

Amendment No. 658

Assembly Amendment to Senate Bill No. 235 First Reprint (BDR 14-310)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: No 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. 235—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON JUDICIARY)

MARCH 8, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to pretrial release. (BDR 14-310)

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 provisions relating to pretrial release hearings; authorizing a court to impose additional conditions of release on a person under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

In general, existing law requires a court to hold a pretrial release hearing to determine the custody status of a person within 48 hours after the person has been taken into custody. However, existing law authorizes a court to continue such a pretrial release hearing if good cause is shown by a party. (NRS 178.4849) **Section ~~H~~ 1.2** of this bill instead authorizes the court to continue a pretrial release hearing: (1) at the request of either party or the court and for good cause shown; or (2) upon stipulation of the parties. **Section ~~H~~ 1.2** also : (1) prescribes certain requirements relating to the scheduling of a pretrial release hearing continued by the court ~~H~~ ; (2) **authorizes the prosecuting attorney, the defendant and the defendant’s attorney to appear at a pretrial release hearing by any means of remote communication; and (3) authorizes a magistrate who presides over a pretrial release hearing to do so by means of remote communication.**

Section 1 of this bill authorizes a district attorney and any attorney employed by a district attorney to prosecute a person in a county other than the county by which the district attorney is employed for the limited purpose of conducting a pretrial release hearing. Section 1 also provides that a public defender and the State Public Defender may, pursuant to an interlocal agreement, authorize the public defender, State Public Defender or any other attorney employed by the public defender or State Public Defender to provide for the representation of a defendant in a pretrial release hearing in any county. Finally, section 1 authorizes: (1) a district attorney, assistant district attorney, deputy district attorney or other attorney employed by a district attorney to receive a stipend for being available on a weekend or holiday to serve as the prosecuting attorney in a pretrial release hearing or for serving as the prosecuting attorney in any such pretrial release hearing conducted on a weekend or holiday; and (2) a public defender, the State Public Defender or any other attorney employed by the public defender or State Public Defender to receive a stipend for being available on a weekend or holiday to represent a defendant in a pretrial release hearing or for representing a defendant in any such pretrial release hearing conducted on a weekend or holiday.

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28 Existing law provides that, with certain exceptions, in criminal cases the jurisdiction
 29 of a justice of the peace extends to the limits of the county of the justice of the peace.
 30 (NRS 4.370) Section 1.7 of this bill authorizes a justice of the peace, pursuant to an
 31 interlocal agreement, to conduct a pretrial release hearing in a municipal court.

32 Existing law sets forth the powers and duties of municipal courts. (NRS 5.050)
 33 Section 1.9 of this bill authorizes a municipal judge, pursuant to an interlocal agreement,
 34 to conduct a pretrial release hearing in a justice court.

35 Existing law provides that a court may only impose bail or a condition of release, or both,
 36 on a person if the imposition is the least restrictive means necessary to protect the safety of the
 37 community or to ensure the appearance of the person in court. Under existing law, if a person
 38 fails to comply with a condition of release imposed by the court, the court may, after
 39 providing the person with notice and an opportunity for a hearing: (1) deem such conduct
 40 contempt; (2) increase the amount of bail; or (3) revoke bail and remand the person into
 41 custody. (NRS 178.4851) **Section 1.5** of this bill authorizes the court to impose on a person
 42 who fails to comply with a condition of release such additional conditions of release as the
 43 court deems necessary to protect the safety of the community or to ensure the person will
 44 appear at the times and places ordered by the court.

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 thereto a
 2 new section to read as follows:

3 Notwithstanding any other provision of law:

4 1. A district attorney, assistant district attorney, deputy district attorney or
 5 other attorney employed by a district attorney may:

6 (a) Be deputized to prosecute a person in a county other than the county by
 7 which the attorney is employed for the limited purpose of serving as the
 8 prosecuting attorney in a pretrial release hearing required by NRS 178.4849. An
 9 assistant district attorney, deputy district attorney or other attorney employed by a
 10 district attorney must receive the approval of the district attorney of the county in
 11 which the attorney is employed before serving as the prosecuting attorney in a
 12 pretrial release hearing in a county other than the county by which the attorney is
 13 employed.

14 (b) Receive a stipend for being available on a weekend or holiday to serve as
 15 the prosecuting attorney in a pretrial release hearing required by NRS 178.4849
 16 or for serving as the prosecuting attorney in any such pretrial release hearing
 17 conducted on a weekend or holiday.

18 2. A public defender and the State Public Defender may, pursuant to an
 19 interlocal agreement, authorize the public defender, State Public Defender or any
 20 other attorney employed by the public defender or State Public Defender to
 21 provide for the representation of a defendant in a pretrial release hearing
 22 required by NRS 178.4849 in any county.

