection 5,] including, without~~  
38 ~~limitation [any condition set forth in subsection 11 of NRS 178.484.~~

39 ~~3.] :~~

40 (a) Requiring the person to remain in this State or a certain county within  
41 this State;

42 (b) Prohibiting the person from contacting or attempting to contact a specific  
43 person or from causing or attempting to cause another person to contact that  
44 person on the person's behalf;

45 (c) Prohibiting the person from entering a certain geographic area;

46 (d) Prohibiting the person from engaging in specific conduct that may be  
47 harmful to the person's own safety or the safety of another person; or

48 (e) If the person was arrested for an offense punishable as a felony,  
49 requiring the person to surrender to the court any passport he or she possesses.

50 ~~8. Upon determining that the imposition of]~~

51 7. If a court imposes bail or any condition of release, or both, ~~is necessary~~  
52 pursuant to subsection 5,], other than release on recognizance with no other  
53 conditions of release, the court shall make findings [concerning the following:

~~(a) If the person was arrested for murder of the first degree and the person was denied bail, the reasoning underlying the decision to deny bail;~~

~~(b) If any condition of release was imposed on the person, the reasoning underlying the necessity for the condition, including a finding relating the imposed condition to the specific circumstances of the person;~~

~~(c) If bail was imposed on the person, a finding that the court considered the financial circumstances of the person; and~~

~~(d) If bail was imposed on the person in an amount that exceeds the ability of the person to pay, a finding as to the necessity of the specified amount.~~

9. of fact for such a determination and state its reasoning on the record, and if the determination includes the imposition of a condition of release, the findings of fact must include why the condition of release constitutes the least restrictive means necessary to protect the safety of the community and ensure the person will appear at the times and places ordered by the court.

8. Upon a showing of good cause, a sheriff or chief of police may release without bail any person charged with a misdemeanor pursuant to standards established by a court of competent jurisdiction.

~~[4. Before a person may be released without bail, the]~~

~~[10.] 9. The person must [file with the clerk of the court of competent jurisdiction a signed] sign a document stating that:~~

(a) The person will appear at all times and places as ordered by the court releasing the person and as ordered by any court before which the charge is subsequently heard;

(b) The person will comply with the other conditions which have been imposed by the court and are stated in the document;

(c) If the person fails to appear when so ordered and is taken into custody outside of this State, the person waives all rights relating to extradition proceedings; and

(d) The person understands that any court of competent jurisdiction may revoke the order of release without bail and may order the person into custody or require the person to furnish bail or otherwise ensure the protection of the ~~[health,]~~ safety ~~[and welfare]~~ of the community or the person's appearance ~~[~~

~~— 5.], if applicable.~~

~~[11.] 10. The document signed pursuant to subsection [10.] 9 must be filed with the clerk of the court:~~

~~(a) Before the person is released, if the person is released without bail; or~~

~~(b) As soon as practicable, but in no event later than the next business day, if bail is imposed by the court.~~

~~[12.] 11. If a person fails to comply with a condition of release imposed pursuant to this section, the court may, after providing the person with reasonable notice and an opportunity for a hearing:~~

~~(a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

~~(b) [Increase the amount of monetary bail pursuant to NRS 178.499, if] Impose additional conditions of release, as applicable.~~

~~[13.] 12. If a person fails to appear as ordered by the court and a jurisdiction incurs any costs in returning a person to the jurisdiction to stand trial, the person failing to appear is responsible for paying those costs as restitution.~~

~~[6-14.] 13. An order issued pursuant to this section that imposes a condition on a person [who is released without bail] must include a provision ordering a law enforcement officer to arrest the person if the law enforcement officer has probable cause to believe that the person has violated a condition of release.~~

~~[15.] 14. Nothing in this section shall be construed to authorize a person to be admitted to bail pursuant to a bail schedule.~~

1       **Sec. 9.** NRS 178.4853 is hereby amended to read as follows:

2       178.4853 In ~~deciding whether there is good cause to release~~ **reviewing the**  
3 **custody status of** a person , ~~without bail,~~ the court at a minimum shall consider  
4 the following factors concerning the person:

