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SENATE BILL NO. 490—COMMITTEE ON JUDICIARY

MARCH 29, 2005

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Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to bail.  
(BDR 14-1368)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
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.

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AN ACT relating to criminal procedure; revising the provisions relating to bail bonds; requiring a sheriff, chief of police or town marshal to provide certain prisoners the use of a telephone to place local calls, free of charge, to certain persons; prohibiting a bail agent from loaning money or extending credit to certain persons for paying the premium or charge for a bail bond; providing a penalty; 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.** Chapter 178 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3     *If a defendant who is admitted to bail on a surety bond fails to*  
4 *appear in court when his presence is lawfully required and*  
5 *subsequently appears before the court, the court shall not admit*  
6 *the defendant to bail on the surety bond without the written*  
7 *consent of the surety that issued the surety bond.*

8     **Sec. 2.** NRS 178.4855 is hereby amended to read as follows:

9     178.4855    **1.** A defendant ~~charged with the commission of a~~  
10 ~~category A or B felony~~ who is admitted to bail on a surety bond  
11 and who:



1 ~~[1-]~~ (a) While admitted to bail, is taken into custody in the same  
2 jurisdiction in which he was admitted to bail and is charged with the  
3 commission of another ~~[category A or B]~~ **misdemeanor, gross**  
4 **misdemeanor or** felony; and

5 ~~[2-]~~ (b) Is ordered to be released from custody, ~~[without bail.]~~  
6 ~~↪~~ must not be released from custody ~~[pursuant to NRS 178.4851]~~  
7 until the law enforcement agency that conducted the initial booking  
8 procedure for the defendant for the subsequent **misdemeanor, gross**  
9 **misdemeanor or** felony has notified the bail agent that issued the  
10 surety bond of the release of the defendant.

11 **2. While the defendant is in custody, the bail agent that**  
12 **issued the surety bond for the defendant may notify the law**  
13 **enforcement agency that he is surrendering the defendant to**  
14 **custody.**

15 **Sec. 3.** NRS 178.508 is hereby amended to read as follows:

16 178.508 1. If the defendant fails to appear when his presence  
17 in court is lawfully required for the commission of a misdemeanor  
18 and the failure to appear is not excused or is lawfully required for  
19 the commission of a gross misdemeanor or felony, the court shall:

20 (a) Enter upon its minutes that the defendant failed to appear;

21 (b) Not later than 45 days after the date on which the defendant  
22 failed to appear ~~[order]~~ :

23 (1) **Order** the issuance of a warrant for the arrest of the  
24 defendant; and

25 (2) **If the presence of the defendant was lawfully required**  
26 **for the commission of a felony, provide a report of the missing**  
27 **defendant to a local law enforcement agency to enter the**  
28 **information concerning the missing defendant into the computer**  
29 **for the National Crime Information Center; and**

30 (c) If the undertaking exceeds \$50 or money deposited instead  
31 of bail bond exceeds \$500, direct that each surety and the local  
32 agent of each surety, or the depositor if he is not the defendant, be  
33 given notice that the defendant has failed to appear, by certified mail  
34 within 20 days after the date on which the defendant failed to  
35 appear. **The notice given by the court must include, without**  
36 **limitation, a certified copy of the bail bond and a copy of the entire**  
37 **record of the proceedings related to the matter for which the**  
38 **defendant failed to appear.** The court shall execute an affidavit of  
39 such mailing to be kept as an official public record of the court and  
40 shall direct that a copy of the notice be transmitted to the  
41 prosecuting attorney at the same time that notice is given to each  
42 surety or the depositor.

43 2. Except as otherwise provided in subsection 3 and NRS  
44 178.509, an order of forfeiture of any undertaking or money  
45 deposited instead of bail bond must be prepared by the clerk of court



1 and signed by the court. An order of forfeiture must include the date  
2 on which the forfeiture becomes effective. If the defendant who  
3 failed to appear has been charged with the commission of a gross  
4 misdemeanor or felony, a copy of the order must be forwarded to  
5 the Office of *the* Court Administrator. The undertaking or money  
6 deposited instead of bail bond is forfeited 180 days after the date on  
7 which the notice is mailed pursuant to subsection 1.