23 3. A public defender, the State Public Defender or any other attorney
 24 employed by the public defender or State Public Defender may receive a stipend
 25 for being available on a weekend or holiday to represent a defendant in a pretrial
 26 release hearing required by NRS 178.4849 or for representing a defendant in any
 27 such pretrial release hearing conducted on a weekend or holiday.

28 ~~{Section 1.1}~~ **Sec. 1.2.** NRS 178.4849 is hereby amended to read as follows:
 29 178.4849 1. Except as otherwise provided in ~~{this section}~~ **subsection 2** and
 30 NRS 178.484 and 178.4847, a court shall, within 48 hours after a person has been
 31 taken into custody, hold a pretrial release hearing, in open court or by means of
 32 remote communication, to determine the custody status of the person.

1 2. The *court may continue* a pretrial release hearing ~~[may be continued]~~:

2 (a) *At the request of either party or the court and* for good cause shown. ~~At~~
3 ~~pretrial release hearing so continued must be placed on the next regularly~~
4 ~~scheduled calendar of the court.~~

5 (b) *Upon stipulation of the parties. The court shall schedule a hearing*
6 *continued pursuant to this paragraph for the date specified by stipulation.*

7 3. A stipulation made pursuant to subsection 2 may be:

8 (a) *An oral stipulation; or*

9 (b) *A written stipulation communicated by mail, by electronic mail, via the*
10 *Internet or by other electronic means.*

11 ~~[2.]~~ 4. *The prosecuting attorney, the defendant and the defendant's*
12 *attorney may appear at a pretrial release hearing by means of remote*
13 *communication. An appearance by means of remote communication must be*
14 *treated in the same manner as an appearance in person.*

15 5. *A magistrate who presides over a pretrial release hearing may do so by*
16 *means of remote communication.*

17 6. As used in this section [“remote”]:

18 (a) *“Magistrate” means a judicial officer who presides over a pretrial release*
19 *hearing.*

20 (b) *“Remote” communication* means communication through telephone or
21 videoconferencing.

22 **Sec. 1.5.** NRS 178.4851 is hereby amended to read as follows:

23 178.4851 1. Except as otherwise provided in subsection 4, the court shall
24 only impose bail or a condition of release, or both, on a person as it deems to be the
25 least restrictive means necessary to protect the safety of the community or to ensure
26 that the person will appear at all times and places ordered by the court, with regard
27 to the factors set forth in NRS 178.4853 and 178.498. Such conditions of release
28 may include, without limitation:

29 (a) Requiring the person to remain in this State or a certain county within this
30 State;

31 (b) Prohibiting the person from contacting or attempting to contact a specific
32 person or from causing or attempting to cause another person to contact that person
33 on the person's behalf;

34 (c) Prohibiting the person from entering a certain geographic area;

35 (d) Prohibiting the person from possessing a firearm during the pendency of
36 the case; or

37 (e) Prohibiting the person from engaging in specific conduct that may be
38 harmful to the person's own health, safety, or welfare, or the health, safety, or
39 welfare of another person.

40 2. A prosecuting attorney may request that a court impose bail or a condition
41 of release, or both, on a person. If the request includes the imposition of bail, the
42 prosecuting attorney must prove by clear and convincing evidence that the
43 imposition of bail is necessary to protect the safety of the community or to ensure
44 that the person will appear at all times and places ordered by the court, with regard
45 to the factors set forth in NRS 178.4853 and 178.498.

46 3. If a court imposes bail or any condition of release, or both, other than
47 release on recognizance with no other conditions of release, the court shall make
48 findings of fact for such a determination and state its reasoning on the record, and,
49 if the determination includes the imposition of a condition of release, the findings
50 of fact must include why the condition of release constitutes the least restrictive
51 means necessary to protect the safety of the community or to ensure that the person
52 will appear at the times and places ordered by the court.

1 4. A person arrested for murder of the first degree may be admitted to bail
2 unless the proof is evident or the presumption great by any competent court or
3 magistrate authorized by law to do so in the exercise of discretion, giving due
4 weight to the evidence and to the nature and circumstances of the offense.

5 5. The person must sign a document before the person's release stating that:

6 (a) The person will appear at all times and places as ordered by the court
7 releasing the person and as ordered by any court before which the charge is
8 subsequently heard;

9 (b) The person will comply with the other conditions which have been imposed
10 by the court and are stated in the document;

11 (c) If the person fails to appear when so ordered and is taken into custody
12 outside of this State, the person waives all rights relating to extradition proceedings;
13 and

14 (d) The person understands that any court of competent jurisdiction may
15 revoke the order of release without bail and may order the person into custody or
16 require the person to furnish bail or otherwise ensure the protection of the safety of
17 the community or the person's appearance, if applicable.

