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AMENDMENT to AB 453 May 1, 2003

Offered by Jim Wadhams on behalf of Michial Taylor

To the Senate Commerce and Labor Committee

At page 73, line 14 amend by changing the word "and" to "or".

Rational for Wadhams' amendment to AB 453

1. Allowing for the set aside of a forfeiture upon a defendant's reappearance with a satisfactory excuse (which judges rarely ask for, by the way) OR that the surety didn't aid in his nonappearance satisfies the purpose of bail: to get the defendant back to court to answer the charges against him. A bail bond is not a revenue tool for the government. There's caselaw (albeit from CA) on that. The important thing is that the Defendant is back in front of the court, and the surety should be discharged regardless of why the defendant wasn't there or when he shows up in court.

2. The Nevada Supreme Court has ruled that a judge always has the discretion to grant exoneration or discharge of a bond, "as long as the sureties do not aid in the defendant's absence." State v. American Bankers, 106 Nev. 880, 802 P.2d 1276 (1990) (referring to BOTH NRS 178.509 and 178.512).

3. The current version of the bill requiring "satisfactory evidence" of the surety's noninvolvement in the Defendant's absence ONLY in those instances where the Defendant reappears and submits a satisfactory excuse creates an inconsistency within that section. At the end of NRS 178.512(1), the court must find that the surety didn't aid in the defendant's absence in the event that any of the grounds (deported, dead, etc.) are met. So adding the burden of "satisfactory evidence" in the one instance where the court actually gets its man just makes no sense. Unless we want to start raising revenue.