8 3. The court may extend the date of the forfeiture for any  
9 reasonable period set by the court if the surety or depositor submits  
10 to the court:

11 (a) An application for an extension and the court determines that  
12 the surety or the depositor is making reasonable and ongoing efforts  
13 to bring the defendant before the court.

14 (b) An application for an extension on the ground that the  
15 defendant is temporarily prevented from appearing before the court  
16 because the defendant:

17 (1) Is ill;

18 (2) Is insane; or

19 (3) Is being detained by civil or military authorities,

20 and the court, upon hearing the matter, determines that one or  
21 more of the grounds described in this paragraph exist and that the  
22 surety or depositor did not in any way cause or aid the absence of  
23 the defendant.

24 **Sec. 4.** NRS 178.512 is hereby amended to read as follows:

25 178.512 1. The court shall not set aside a forfeiture unless:

26 (a) The surety submits an application to set it aside on the  
27 ground that the defendant:

28 (1) Has appeared before the court since the date of the  
29 forfeiture and has presented:

30 (I) A satisfactory excuse for his absence; or

31 (II) Satisfactory evidence that the surety did not in any  
32 way cause or aid the absence of the defendant;

33 (2) Was dead before the date of the forfeiture but the surety  
34 did not know and could not reasonably have known of his death  
35 before that date;

36 (3) Was unable to appear before the court before the date of  
37 the forfeiture because of his illness or his insanity, but the surety did  
38 not know and could not reasonably have known of his illness or  
39 insanity before that date;

40 (4) Was unable to appear before the court before the date of  
41 the forfeiture because he was being detained by civil or military  
42 authorities, but the surety did not know and could not reasonably  
43 have known of his detention before that date; or

44 (5) Was unable to appear before the court before the date of  
45 the forfeiture because he was deported, but the surety did not know



1 and could not reasonably have known of his deportation before that  
2 date,

3 and the court, upon hearing the matter, determines that one or  
4 more of the grounds described in this subsection exist and that the  
5 surety did not in any way cause or aid the absence of the defendant;  
6 ~~and~~ or

7 (b) The court determines that justice does not require the  
8 enforcement of the forfeiture.

9 2. If the court sets aside a forfeiture pursuant to subsection 1  
10 and the forfeiture includes any undertaking or money deposited  
11 instead of bail bond where the defendant has been charged with a  
12 gross misdemeanor or felony, the court shall make a written finding  
13 in support of setting aside the forfeiture. The court shall mail a copy  
14 of the order setting aside the forfeiture to the Office of *the* Court  
15 Administrator immediately upon entry of the order.

16 **Sec. 5.** NRS 178.514 is hereby amended to read as follows:

17 178.514 1. When a forfeiture has not been set aside, the court  
18 shall on motion enter a judgment of default and execution may issue  
19 thereon.

20 2. If the Office of *the* Court Administrator has not received an  
21 order setting aside a forfeiture within 180 days after the issuance of  
22 the order of forfeiture, the Court Administrator shall request that the  
23 court that ordered the forfeiture institute proceedings to enter a  
24 judgment of default with respect to the amount of the undertaking or  
25 money deposited instead of bail bond with the court. Not later than  
26 30 days after receipt of the request from the Office of *the* Court  
27 Administrator, the court shall enter judgment by default and  
28 commence execution proceedings therein.

29 3. By entering into a bond, the ~~obligors~~ *sureties* submit to  
30 the jurisdiction of the court and irrevocably appoint the clerk of the  
31 court as their agent upon whom any papers affecting their liability  
32 may be served. Their liability may be enforced on motion and such  
33 notice of the motion as the court prescribes may be served on the  
34 clerk of the court, who shall forthwith mail copies to the ~~obligors~~  
35 *sureties* to their last known addresses.