18 6. The document signed pursuant to subsection 5 must be filed with the clerk
19 of the court of competent jurisdiction and becomes effective upon the signature of
20 the person to be released.

21 7. If a person fails to comply with a condition of release imposed pursuant to
22 this section, the court may, after providing the person with reasonable notice and an
23 opportunity for a hearing:

24 (a) Deem such conduct a contempt pursuant to NRS 22.010;

25 (b) *Impose such additional conditions of release as the court deems*
26 *necessary to protect the safety of the community or to ensure the person will*
27 *appear at the times and places ordered by the court;*

28 (c) Increase the amount of bail pursuant to NRS 178.499, if applicable; or

29 ~~(d)~~ (d) Revoke bail and remand the person into custody.

30 8. If a person fails to appear as ordered by the court and a jurisdiction incurs
31 any costs in returning a person to the jurisdiction to stand trial, the person failing to
32 appear is responsible for paying those costs as restitution.

33 9. An order issued pursuant to this section that imposes a condition on a
34 person must include a provision ordering a law enforcement officer to arrest the
35 person if the law enforcement officer has probable cause to believe that the person
36 has violated a condition of release.

37 10. Nothing in this section shall be construed to require a court to receive the
38 request of a prosecuting attorney before imposing a condition of release.

39 **Sec. 1.7. NRS 4.370 is hereby amended to read as follows:**

40 4.370 1. Except as otherwise provided in subsection 2, justice courts have
41 jurisdiction of the following civil actions and proceedings and no others except as
42 otherwise provided by specific statute:

43 (a) In actions arising on contract for the recovery of money only, if the sum
44 claimed, exclusive of interest, does not exceed \$15,000.

45 (b) In actions for damages for injury to the person, or for taking, detaining or
46 injuring personal property, or for injury to real property where no issue is raised by
47 the verified answer of the defendant involving the title to or boundaries of the real
48 property, if the damage claimed does not exceed \$15,000.

49 (c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty
50 or forfeiture not exceeding \$15,000, given by statute or the ordinance of a county,
51 city or town, where no issue is raised by the answer involving the legality of any
52 tax, impost, assessment, toll or municipal fine.

1 (d) In actions upon bonds or undertakings conditioned for the payment of
2 money, if the sum claimed does not exceed \$15,000, though the penalty may
3 exceed that sum. Bail bonds and other undertakings posted in criminal matters may
4 be forfeited regardless of amount.

5 (e) In actions to recover the possession of personal property, if the value of the
6 property does not exceed \$15,000.

7 (f) To take and enter judgment on the confession of a defendant, when the
8 amount confessed, exclusive of interest, does not exceed \$15,000.

9 (g) Of actions for the possession of lands and tenements where the relation of
10 landlord and tenant exists, when damages claimed do not exceed \$15,000 or when
11 no damages are claimed.

12 (h) Of actions when the possession of lands and tenements has been unlawfully
13 or fraudulently obtained or withheld, when damages claimed do not exceed \$15,000
14 or when no damages are claimed.

15 (i) Of suits for the collection of taxes, where the amount of the tax sued for
16 does not exceed \$15,000.

17 (j) Of actions for the enforcement of mechanics' liens, where the amount of the
18 lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

19 (k) Of actions for the enforcement of liens of owners of facilities for storage,
20 where the amount of the lien sought to be enforced, exclusive of interest, does not
21 exceed \$15,000.

22 (l) In actions for a civil penalty imposed for a violation of NRS 484D.680.

23 (m) Except as otherwise provided in this paragraph, in any action for the
24 issuance of a temporary or extended order for protection against domestic violence
25 pursuant to NRS 33.020. A justice court does not have jurisdiction in an action for
26 the issuance of a temporary or extended order for protection against domestic
27 violence:

28 (1) In a county whose population is 100,000 or more and less than
29 700,000;

30 (2) In any township whose population is 100,000 or more located within a
31 county whose population is 700,000 or more;

32 (3) If a district court issues a written order to the justice court requiring that
33 further proceedings relating to the action for the issuance of the order for protection
34 be conducted before the district court; or

35 (4) Where the adverse party against whom the order is sought is under 18
36 years of age.

37 (n) Except as otherwise provided in this paragraph, in any action for the
38 issuance of an emergency or extended order for protection against high-risk
39 behavior pursuant to NRS 33.570 or 33.580. A justice court does not have
40 jurisdiction in an action for the issuance of an emergency or extended order for
41 protection against high-risk behavior:

42 (1) In a county whose population is 100,000 or more but less than 700,000;

43 (2) In any township whose population is 100,000 or more located within a
44 county whose population is 700,000 or more;

45 (3) If a district court issues a written order to the justice court requiring that
46 further proceedings relating to the action for the issuance of the order for protection
47 be conducted before the district court; or

48 (4) Where the adverse party against whom the order is sought is under 18
49 years of age.