- 5       1. The length of residence in the community;
- 6       2. The status and history of employment;
- 7       3. Relationships with the person's spouse and children, parents or other  
8 family members and with close friends;
- 9       4. Reputation, character and mental condition;
- 10      5. Prior criminal record, including, without limitation, any record of  
11 appearing or failing to appear after release on bail or without bail;
- 12      6. The identity of responsible members of the community who would vouch  
13 for the reliability of the person;
- 14      7. The nature of the offense with which the person is charged, the apparent  
15 probability of conviction and the likely sentence, insofar as these factors relate to  
16 the risk of not appearing;
- 17      8. The nature and seriousness of the danger to the alleged victim, any other  
18 person or the community that would be posed by the person's release;
- 19      9. The likelihood of more criminal activity by the person after release; and
- 20      10. Any other factors concerning the person's ties to the community or  
21 bearing on the risk that the person may willfully fail to appear.

22       **Sec. 10.** NRS 178.498 is hereby amended to read as follows:

23       178.498 ~~If the defendant is admitted to bail, the bail must be set at an amount~~  
24 ~~which in the judgment of the magistrate will reasonably~~ **court determines that the**  
25 **imposition of conditions of release alone would not ensure the appearance of the**  
26 **defendant person at the times and places ordered by the court and protect the**  
27 **safety of other persons and of the community. Having regard to: In deciding the**  
28 **amount of bail to impose on a person, the court shall consider the following**  
29 **factors in determining the amount of bail to impose on the person:**

- 30      1. The nature and circumstances of the offense charged;
- 31      2. The financial ability of the ~~defendant~~ **person** to give bail;
- 32      3. The character of the defendant; and
- 33      4. The factors listed in NRS 178.4853.

34       **Sec. 11.** NRS 178.502 is hereby amended to read as follows:

35       178.502 1. A person required or permitted to give bail shall execute a bond  
36 for the person's appearance. The magistrate or court or judge or justice, having  
37 regard to the considerations set forth in **subsection 5 of NRS** ~~178.498,~~ **178.4851,**  
38 may require one or more sureties or may authorize the acceptance of cash or bonds  
39 or notes of the United States in an amount equal to or less than the face amount of  
40 the bond.

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

43      (a) Extends to any action or proceeding in a justice court, municipal court or  
44 district court arising from the charge on which bail was first given in any of these  
45 courts; and

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

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

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

52      4. Except as otherwise provided in subsection 5, the court shall exonerate the  
53 bond or undertaking for bail if:

1 (a) The action or proceeding against a defendant who has been admitted to bail  
2 is dismissed; or

3 (b) No formal action or proceeding is instituted against a defendant who has  
4 been admitted to bail.

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

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

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

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

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

26 **Sec. 11.5. NRS 178.528 is hereby amended to read as follows:**

27 178.528 ~~(When)~~

28 **1. Except as otherwise provided in subsection 2, when** money has been  
29 deposited, if it remains on deposit at the time of a judgment for the payment of a  
30 fine, the court, or the clerk under the direction of the court, shall apply the money in  
31 satisfaction thereof, and after satisfying the fine and costs shall refund the surplus,  
32 if any, to the person who deposited the bail, unless that person has directed, in  
33 writing, that any surplus be refunded to another.

34 **2. When money has been deposited by a pretrial release organization, any**  
35 **finer or costs attributable to the defendant may not be satisfied with funds**  
36 **deposited by the pretrial release organization and the full amount of the deposit**  
37 **must be refunded to the pretrial release organization.**

38 **3. As used in this section, "pretrial release organization" means an entity:**

39 **(a) Recognized as exempt under section 501(c)(3) of the Internal Revenue**  
40 **Code; and**

41 **(b) Whose purpose includes, without limitation, posting bail for defendants**  
42 **who are indigent.**

43 **Sec. 12. NRS 484A.760 is hereby amended to read as follows:**

44 484A.760 Whenever any person is taken into custody by a peace officer for  
45 the purpose of taking him or her before a magistrate or court as authorized or  
46 required in chapters 484A to 484E, inclusive, of NRS upon any charge other than a  
47 felony or the offenses enumerated in paragraphs (a) to (e), inclusive, of subsection  
48 1 of NRS 484A.710, and no magistrate is available at the time of arrest, ~~and there~~  
49 ~~is no bail schedule established by the magistrate or court and no lawfully~~  
50 ~~designated court clerk or other public officer who is available and authorized to~~  
51 ~~accept bail upon behalf of the magistrate or court,~~ the person must be released  
52 from custody upon the issuance to the person of a misdemeanor citation or traffic  
53 citation and the person signing a promise to appear, as provided in NRS 171.1773

or 484A.630, respectively, or physically receiving a copy of the traffic citation, as provided in NRS 484A.630.