36 **Sec. 6.** NRS 178.516 is hereby amended to read as follows:

37 178.516 After entry of ~~such judgment,~~ *a judgment of default,*  
38 the court shall ~~not remit it~~ *remit the forfeiture* in whole or in part  
39 ~~unless~~ *if* the conditions applying to the setting aside of forfeiture in  
40 NRS 178.512 are met.

41 **Sec. 7.** NRS 178.522 is hereby amended to read as follows:

42 178.522 1. When the condition of the bond has been satisfied  
43 or the forfeiture thereof has been set aside or remitted, the court  
44 shall exonerate the ~~obligors~~ *sureties* and release any bail. The  
45 court shall exonerate the ~~obligors~~ *sureties* and release any bail at



1 the time of sentencing the defendant, if the court has not previously  
2 done so , unless the money deposited by the defendant as bail must  
3 be applied to satisfy a judgment pursuant to NRS 178.528.

4 2. A surety may be exonerated by **[a]** :

5 **(a) The** deposit of cash in the amount of the bond **[or by a**  
6 **timely]** ;

7 **(b) The** surrender of the defendant into custody **[ ] at any time**  
8 **before the final discharge of the surety; or**

9 **(c) The refusal of another jurisdiction that is detaining the**  
10 **defendant to extradite the defendant to this State.**

11 **Sec. 8.** NRS 5.050 is hereby amended to read as follows:

12 5.050 1. Municipal courts have jurisdiction of civil actions or  
13 proceedings:

14 (a) For the violation of any ordinance of their respective cities.

15 (b) To prevent or abate a nuisance within the limits of their  
16 respective cities.

17 2. The municipal courts have jurisdiction of all misdemeanors  
18 committed in violation of the ordinances of their respective cities.  
19 Upon approval of the district court, a municipal court may transfer  
20 original jurisdiction of a misdemeanor to the district court for the  
21 purpose of assigning an offender to a program established pursuant  
22 to NRS 176A.250.

23 3. The municipal courts have jurisdiction of:

24 (a) Any action for the collection of taxes or assessments levied  
25 for city purposes, when the principal sum thereof does not exceed  
26 \$2,500.

27 (b) Actions to foreclose liens in the name of the city for the  
28 nonpayment of those taxes or assessments when the principal sum  
29 claimed does not exceed \$2,500.

30 (c) Actions for the breach of any bond given by any officer or  
31 person to or for the use or benefit of the city, and of any action for  
32 damages to which the city is a party, and upon all forfeited  
33 **[recognizances] bonds, including, without limitation, surety bonds**  
34 **posted to admit a defendant to bail,** given to or for the use or  
35 benefit of the city, and upon all bonds given on appeals from the  
36 municipal court in any of the cases named in this section, when the  
37 principal sum claimed does not exceed \$2,500.

38 (d) Actions for the recovery of personal property belonging to  
39 the city, when the value thereof does not exceed \$2,500.

40 (e) Actions by the city for the collection of any damages, debts  
41 or other obligations when the amount claimed, exclusive of costs or  
42 attorney's fees, or both if allowed, does not exceed \$2,500.

43 4. Nothing contained in subsection 3 gives the municipal court  
44 jurisdiction to determine any such cause when it appears from the  
45 pleadings that the validity of any tax, assessment or levy, or title to



1 real property, is necessarily an issue in the cause, in which case the  
2 court shall certify the cause to the district court in like manner and  
3 with the same effect as provided by law for certification of causes  
4 by justices' courts.

5 **Sec. 9.** NRS 211.140 is hereby amended to read as follows:

6 211.140 1. The sheriff of each county has charge and control  
7 over all prisoners committed to his care in the respective county jails  
8 . ~~[, and the]~~ *The* chiefs of police and town marshals in the several  
9 cities and towns throughout this State have charge and control over  
10 all prisoners committed to their respective city and town jails and  
11 detention facilities.

12 2. A court shall not, at the request of any prisoner in a county,  
13 city or town jail, issue an order which affects the conditions of  
14 confinement of the prisoner unless, except as otherwise provided in  
15 this subsection, the court provides the sheriff, chief of police or  
16 town marshal having control over the prisoner with:

17 (a) Sufficient prior notice of the court's intention to enter the  
18 order. Notice by the court is not necessary if the prisoner has filed  
19 an action with the court challenging his conditions of confinement  
20 and has served a copy of the action on the sheriff, chief of police or  
21 town marshal.

