

Amendment No. 281

Senate Amendment to Senate Bill No. 401	(BDR 14-378)
<b>Proposed by:</b> Senate Committee on Judiciary	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





SENATE BILL NO. 401—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE COMMITTEE TO CONDUCT AN INTERIM STUDY OF ISSUES RELATING TO PRETRIAL RELEASE OF DEFENDANTS IN CRIMINAL CASES)

MARCH 26, 2021

Referred to Committee on Judiciary

SUMMARY—Requires the reporting of certain information relating to pretrial detention. (BDR 14-378)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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; requiring justice courts, municipal courts and district courts to maintain certain records relating to pretrial detention and submit such records to the Administrative Office of the Courts; requiring the Court Administrator to submit a quarterly report concerning pretrial detention to the Executive Director of the Department of Sentencing Policy and to the Legislature or the Advisory Commission on the Administration of Justice, as applicable, and to make the report available on the Internet; requiring county and city jails to notify the court having jurisdiction over a defendant if the defendant is held for more than 7 days after bail for the defendant is set at \$2,500 or less; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 The Nevada Constitution and existing law require all persons arrested for offenses other  
2 than murder of the first degree to be admitted to bail unless certain circumstances apply. (Nev.  
3 Const. Art. 1, § 7; NRS 178.484) Existing law also authorizes a court to release a person  
4 without bail under certain circumstances. (NRS 178.4851) **Section 1** of this bill requires  
5 justice courts, municipal courts and district courts to maintain certain records concerning  
6 pretrial detention of defendants in criminal cases, including, where applicable: (1) the offense  
7 with which the defendant was charged; (2) whether the defendant was admitted to bail, denied  
8 admission to bail or released without bail; (3) the amount of bail set and the conditions  
9 imposed for release without bail; (4) the date on which the defendant was taken into custody;  
10 (5) the date on which the court set the amount of bail for the defendant or denied the  
11 defendant admission to bail; (6) the date on which the defendant was released from custody by  
12 admission to bail or release without bail; (7) whether the defendant was given a hearing to  
13 determine admission to bail or release without bail; (8) whether the defendant failed to appear,  
14 was arrested for a violation of a condition imposed for release without bail or was arrested for  
15 a new offense while released on bail; (9) the sentence imposed on the defendant; (10) the date  
16 on which the defendant was taken into custody to serve a sentence; and (11) the date on which

17 the defendant was released from custody. **Section 1** also requires justice courts, municipal  
 18 courts and district courts to submit such records to the Administrative Office of the Courts at  
 19 least quarterly.

20 **Section 2** of this bill requires the Court Administrator to: (1) submit a quarterly report  
 21 concerning pretrial detention of defendants in criminal cases to **the Executive Director of the**  
 22 **Department of Sentencing Policy and to** the Legislature or the Advisory Commission on the  
 23 Administration of Justice, as applicable, containing statistics compiled from information  
 24 received pursuant to **section 1**; and (2) make the report available on the Internet website of the  
 25 Court Administrator.

26 **Sections 3 and 4** of this bill require county and city jails to notify the court having  
 27 jurisdiction over a defendant in a criminal case if the defendant is in custody for more than 7  
 28 days after the amount of bail is set and the amount of bail is set at \$2,500 or less.

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

1 **Section 1.** NRS 178.502 is hereby amended to read as follows:

2 178.502 1. A person required or permitted to give bail shall execute a bond  
 3 for the person's appearance. The magistrate or court or judge or justice, having  
 4 regard to the considerations set forth in NRS 178.498, may require one or more  
 5 sureties or may authorize the acceptance of cash or bonds or notes of the United  
 6 States in an amount equal to or less than the face amount of the bond.

7 2. Any bond or undertaking for bail must provide that the bond or  
 8 undertaking:

9 (a) Extends to any action or proceeding in a justice court, municipal court or  
 10 district court arising from the charge on which bail was first given in any of these  
 11 courts; and

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

13 ↪ This subsection does not require that any bond or undertaking extend to  
 14 proceedings on appeal.

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

18 4. Except as otherwise provided in subsection 5, the court shall exonerate the  
 19 bond or undertaking for bail if:

20 (a) The action or proceeding against a defendant who has been admitted to bail  
 21 is dismissed; or

22 (b) No formal action or proceeding is instituted against a defendant who has  
 23 been admitted to bail.

24 5. The court may delay exoneration of the bond or undertaking for bail for a  
 25 period not to exceed 30 days if, at the time the action or proceeding against a  
 26 defendant who has been admitted to bail is dismissed, the defendant:

27 (a) Has been indicted or is charged with a public offense which is the same or  
 28 substantially similar to the charge upon which bail was first given and which arises  
 29 out of the same act or omission supporting the charge upon which bail was first  
 30 given; or

31 (b) Requests to remain admitted to bail in anticipation of being later indicted or  
 32 charged with a public offense which is the same or substantially similar to the  
 33 charge upon which bail was first given and which arises out of the same act or  
 34 omission supporting the charge upon which bail was first given.

