

SENATE BILL NO. 89—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA DISTRICT
JUDGES ASSOCIATION)

FEBRUARY 11, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing determination of competency of defendant to stand trial. (BDR 14-603)

FISCAL NOTE: Effect on Local Government: No.
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 provision governing the time in which the court may order a determination of competency; providing that the district court must determine the competency of a defendant to stand trial under certain circumstances; 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 178.405 is hereby amended to read as follows:
2 178.405 ~~When a complaint, indictment or information is~~
3 ~~called for~~ *Any time before* trial, or *when* upon conviction the
4 defendant is brought up for judgment, if doubt arises as to
5 the competence of the defendant, the court shall suspend the trial or
6 the pronouncing of the judgment, as the case may be, until the
7 question of competence is determined.
8 **Sec. 2.** NRS 178.415 is hereby amended to read as follows:
9 178.415 1. Except as otherwise provided in this subsection,
10 the court shall appoint two psychiatrists, two psychologists, or one
11 psychiatrist and one psychologist, to examine the defendant. If the
12 defendant is accused of a misdemeanor, the court of jurisdiction



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1 shall appoint a psychiatric social worker, or other person who is
2 especially qualified by the Division of Mental Health and
3 Developmental Services of the Department of Human Resources, to
4 examine the defendant.

5 2. ~~{A+}~~ *Except as otherwise provided in this subsection, at a*
6 *hearing in open court, the ~~{judge shall}~~ court that orders the*
7 *examination must receive the report of the examination . ~~{and}~~ If a*
8 *justice's court orders the examination of a defendant who is*
9 *charged with a gross misdemeanor or felony, the district court*
10 *must receive the report of the examination.*

11 3. *The court that receives the report of the examination* shall
12 permit counsel for both sides to examine the person or persons
13 appointed to examine the defendant. The prosecuting attorney and
14 the defendant may introduce other evidence and cross-examine one
15 another's witnesses.

16 ~~{3-}~~ 4. The court *that receives the report of the examination*
17 shall then make and enter its finding of competence or
18 incompetence.

19 **Sec. 3.** This act becomes effective on July 1, 2003.