22 (b) An opportunity to be heard on the issue.

23 ➔ As used in this subsection, "conditions of confinement" includes,  
24 but is not limited to, a prisoner's access to the law library, privileges  
25 regarding visitation and the use of the telephone, the type of meals  
26 provided to the prisoner and the provision of medical care in  
27 situations which are not emergencies.

28 3. The sheriffs, chiefs of police and town marshals shall see  
29 that the prisoners under their care are kept at labor for reasonable  
30 amounts of time within the jail or detention facility, on public works  
31 in the county, city or town, or as part of a program of release for  
32 work established pursuant to NRS 211.120 or 211.171 to 211.200,  
33 inclusive.

34 4. *The sheriff, chief of police or town marshal shall provide a*  
35 *prisoner in his custody, who has been imprisoned on a criminal*  
36 *charge before the time of conviction, the use of a telephone to*  
37 *place local calls, free of charge, to an attorney or bail agent.*

38 5. The sheriff, chief of police or town marshal shall arrange for  
39 the administration of medical care required by prisoners while in his  
40 custody. The county, city or town shall pay the cost of appropriate  
41 medical:

42 (a) Treatment provided to a prisoner while in custody for  
43 injuries incurred by a prisoner while he is in custody and for injuries  
44 incurred during his arrest for commission of a public offense if he is  
45 not convicted of that offense;



1 (b) Treatment provided to a prisoner while in custody for any  
2 infectious, contagious or communicable disease which the prisoner  
3 contracts while he is in custody; and

4 (c) Examinations required by law or by court order conducted  
5 while the prisoner is in custody unless the order otherwise provides.

6 ~~[5]~~ 6. A prisoner shall pay the cost of medical treatment for:

7 (a) Injuries incurred by the prisoner during his commission of a  
8 public offense or for injuries incurred during his arrest for  
9 commission of a public offense if he is convicted of that offense;

10 (b) Injuries or illnesses which existed before the prisoner was  
11 taken into custody;

12 (c) Self-inflicted injuries; and

13 (d) Except treatment provided pursuant to subsection ~~[4]~~ 5, any  
14 other injury or illness incurred by the prisoner.

15 ~~[6]~~ 7. A medical facility furnishing treatment pursuant to  
16 subsection ~~[5]~~ 6 shall attempt to collect the cost of the treatment  
17 from the prisoner or his insurance carrier. If the facility is unable to  
18 collect the cost and certifies to the appropriate board of county  
19 commissioners that it is unable to collect the cost of the medical  
20 treatment, the board of county commissioners shall pay the cost of  
21 the medical treatment.

22 ~~[7]~~ 8. A sheriff, chief of police or town marshal who arranges  
23 for the administration of medical care pursuant to this section may  
24 attempt to collect from the prisoner or the insurance carrier of the  
25 prisoner the cost of arranging for the administration of medical care  
26 , including the cost of any transportation of the prisoner for the  
27 purpose of medical care. The prisoner shall obey the requests of, and  
28 fully cooperate with the sheriff, chief of police or town marshal in  
29 collecting the costs from the prisoner or his insurance carrier.

30 **Sec. 10.** NRS 266.555 is hereby amended to read as follows:

31 266.555 1. The municipal court has jurisdiction to hear, try  
32 and determine all cases, whether civil or criminal, for the breach or  
33 violation of any city ordinance or any provision of this chapter of a  
34 police or municipal nature, and shall hear, try and determine cases in  
35 accordance with the provisions of those ordinances or of this  
36 chapter.

37 2. The municipal court has jurisdiction of offenses committed  
38 within the city, which violate the peace and good order of the city or  
39 which invade any of the police powers of the city, or endanger the  
40 health of the inhabitants thereof, such as breaches of the peace,  
41 drunkenness, intoxication, fighting, quarreling, dogfights,  
42 cockfights, routs, riots, affrays, violent injury to property, malicious  
43 mischief, vagrancy, indecent conduct, lewd or lascivious  
44 cohabitation or behavior, and all disorderly, offensive or



1 opprobrious conduct, and of all offenses under ordinances of the  
2 city.