35 ↪ If the defendant has already been indicted or charged, or is later indicted or  
 36 charged, with a public offense arising out of the same act or omission supporting

1 the charge upon which bail was first given, the bail must be applied to the public  
2 offense for which the defendant has been indicted or charged or is later indicted or  
3 charged, and the bond or undertaking must be transferred to the clerk of the  
4 appropriate court. Within 10 days after its receipt, the clerk of the court to whom  
5 the bail is transferred shall mail or electronically transmit notice of the transfer to  
6 the surety on the bond and the bail agent who executed the bond.

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

9 *7. Each justice court, municipal court and district court shall maintain a*  
10 *record for each defendant containing, where applicable, the following*  
11 *information:*

12 *(a) The offense with which the defendant was charged;*

13 *(b) Whether the defendant was admitted to bail, denied admission to bail or*  
14 *released without bail;*

15 *(c) The amount at which bail was set or the conditions imposed upon the*  
16 *defendant for release without bail;*

17 *(d) The date on which the defendant was taken into custody;*

18 *(e) The date on which the court set the amount of bail for the defendant or*  
19 *denied the defendant admission to bail;*

20 *(f) The date on which the defendant was released from custody before trial*  
21 *by admission to bail or release without bail;*

22 *(g) A description of the procedures by which the defendant was admitted to*  
23 *bail, released without bail or denied admission to bail, including whether the*  
24 *defendant was given a hearing;*

25 *(h) Whether the defendant failed to appear, was arrested for a violation of a*  
26 *condition imposed for release without bail or was arrested for a new offense*  
27 *while released on bail, including the condition which the defendant violated or*  
28 *the new offense for which the defendant was arrested, as applicable;*

29 *(i) The sentence imposed on the defendant;*

30 *(j) The date on which the defendant was taken into custody to serve a*  
31 *sentence; and*

32 *(k) The date on which the defendant was released from custody.*

33 *8. At least quarterly, each justice court, municipal court and district court*  
34 *shall submit the records maintained pursuant to subsection 7 to the*  
35 *Administrative Office of the Courts.*

36 **Sec. 2.** NRS 1.360 is hereby amended to read as follows:

37 1.360 Under the direction of the Supreme Court, the Court Administrator  
38 shall:

39 1. Examine the administrative procedures employed in the offices of the  
40 judges, clerks, court reporters and employees of all courts of this State and make  
41 recommendations, through the Chief Justice, for the improvement of those  
42 procedures. ~~§~~

43 2. Examine the condition of the dockets of the courts and determine the need  
44 for assistance by any court. ~~§~~

45 3. Make recommendations to and carry out the directions of the Chief Justice  
46 relating to the assignment of district judges where district courts are in need of  
47 assistance. ~~§~~

48 4. Develop a uniform system for collecting and compiling statistics and other  
49 data regarding the operation of the State Court System and transmit that  
50 information to the Supreme Court so that proper action may be taken in respect  
51 thereto. ~~§~~

1           5. Prepare and submit a budget of state appropriations necessary for the  
2 maintenance and operation of the State Court System and make recommendations  
3 in respect thereto. ~~{}~~

4           6. Develop procedures for accounting, internal auditing, procurement and  
5 disbursement for the State Court System. ~~{}~~

6           7. Collect statistical and other data and make reports relating to the  
7 expenditure of all public money for the maintenance and operation of the State  
8 Court System and the offices connected therewith. ~~{}~~

9           8. Compile statistics from the information required to be maintained by the  
10 clerks of the district courts pursuant to NRS 3.275 regarding criminal and civil  
11 cases and make reports as to the cases filed in the district courts. ~~{}~~

12           9. Formulate and submit to the Supreme Court recommendations of policies  
13 or proposed legislation for the improvement of the State Court System. ~~{}~~

14           10. On or before January 1 of each year, submit to the Director of the  
15 Legislative Counsel Bureau a written report:

16           (a) Compiling the information submitted to the Court Administrator pursuant  
17 to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year; and

18           (b) Concerning:

19           (1) The distribution of money deposited in the special account created by  
20 NRS 176.0613 to assist with funding and establishing specialty court programs;

21           (2) The current status of any specialty court programs to which money  
22 from the account was allocated since the last report;

23           (3) Statistics compiled from information required to be maintained by  
24 clerks of the district courts pursuant to NRS 3.275 concerning specialty courts,  
25 including, without limitation, the number of participants in such programs, the  
26 nature of the criminal charges that were filed against participants, the number of  
27 participants who have completed the programs and the disposition of the cases; and

28           (4) Such other related information as the Court Administrator deems  
29 appropriate. ~~{ and }~~

