

ASSEMBLY BILL NO. 356—ASSEMBLYWOMAN NEAL

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal procedure. (BDR 14-1155)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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; revising the procedure for giving instructions to the jury; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires a judge to charge the jury and governs the giving of  
 2 certain instructions when cases are tried by a jury. Existing law also authorizes  
 3 either party to present to the court any written charge and request that it be given to  
 4 the jury. The court is then required to give such a charge if it thinks the charge is  
 5 correct and pertinent. (NRS 175.161) This bill instead requires such a charge to be  
 6 given if the court believes that the charge is both pertinent and an accurate  
 7 statement of the law, regardless of whether the charge has been adopted as a model  
 8 jury instruction.

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

- 1 **Section 1.** (Deleted by amendment.)
- 2 **Sec. 2.** (Deleted by amendment.)
- 3 **Sec. 3.** (Deleted by amendment.)
- 4 **Sec. 4.** (Deleted by amendment.)
- 5 **Sec. 5.** (Deleted by amendment.)
- 6 **Sec. 6.** (Deleted by amendment.)
- 7 **Sec. 7.** (Deleted by amendment.)
- 8 **Sec. 8.** (Deleted by amendment.)



1       **Sec. 9.** NRS 175.161 is hereby amended to read as follows:

2       175.161 1. Upon the close of the argument, the judge shall  
3 charge the jury. The judge may state the testimony and declare the  
4 law, but may not charge the jury in respect to matters of fact. The  
5 charge must be reduced to writing before it is given, and no charge  
6 or instructions may be given to the jury otherwise than in writing,  
7 unless by the mutual consent of the parties. If either party requests  
8 it, the court must settle and give the instructions to the jury before  
9 the argument begins, but this does not prevent the giving of further  
10 instructions which may become necessary by reason of the  
11 argument.

12       2. In charging the jury, the judge shall state to them all such  
13 matters of law the judge thinks necessary for their information in  
14 giving their verdict.

15       3. Either party may present to the court any written charge, and  
16 request that it be given. If the court ~~{thinks it correct and}~~ *believes*  
17 *that the charge is* pertinent ~~{}~~ *and an accurate statement of the*  
18 *law, whether or not the charge has been adopted as a model jury*  
19 *instruction,* it must be given . ~~{; if not,}~~ *If the court believes that*  
20 *the charge is not pertinent or not an accurate statement of law,*  
21 *then* it must be refused.

22       4. An original and one copy of each instruction requested by  
23 any party must be tendered to the court. The copies must be  
24 numbered and indicate who tendered them. Copies of instructions  
25 given on the court's own motion or modified by the court must be  
26 so identified. When requested instructions are refused, the judge  
27 shall write on the margin of the original the word "refused" and  
28 initial or sign the notation. The instructions given to the jury must  
29 be firmly bound together and the judge shall write the word "given"  
30 at the conclusion thereof and sign the last of the instructions to  
31 signify that all have been given. After the instructions are given, the  
32 judge may not clarify, modify or in any manner explain them to the  
33 jury except in writing unless the parties agree to oral instructions.

34       5. After the jury has reached a verdict and been discharged, the  
35 originals of all instructions, whether given, modified or refused,  
36 must be preserved by the clerk as part of the proceedings.

37       6. Conferences with counsel to settle instructions must be held  
38 out of the presence of the jury and may be held in chambers at the  
39 option of the court.

40       7. When the offense charged carries a possible penalty of life  
41 without possibility of parole a charge to the jury that such penalty  
42 does not exclude executive clemency is a correct and pertinent  
43 charge, and must be given upon the request of either party.



1     **Sec. 10.** This act becomes effective on July 1, 2017.

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\* A B 3 5 6 R 2 \*