3 3. The municipal court has jurisdiction of:

4 (a) Any action for the collection of taxes or assessments levied  
5 for city purposes, when the principal sum thereof does not exceed  
6 \$2,500.

7 (b) Actions to foreclose liens in the name of the city for the  
8 nonpayment of those taxes or assessments when the principal sum  
9 claimed does not exceed \$2,500.

10 (c) Actions for the breach of any bond given by any officer or  
11 person to or for the use or benefit of the city, and of any action for  
12 damages to which the city is a party, and upon all forfeited  
13 ~~recognizances~~ *bonds, including, without limitation, surety bonds*  
14 *posted to admit a defendant to bail*, given to or for the use or  
15 benefit of the city, and upon all appeal bonds given on appeals from  
16 the municipal court, when the principal sum claimed does not  
17 exceed \$2,500.

18 (d) Actions for the recovery of personal property belonging to  
19 the city, when the value thereof does not exceed \$2,500.

20 (e) Actions by the city for the collection of any damages, debts  
21 or other obligations when the amount claimed, exclusive of costs or  
22 attorneys' fees, or both if allowed, does not exceed \$2,500.

23 4. Nothing contained in subsection 3 gives the municipal court  
24 jurisdiction to determine any such cause when it appears from the  
25 pleadings that the validity of any tax, assessment or levy, or title to  
26 real property is necessarily an issue in the cause, in which case the  
27 court shall certify the cause to the district court in like manner and  
28 with the same effect as provided by law for certification of causes  
29 by justices' courts.

30 **Sec. 11.** NRS 697.340 is hereby amended to read as follows:

31 697.340 1. A bail agent, general agent or bail solicitor shall  
32 not:

33 (a) Suggest or advise the employment of or name for  
34 employment any particular attorney to represent his principal.

35 (b) Solicit business in or about any place where prisoners are  
36 confined or in or about any court.

37 (c) Pay a fee or rebate or give or promise anything of value to  
38 any person in order to secure a settlement, compromise, remission  
39 or reduction of the amount of any undertaking or bail bond.

40 (d) Pay a fee or rebate or give anything of value to an attorney in  
41 bail bond matters, except for legal services actually rendered.

42 (e) Pay a fee or rebate or give or promise anything of value to  
43 the principal or anyone ~~for~~ *on* his behalf.





1 (f) *Promise or commit to loan money or to grant or extend*  
2 *credit to the principal or anyone on his behalf for the purpose of*  
3 *paying the premium or charge for a bail bond.*

4 (g) Participate in the capacity of an attorney at a trial or hearing  
5 of a person on whose bond he is surety, except for the purposes of  
6 surrendering the defendant, making motions to set aside orders of  
7 bail forfeitures and motions to exonerate bails and protecting his  
8 financial interest in such a bond.

9 2. The following persons may not be bail agents, bail  
10 enforcement agents or bail solicitors and shall not, directly or  
11 indirectly, receive any benefits from the execution of any bail bond:

12 (a) Jailers;

13 (b) Police officers;

14 (c) Justices of the peace;

15 (d) Municipal judges;

16 (e) Sheriffs, deputy sheriffs and constables;

17 (f) Any person having the power to arrest or having anything to  
18 do with the control of federal, state, county or municipal prisoners;  
19 and

20 (g) Trustees or prisoners incarcerated in any jail, prison or any  
21 other place used for the incarceration of persons.

22 3. A bail agent shall not sign or countersign in blank any bond,  
23 or give the power of attorney to, or otherwise authorize, anyone to  
24 countersign his name to bonds unless the person so authorized is a  
25 licensed agent directly employed by the agent giving the power of  
26 attorney.

27 4. A bail agent, bail enforcement agent, bail solicitor or general  
28 agent shall not advertise or hold himself out to be a surety insurance  
29 company.







