
ASSEMBLY BILL NO. 13—COMMITTEE ON JUDICIARY

(ON BEHALF OF LEGISLATIVE COMMITTEE TO STUDY
DEATH PENALTY AND RELATED DNA TESTING
(ACR 3 OF THE 17TH SPECIAL SESSION))

JANUARY 27, 2003

Referred to Committee on Judiciary

SUMMARY—Eliminates panel of judges in certain penalty hearings in which death penalty is sought and requires district attorneys and district courts to report certain information concerning certain homicides to Supreme Court. (BDR 14-197)

FISCAL NOTE: Effect on Local Government: No.
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 criminal procedure; eliminating the panel of judges that conducts the penalty hearing in certain cases in which the death penalty is sought; requiring district courts and district attorneys to submit certain information to the Supreme Court concerning cases involving homicide; requiring the Supreme Court to prepare and submit an annual report providing a summary and analysis of that information to the Legislature; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 175.556 is hereby amended to read as follows:
2 175.556 1. In a case in which the death penalty is sought, if a
3 jury is unable to reach a unanimous verdict upon the sentence to be
4 imposed, ~~[the Supreme Court shall appoint two district judges from~~
5 ~~judicial districts other than the district in which the plea is made,~~
6 ~~who shall with]~~ the district judge who conducted the trial ~~[, or his~~



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1 ~~successor in office, conduct the required penalty hearing to~~
2 ~~determine the presence of aggravating and mitigating circumstances,~~
3 ~~and give sentence accordingly. A sentence of death may be given~~
4 ~~only by unanimous vote of the three judges, but any other sentence~~
5 ~~may be given by the vote of a majority.] shall sentence the~~
6 ~~defendant to life without the possibility of parole or impanel a new~~
7 ~~jury to determine the sentence.~~

8 2. In a case in which the death penalty is not sought, if a jury is
9 unable to reach a unanimous verdict upon the sentence to be
10 imposed, the trial judge shall impose the sentence.

11 **Sec. 2.** Chapter 178 of NRS is hereby amended by adding
12 thereto the provisions set forth as sections 3 and 4 of this act.

13 **Sec. 3. 1.** *The district attorney for each county shall*
14 *prepare and submit a report to the Supreme Court not later than*
15 *February 1 of each year concerning each case filed during the*
16 *previous calendar year that included a charge for murder,*
17 *voluntary manslaughter or involuntary manslaughter. The district*
18 *attorney shall exclude from the report any charge for*
19 *manslaughter that resulted from a death in an accident or*
20 *collision involving a motor vehicle.*

21 2. *The report required pursuant to subsection 1 must include,*
22 *without limitation:*

- 23 (a) *The age, gender and race of the defendant;*
- 24 (b) *The age, gender and race of any codefendant or other*
25 *person charged or suspected of having participated in the*
26 *homicide and in any alleged related offense;*
- 27 (c) *The age, gender and race of the victim of the homicide and*
28 *any alleged related offense;*
- 29 (d) *The date of the homicide and of any alleged related*
30 *offense;*
- 31 (e) *The date of filing of the information or indictment;*
- 32 (f) *The name of each court in which the case was prosecuted;*
- 33 (g) *Whether or not the prosecutor filed a notice of intent to*
34 *seek the death penalty and, if so, when the prosecutor filed the*
35 *notice;*
- 36 (h) *The final disposition of the case and whether or not the*
37 *case was tried before a jury;*
- 38 (i) *The race, ethnicity and gender of each member of the jury,*
39 *if the case was tried by a jury; and*
- 40 (j) *The identity of:*
 - 41 (1) *Each prosecuting attorney who participated in the*
42 *decision to file the initial charges against the defendant;*
 - 43 (2) *Each prosecuting attorney who participated in the*
44 *decision to offer or accept a plea, if applicable;*



1 (3) *Each prosecuting attorney who participated in the*
2 *decision to seek the death penalty, if applicable; and*

3 (4) *Each person outside the office of the district attorney*
4 *who was consulted in determining whether to seek the death*
5 *penalty or to accept or reject a plea, if any.*

6 3. *If all the information required pursuant to subsection 1*
7 *cannot be provided because the case is still in progress, an*
8 *additional report must be filed with the Supreme Court each time*
9 *a subsequent report is filed until all the information, to the extent*
10 *available, has been provided.*