30           11. *Quarterly, submit a report concerning pretrial detention to the*  
31 *Executive Director of the Department of Sentencing Policy and to the Director of*  
32 *the Legislative Counsel Bureau for transmittal to the Legislature, if the*  
33 *Legislature is in session, or to the Advisory Commission on the Administration of*  
34 *Justice, if the Legislature is not in session, and make the report available to the*  
35 *public on the Internet website maintained by the Court Administrator. The report*  
36 *must compile statistics from the information required to be maintained by justice*  
37 *courts, municipal courts and district courts pursuant to NRS 178.502 and*  
38 *contain, without limitation:*

39           (a) *The total number of defendants in the custody of county and city jails*  
40 *awaiting trial and the total number of defendants in the custody of county and*  
41 *city jails serving a sentence;*

42           (b) *The number of defendants who were admitted to bail, denied admission to*  
43 *bail, released without bail with conditions and released without bail without*  
44 *conditions;*

45           (c) *The number of defendants who were held in custody before trial for a*  
46 *period of less than 24 hours, 24 hours or more but less than 72 hours, 72 hours*  
47 *or more but less than 1 week, 1 week or more but less than 2 weeks, 2 weeks or*  
48 *more but less than 1 month and more than 1 month;*

49           (d) *The average length of time for which defendants were held in custody*  
50 *before trial;*

51           (e) *The number of defendants who were given a hearing to determine*  
52 *whether the defendant would be admitted to bail, denied admission to bail or*  
53 *released without bail; and*

1           ***(f) The number of defendants who were admitted to bail or released without***  
2 ***bail and who failed to appear, were arrested for a violation of a condition***  
3 ***imposed for release without bail or were arrested for a new offense while released***  
4 ***on bail. The number must be disaggregated by the conditions which defendants***  
5 ***violated and the charges of the new offenses for which defendants were arrested;***  
6 ***and***

7           **12.** Attend to such other matters as may be assigned by the Supreme Court or  
8 prescribed by law.

9           **Sec. 3.** NRS 211.030 is hereby amended to read as follows:

10           211.030 1. The sheriff is the custodian of the jail in his or her county, and of  
11 the prisoners therein, and shall keep the jail personally, or by his or her deputy, or  
12 by a jailer or jailers appointed by the sheriff for that purpose, for whose acts the  
13 sheriff is responsible.

14           2. All jailers employed or appointed by the sheriff are entitled to receive a fair  
15 and adequate monthly compensation, to be paid out of the county treasury, for their  
16 services.

17           3. ***If a prisoner is held in custody for more than 7 days after the amount of***  
18 ***bail is set and the amount of bail is set at \$2,500 or less, the sheriff must notify***  
19 ***the court having jurisdiction over the prisoner.***

20           4. Not later than 48 hours after the death of a prisoner in the county jail or any  
21 branch county jail in his or her county, the sheriff shall report the death to the board  
22 of county commissioners. The report must include, without limitation, basic  
23 demographics.

24           ~~4.~~ 5. The sheriff shall submit to the board a biannual report that contains  
25 aggregated data similar to the information submitted pursuant to the Death in  
26 Custody Reporting Act of 2013, Public Law 113-242, concerning the deaths of  
27 prisoners in the county jail and any branch county jail in his or her county during  
28 the immediately preceding 6 months and the circumstances surrounding any such  
29 deaths.

30           **Sec. 4.** NRS 211.117 is hereby amended to read as follows:

31           211.117 1. ***If a prisoner is held in custody for more than 7 days after the***  
32 ***amount of bail is set and the amount of bail is set at \$2,500 or less, the person***  
33 ***appointed to administer the city jail must notify the court having jurisdiction over***  
34 ***the prisoner.***

35           2. Not later than 48 hours after the death of a prisoner in a city jail, the person  
36 appointed to administer the city jail shall report the death to the governing body of  
37 the city. The report must include, without limitation, basic demographics.

38           ~~2.~~ 3. The person appointed to administer the city jail shall submit to the  
39 governing body of the city a biannual report that contains aggregated data similar to  
40 the information submitted pursuant to the Death in Custody Reporting Act of 2013,  
41 Public Law 113-242, concerning the deaths of prisoners in the city jail during the  
42 immediately preceding 6 months and the circumstances surrounding any such  
43 deaths.

44           **Sec. 5.** The provisions of subsection 1 of NRS 218D.380 do not apply to any  
45 provision of this act which adds or revises a requirement to submit a report to the  
46 Legislature.

47           **Sec. 6.** Notwithstanding the provisions of NRS 218D.430 and 218D.435, a  
48 committee, other than the Assembly Standing Committee on Ways and Means and  
49 the Senate Standing Committee on Finance, may vote on this act before the  
50 expiration of the period prescribed for the return of a fiscal note in NRS 218D.475.  
51 This section applies retroactively from and after March 22, 2021.