50 (o) In an action for the issuance of a temporary or extended order for protection
51 against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive,
52 where the adverse party against whom the order is sought is 18 years of age or
53 older.

1 (p) In small claims actions under the provisions of chapter 73 of NRS.

2 (q) In actions to contest the validity of liens on mobile homes or manufactured
3 homes.

4 (r) In any action pursuant to NRS 200.591 for the issuance of a protective order
5 against a person alleged to be committing the crime of stalking, aggravated stalking
6 or harassment where the adverse party against whom the order is sought is 18 years
7 of age or older.

8 (s) In any action pursuant to NRS 200.378 for the issuance of a protective
9 order against a person alleged to have committed the crime of sexual assault where
10 the adverse party against whom the order is sought is 18 years of age or older.

11 (t) In actions transferred from the district court pursuant to NRS 3.221.

12 (u) In any action for the issuance of a temporary or extended order pursuant to
13 NRS 33.400.

14 (v) In any action seeking an order pursuant to NRS 441A.195.

15 (w) In any action to determine whether a person has committed a civil
16 infraction punishable pursuant to NRS 484A.703 to 484A.705, inclusive.

17 2. The jurisdiction conferred by this section does not extend to civil actions,
18 other than for forcible entry or detainer, in which the title of real property or mining
19 claims or questions affecting the boundaries of land are involved.

20 3. Justice courts have jurisdiction of all misdemeanors and no other criminal
21 offenses except as otherwise provided by specific statute. Upon approval of the
22 district court, a justice court may transfer original jurisdiction of a misdemeanor to
23 the district court for the purpose of assigning an offender to a program established
24 pursuant to NRS 176A.250 or, if the justice court has not established a program
25 pursuant to NRS 176A.280, to a program established pursuant to that section.

26 4. Except as otherwise provided in subsections 5, 6 and 7, in criminal cases
27 the jurisdiction of justices of the peace extends to the limits of their respective
28 counties.

29 5. A justice of the peace may conduct a pretrial release hearing ~~[for]~~ :

30 (a) For a person located outside of the township of the justice of the peace.

31 (b) Pursuant to an interlocal agreement, in a municipal court.

32 6. In the case of any arrest made by a member of the Nevada Highway Patrol,
33 the jurisdiction of the justices of the peace extends to the limits of their respective
34 counties and to the limits of all counties which have common boundaries with their
35 respective counties.

36 7. Each justice court has jurisdiction of any violation of a regulation
37 governing vehicular traffic on an airport within the township in which the court is
38 established.

39 **Sec. 1.9. NRS 5.050 is hereby amended to read as follows:**

40 5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

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

42 (b) To determine whether a person has committed a civil infraction punishable
43 pursuant to NRS 484A.703 to 484A.705, inclusive.

44 (c) To prevent or abate a nuisance within the limits of their respective cities.

45 2. Except as otherwise provided in subsection 2 of NRS 173.115, the
46 municipal courts have jurisdiction of all misdemeanors committed in violation of
47 the ordinances of their respective cities. Upon approval of the district court, a
48 municipal court may transfer original jurisdiction of a misdemeanor to the district
49 court for the purpose of assigning an offender to a program established pursuant to
50 NRS 176A.250 or, if the municipal court has not established a program pursuant to
51 NRS 176A.280, to a program established pursuant to that section.

52 3. The municipal courts have jurisdiction of:

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

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

5 (c) Actions for the breach of any bond given by any officer or person to or for
6 the use or benefit of the city, and of any action for damages to which the city is a
7 party, and upon all forfeited recognizances given to or for the use or benefit of the
8 city, and upon all bonds given on appeals from the municipal court in any of the
9 cases named in this section, when the principal sum claimed does not exceed
10 \$2,500.

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

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

16 (f) Actions seeking an order pursuant to NRS 441A.195.

17 4. Nothing contained in subsection 3 gives the municipal court jurisdiction to
18 determine any such cause when it appears from the pleadings that the validity of
19 any tax, assessment or levy, or title to real property, is necessarily an issue in the
20 cause, in which case the court shall certify the cause to the district court in like
21 manner and with the same effect as provided by law for certification of causes by
22 justice courts.

23 5. The municipal courts may hold a jury trial for any matter:

24 (a) Within the jurisdiction of the municipal court; and

25 (b) Required by the United States Constitution, the Nevada Constitution or
26 statute.

27 6. A municipal judge may, pursuant to an interlocal agreement, conduct a
28 pretrial release hearing in a justice court.

29 **Sec. 2.** This act becomes effective on July 1, 2023.