

ASSEMBLY BILL NO. 38—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to bail. (BDR 14-399)

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 bail; authorizing the electronic transmission of certain notices relating to bail; requiring certain persons who are engaged in certain businesses relating to bail to receive electronic transmissions relating to bail; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that, under certain circumstances, a bail bond posted for
2 an original offense charged must be transferred to the clerk of the court in which a
3 related public offense is later charged and notice of the transfer must be mailed to
4 the surety on the bond and the bail agent who executed the bond. (NRS 178.502)
5 **Section 2** of this bill authorizes the electronic transmission of the notice of such a
6 transfer.

7 Existing law provides that, under certain circumstances, if a defendant fails to
8 make a required appearance in court, the court shall direct that each surety and the
9 local agent of each surety or depositor, as applicable, be given notice by certified
10 mail that the defendant failed to appear. (NRS 178.508) **Section 3** of this bill
11 authorizes the electronic transmission of the notice of the defendant’s failure to
12 appear. **Section 3** also provides that, in the case of electronic transmission, notice
13 shall be deemed to have been given when the electronic transmission of the notice
14 is successfully initiated.

15 Existing law requires notice of a motion to enforce liability for a bond to be
16 mailed to the obligor. (NRS 178.514) **Section 4** of this bill authorizes the electronic
17 transmission of the notice of such a motion. **Section 4** also provides that, in the case
18 of electronic transmission, notice shall be deemed to have been given when the
19 electronic transmission of the notice is successfully initiated.

20 **Section 5** of this bill requires every bail agent, bail enforcement agent, bail
21 solicitor, insurer authorized to write surety in this State and every subsidiary
22 corporation of any such insurer to maintain a means of receiving electronic



23 transmissions and to receive electronic transmissions pursuant to **sections 2-4** of
24 this bill.

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 *As used in NRS 178.484 to 178.548, inclusive, and this section,*
4 *unless the context otherwise requires, “electronic transmission,”*
5 *“electronically transmit” or “electronically transmitted” means*
6 *any form or process of communication not directly involving the*
7 *physical transfer of paper or another tangible medium which:*

8 1. *Is suitable for the retention, retrieval and reproduction of*
9 *information by the recipient; and*

10 2. *Is retrievable and reproducible in paper form by the*
11 *recipient through an automated process used in conventional*
12 *commercial practice.*

13 **Sec. 2.** NRS 178.502 is hereby amended to read as follows:

14 178.502 1. A person required or permitted to give bail shall
15 execute a bond for the person’s appearance. The magistrate or court
16 or judge or justice, having regard to the considerations set forth in
17 NRS 178.498, may require one or more sureties or may authorize
18 the acceptance of cash or bonds or notes of the United States in an
19 amount equal to or less than the face amount of the bond.

20 2. Any bond or undertaking for bail must provide that the bond
21 or undertaking:

22 (a) Extends to any action or proceeding in a Justice Court,
23 municipal court or district court:

24 (1) Arising from the charge on which bail was first given in
25 any of these courts; and

26 (2) Arising from a later charge, filed before the expiration of
27 the periods provided in subsection 4, which is substantially similar
28 to the charge upon which bail was first given and is based upon the
29 same act or omission as that charge; and

30 (b) Remains in effect until exonerated by the court.

31 ➤ This subsection does not require that any bond or undertaking
32 extend to proceedings on appeal.

33 3. If an action or proceeding against a defendant who has been
34 admitted to bail is transferred to another trial court, the bond or
35 undertaking must be transferred to the clerk of the court to which
36 the action or proceeding has been transferred.

37 4. If the action or proceeding against a defendant who has been
38 admitted to bail is dismissed, the bail must not be exonerated until a
39 period of 30 days has elapsed from the entry of the order of



1 dismissal unless the defendant requests that bail be exonerated
2 before the expiration of the 30-day period. If no formal action or
3 proceeding is instituted against a defendant who has been admitted
4 to bail, the bail must not be exonerated until a period of 30 days has
5 elapsed from the day the bond or undertaking is posted unless the
6 defendant requests that bail be exonerated before the expiration of
7 the 30-day period.