**Sec. 13.** NRS 484D.680 is hereby amended to read as follows:

484D.680 1. Except as otherwise provided in subsection 5, a person convicted of a violation of any limitation of weight imposed by NRS 484D.615 to 484D.675, inclusive, shall be punished by a fine as specified in the following table:

Pounds of Excess Weight	Fine
1 to 1,500 .....	\$10
1,501 to 2,500 .....	1 cent per pound of excess weight
2,501 to 5,000 .....	2 cents per pound of excess weight
5,001 to 7,500 .....	4 cents per pound of excess weight
7,501 to 10,000 .....	6 cents per pound of excess weight
10,001 and over.....	8 cents per pound of excess weight

2. If the resulting fine is not a whole number of dollars, the nearest whole number above the computed amount must be imposed as the fine.

3. The fines provided in this section are mandatory, must be collected immediately upon a determination of guilt and must not be reduced under any circumstances by the court.

~~4. [Any bail allowed must not be less than the appropriate fine provided for in this section.]~~

~~5.~~ A person convicted of a violation of a limitation of weight imposed by NRS 484D.615 to 484D.675, inclusive, shall be punished by a fine that is equal to twice the amount of the fine specified in subsection 1 if that violation occurred on or after February 1 but before May 1 on a highway designated by the Director of the Department of Transportation as restricted pursuant to NRS 408.214. This subsection does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

**Sec. 14.** NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive;

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;



1 (h) Knowingly offers, gives, solicits or accepts any rebate, concession or  
2 discrimination in violation of the provisions of this chapter;

3 (i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes  
4 of this chapter;

5 (j) Operates or causes to be operated a vehicle which does not have the proper  
6 identifying device;

7 (k) Displays or causes or permits to be displayed a certificate, permit, license  
8 or identifying device, knowing it to be fictitious or to have been cancelled, revoked,  
9 suspended or altered;

10 (l) Lends or knowingly permits the use of by one not entitled thereto any  
11 certificate, permit, license or identifying device issued to the person so lending or  
12 permitting the use thereof; or

13 (m) Refuses or fails to surrender to the Authority or Department any  
14 certificate, permit, license or identifying device which has been suspended,  
15 cancelled or revoked pursuant to the provisions of this chapter,

16 ➤ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a  
17 fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county  
18 jail for not more than 6 months, or by both fine and imprisonment.

19 2. Any person who, in violation of the provisions of NRS 706.386, operates  
20 as a fully regulated common motor carrier without first obtaining a certificate of  
21 public convenience and necessity or any person who, in violation of the provisions  
22 of NRS 706.421, operates as a contract motor carrier without first obtaining a  
23 permit is guilty of a misdemeanor and shall be punished:

24 (a) For a first offense within a period of 12 consecutive months, by a fine of  
25 not less than \$500 nor more than \$1,000. In addition to the fine, the person may be  
26 punished by imprisonment in the county jail for not more than 6 months.

27 (b) For a second offense within a period of 12 consecutive months and for each  
28 subsequent offense that is committed within a period of 12 consecutive months of  
29 any prior offense under this subsection, by a fine of \$1,000. In addition to the fine,  
30 the person may be punished by imprisonment in the county jail for not more than 6  
31 months.

32 3. Any person who, in violation of the provisions of NRS 706.386, operates  
33 or permits the operation of a vehicle in passenger service without first obtaining a  
34 certificate of public convenience and necessity is guilty of a gross misdemeanor.

35 4. If a law enforcement officer witnesses a violation of any provision of  
36 subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed  
37 immediately from the scene and impounded in accordance with NRS 706.476.

38 5. The fines provided in this section are mandatory and must not be reduced  
39 under any circumstances by the court.

40 ~~[6. Any bail allowed must not be less than the appropriate fine provided for~~  
41 ~~by this section.]~~

42 **Sec. 15.** The provisions of NRS 354.599 do not apply to any additional  
43 expenses of a local government that are related to the provisions of this act.