11 **Sec. 4. 1.** *Not later than 60 days after a sentence is imposed*
12 *for a defendant convicted of murder of the first degree, the district*
13 *court shall complete and submit the questionnaire supplied by the*
14 *Supreme Court pursuant to section 6 of this act to:*

- 15 (a) *The Clerk of the Supreme Court;*
- 16 (b) *The defendant or the attorney for the defendant; and*
- 17 (c) *The prosecuting attorney.*

18 2. *The district court shall obtain information from the*
19 *prosecuting attorney and the attorney for the defendant as*
20 *necessary to complete the questionnaire.*

21 3. *The trial judge shall sign and date the questionnaire when*
22 *completed.*

23 **Sec. 5.** Chapter 2 of NRS is hereby amended by adding thereto
24 the provisions set forth as sections 6 and 7 of this act.

25 **Sec. 6. 1.** *The Supreme Court shall prepare a questionnaire*
26 *to be supplied to and completed by each district court concerning*
27 *each case that was tried in the district court that resulted in a*
28 *conviction for murder of the first degree, as required pursuant to*
29 *section 4 of this act.*

30 2. *The questionnaire required pursuant to subsection 1 must*
31 *ask the district court to provide information about the defendant,*
32 *including, without limitation:*

- 33 (a) *The name, date of birth, gender, marital status, race and*
34 *ethnicity of the defendant;*
- 35 (b) *The number of children and age of each such child of the*
36 *defendant, if any;*
- 37 (c) *Whether either of the parents of the defendant are living*
38 *and, if not, the date of death;*
- 39 (d) *The number of siblings of the defendant, if any;*
- 40 (e) *The educational background and level of intelligence of the*
41 *defendant;*
- 42 (f) *Whether a psychiatric evaluation was performed on*
43 *the defendant and, if so, whether the evaluation indicated that the*
44 *defendant is capable of:*

45 (1) *Distinguishing right from wrong;*



- 1 (2) *Perceiving the nature and quality of his actions; and*
- 2 (3) *Cooperating intelligently with his defense;*
- 3 (g) *Whether the defendant suffers from a behavioral disorder*
- 4 *and any other pertinent psychiatric or psychological information*
- 5 *concerning the defendant;*
- 6 (h) *The record of employment of the defendant;*
- 7 (i) *A list of any prior conviction of the defendant, including,*
- 8 *without limitation, the offense, the date of the offense, the*
- 9 *sentence imposed and the date of the sentence imposed;*
- 10 (j) *Whether the defendant is a resident of the State of Nevada*
- 11 *and, if so, how long the defendant has resided in this state; and*
- 12 (k) *Whether the defendant is a resident of the county where he*
- 13 *was convicted and, if so, how long the defendant has resided in*
- 14 *that county.*
- 15 3. *The questionnaire required pursuant to subsection 1 must*
- 16 *ask the district court to provide certain information about the trial,*
- 17 *including, without limitation:*
- 18 (a) *Whether the defendant entered a plea and, if so, the nature*
- 19 *of the plea;*
- 20 (b) *Whether the defendant was represented by counsel;*
- 21 (c) *Whether any defense was introduced and whether the court*
- 22 *gave instructions to the jury regarding the defenses to murder of*
- 23 *the first degree;*
- 24 (d) *Any other offenses for which the defendant was convicted*
- 25 *during the trial for murder of the first degree;*
- 26 (e) *Any aggravating circumstance alleged against the*
- 27 *defendant which was found to be applicable; and*
- 28 (f) *The name and charges filed against any other defendant*
- 29 *who was tried during the same trial and the disposition of those*
- 30 *charges.*
- 31 4. *The questionnaire required pursuant to subsection 1 must*
- 32 *ask the district court to provide certain information concerning*
- 33 *the penalty hearing, including, without limitation:*
- 34 (a) *The date on which the defendant was convicted and the*
- 35 *date on which the penalty hearing was commenced;*
- 36 (b) *Whether the jury that served during the trial also served as*
- 37 *the jury for the penalty hearing;*
- 38 (c) *Any evidence of mitigating circumstances provided during*
- 39 *the penalty hearing;*
- 40 (d) *Whether evidence of any mitigating circumstances was*
- 41 *submitted to the jury as provided in NRS 175.554; and*
- 42 (e) *The sentence imposed.*
- 43 5. *The questionnaire required pursuant to subsection 1 must*
- 44 *ask the district court to provide certain information about the*
- 45 *victim, including, without limitation:*