8 5. If, within the periods provided in subsection 4, the defendant
9 is charged with a public offense arising out of the same act or
10 omission supporting the charge upon which bail was first given, the
11 prosecuting attorney shall forthwith notify the clerk of the court
12 where the bond was posted, the bail must be applied to the public
13 offense later charged, and the bond or undertaking must be
14 transferred to the clerk of the appropriate court. Within 10 days after
15 its receipt, the clerk of the court to whom the bail is transferred shall
16 mail *or electronically transmit* notice of the transfer to the surety on
17 the bond and the bail agent who executed the bond. *In the case of*
18 *electronic transmission, notice shall be deemed to have been given*
19 *when the electronic transmission of such notice is successfully*
20 *initiated.*

21 6. Bail given originally on appeal must be deposited with the
22 magistrate or the clerk of the court from which the appeal is taken.

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

24 178.508 1. If the defendant fails to appear when the
25 defendant's presence in court is lawfully required for the
26 commission of a misdemeanor and the failure to appear is not
27 excused or is lawfully required for the commission of a gross
28 misdemeanor or felony, the court shall:

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

30 (b) Not later than 45 days after the date on which the defendant
31 failed to appear, order the issuance of a warrant for the arrest of the
32 defendant; and

33 (c) If the undertaking exceeds \$50 or money deposited instead
34 of bail bond exceeds \$500, direct that each surety and the local
35 agent of each surety, or the depositor if the depositor is not the
36 defendant, be given notice that the defendant has failed to appear, by
37 certified mail *or electronic transmission* within 20 days after the
38 date on which the defendant failed to appear. The court shall
39 execute an affidavit of such mailing *or electronic transmission* to
40 be kept as an official public record of the court and shall direct that
41 a copy of the notice be transmitted to the prosecuting attorney at the
42 same time that notice is given to each surety or the depositor. *In the*
43 *case of electronic transmission, notice shall be deemed to have*
44 *been given when the electronic transmission of such notice is*
45 *successfully initiated.*



1 2. Except as otherwise provided in subsection 3 and NRS
2 178.509, an order of forfeiture of any undertaking or money
3 deposited instead of bail bond must be prepared by the clerk of the
4 court and signed by the court. An order of forfeiture must include
5 the date on which the forfeiture becomes effective. The undertaking
6 or money deposited instead of bail bond is forfeited 180 days after
7 the date on which the notice is mailed *or electronically transmitted*
8 pursuant to subsection 1.

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

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

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

18 (1) Is ill;

19 (2) Is insane; or

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

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

25 **Sec. 4.** NRS 178.514 is hereby amended to read as follows:

26 178.514 1. When a forfeiture has not been set aside, the court
27 shall on motion enter a judgment of default and execution may issue
28 thereon.

29 2. If an order setting aside a forfeiture has not been entered
30 within 180 days after the issuance of the order of forfeiture, the
31 court shall enter judgment by default and commence execution
32 proceedings therein.

33 3. By entering into a bond the obligors submit to the
34 jurisdiction of the court and irrevocably appoint the clerk of the
35 court as their agent upon whom any papers affecting their liability
36 may be served. Their liability may be enforced on motion and such
37 notice of the motion as the court prescribes may be served on the
38 clerk of the court, who shall forthwith mail *or electronically*
39 *transmit* copies to the obligors to their last known addresses **H** *or*
40 *by means that have been designated by the obligors for the*
41 *purpose of receiving electronic transmissions. In the case of*
42 *electronic transmission, notice shall be deemed to have been given*
43 *when the electronic transmission of such notice is successfully*
44 *initiated.*



1 **Sec. 5.** Chapter 697 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. Every bail agent, bail enforcement agent, bail solicitor,***
4 ***insurer authorized to write surety in this State and every***
5 ***subsidiary corporation of such an insurer shall maintain a means***
6 ***of receiving electronic transmissions and shall receive electronic***
7 ***transmissions made pursuant to NRS 178.502, 178.508 and***
8 ***178.514.***

9 ***2. As used in this section, "electronic transmission" has the***
10 ***meaning ascribed to it in section 1 of this act.***

11 **Sec. 6.** This act becomes effective on July 1, 2017.