- 1 (a) *Whether the victim was related to the defendant by blood or*
- 2 *marriage;*
- 3 (b) *The occupation of the victim and whether the defendant*
- 4 *employed the victim;*
- 5 (c) *How well the victim was acquainted with the defendant;*
- 6 (d) *The length of time that the victim had resided or had been*
- 7 *present in this state;*
- 8 (e) *Whether the victim was of the same race and ethnicity as*
- 9 *the defendant and, if not, the race and ethnicity of the victim;*
- 10 (f) *Whether the victim was of the same gender as the*
- 11 *defendant;*
- 12 (g) *Whether the victim was held hostage during the*
- 13 *commission of the crime and, if so, for how long;*
- 14 (h) *The nature and extent of any physical harm or torture*
- 15 *inflicted upon the victim by the defendant before the death of the*
- 16 *victim;*
- 17 (i) *The age of the victim; and*
- 18 (j) *The type of weapon used during the crime, if any.*
- 19 6. *The questionnaire required pursuant to subsection 1 must*
- 20 *ask the district court to provide certain information concerning*
- 21 *the legal counsel of the defendant, including, without limitation:*
- 22 (a) *The date on which legal counsel was secured by the*
- 23 *defendant;*
- 24 (b) *Whether the legal counsel was appointed and, if so, the*
- 25 *reason for appointment;*
- 26 (c) *The length of time that the legal counsel has practiced law*
- 27 *and the nature of that practice; and*
- 28 (d) *Whether the same legal counsel represented the defendant*
- 29 *during the trial and penalty hearing, and, if not, the reasons why*
- 30 *the defendant was not represented by the same counsel.*
- 31 7. *The questionnaire required pursuant to subsection 1 must*
- 32 *ask the district court to provide information concerning general*
- 33 *inquiries, including, without limitation:*
- 34 (a) *Whether the race and ethnicity of the defendant, victim or*
- 35 *any witness was an apparent factor at trial;*
- 36 (b) *The percentage of the population in the county where the*
- 37 *crime occurred that is of the same race and ethnicity as the*
- 38 *defendant;*
- 39 (c) *Whether members of the same race and ethnicity of*
- 40 *the defendant or the victim were represented on the jury;*
- 41 (d) *The race and ethnicity of each member of the jury and*
- 42 *each member of the group of persons from among whom the*
- 43 *jurors were chosen;*
- 44 (e) *Whether the sexual orientation of the defendant, victim or*
- 45 *any witness was an apparent factor during the trial;*



- 1 (f) *Whether the jury was specifically instructed not to consider*
- 2 *the race, ethnicity or sexual orientation of the defendant;*
- 3 (g) *Whether there was extensive publicity concerning the case*
- 4 *in the community and whether the judge instructed the jury to*
- 5 *disregard any such publicity;*
- 6 (h) *Whether the jury was instructed to avoid any influence of*
- 7 *passion, prejudice or any other arbitrary factor when considering*
- 8 *its verdict or findings;*
- 9 (i) *The reason for any specific instructions to the jury; and*
- 10 (j) *General comments of the district judge concerning the*
- 11 *appropriateness of the sentence considering the crime, defendant*
- 12 *and other relevant factors.*
- 13 8. *The questionnaire required pursuant to subsection 1 must*
- 14 *ask the district court to provide information concerning the*
- 15 *chronology of the case, including, without limitation, the date on*
- 16 *which:*
- 17 (a) *The defendant was arrested;*
- 18 (b) *The trial commenced;*
- 19 (c) *The jury returned the verdict;*
- 20 (d) *The court ruled on any posttrial motions;*
- 21 (e) *The penalty hearing commenced;*
- 22 (f) *The sentence was imposed; and*
- 23 (g) *The trial judge filed the questionnaire.*
- 24 **Sec. 7.** *Not later than March 1 of each odd-numbered year,*
- 25 *the Supreme Court shall prepare and submit to the Director of the*
- 26 *Legislative Counsel Bureau for distribution to each regular*
- 27 *session of the Legislature a report which provides a summary and*
- 28 *analysis of the information submitted to the Supreme Court by the*
- 29 *district courts and district attorneys during the preceding*
- 30 *biennium pursuant to sections 3 and 4 of this act.*

