

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.

~

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:

1 In general, existing law requires a court to hold a pretrial release hearing to
2 determine the custody status of a person within 48 hours after the person has been
3 taken into custody. However, existing law authorizes a court to continue such a
4 pretrial release hearing if good cause is shown by a party. (NRS 178.4849) **Section**
5 **1.2** of this bill instead authorizes the court to continue a pretrial release hearing: (1)
6 at the request of either party or the court and for good cause shown; or (2) upon
7 stipulation of the parties. **Section 1.2** also: (1) prescribes certain requirements
8 relating to the scheduling of a pretrial release hearing continued by the court; (2)
9 authorizes the prosecuting attorney, the defendant and the defendant’s attorney to
10 appear at a pretrial release hearing by any means of remote communication; and (3)
11 authorizes a magistrate who presides over a pretrial release hearing to do so by
12 means of remote communication.

13 **Section 1** of this bill authorizes a district attorney and any attorney employed
14 by a district attorney to prosecute a person in a county other than the county by
15 which the district attorney is employed for the limited purpose of conducting a
16 pretrial release hearing. **Section 1** also provides that a public defender and the State
17 Public Defender may, pursuant to an interlocal agreement, authorize the public
18 defender, State Public Defender or any other attorney employed by the public
19 defender or State Public Defender to provide for the representation of a defendant
20 in a pretrial release hearing in any county. Finally, **section 1** authorizes: (1) a



21 district attorney, assistant district attorney, deputy district attorney or other attorney
22 employed by a district attorney to receive a stipend for being available on a
23 weekend or holiday to serve as the prosecuting attorney in a pretrial release hearing
24 or for serving as the prosecuting attorney in any such pretrial release hearing
25 conducted on a weekend or holiday; and (2) a public defender, the State Public
26 Defender or any other attorney employed by the public defender or State Public
27 Defender to receive a stipend for being available on a weekend or holiday to
28 represent a defendant in a pretrial release hearing or for representing a defendant in
29 any such pretrial release hearing conducted on a weekend or holiday.

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

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

38 Existing law provides that a court may only impose bail or a condition of
39 release, or both, on a person if the imposition is the least restrictive means
40 necessary to protect the safety of the community or to ensure the appearance of the
41 person in court. Under existing law, if a person fails to comply with a condition of
42 release imposed by the court, the court may, after providing the person with notice
43 and an opportunity for a hearing: (1) deem such conduct contempt; (2) increase the
44 amount of bail; or (3) revoke bail and remand the person into custody. (NRS
45 178.4851) **Section 1.5** of this bill authorizes the court to impose on a person who
46 fails to comply with a condition of release such additional conditions of release as
47 the court deems necessary to protect the safety of the community or to ensure the
48 person will 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
2 thereto a new section to read as follows:

3 *Notwithstanding any other provision of law:*

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

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

16 *(b) Receive a stipend for being available on a weekend or*
17 *holiday to serve as the prosecuting attorney in a pretrial release*



1 *hearing required by NRS 178.4849 or for serving as the*
2 *prosecuting attorney in any such pretrial release hearing*
3 *conducted on a weekend or holiday.*

4 2. A public defender and the State Public Defender may,
5 pursuant to an interlocal agreement, authorize the public
6 defender, State Public Defender or any other attorney employed by
7 the public defender or State Public Defender to provide for the
8 representation of a defendant in a pretrial release hearing
9 required by NRS 178.4849 in any county.

10 3. A public defender, the State Public Defender or any other
11 attorney employed by the public defender or State Public Defender
12 may receive a stipend for being available on a weekend or holiday
13 to represent a defendant in a pretrial release hearing required by
14 NRS 178.4849 or for representing a defendant in any such pretrial
15 release hearing conducted on a weekend or holiday.

16 **Sec. 1.2.** NRS 178.4849 is hereby amended to read as follows:

17 178.4849 1. Except as otherwise provided in ~~[this section]~~
18 *subsection 2* and NRS 178.484 and 178.4847, a court shall, within
19 48 hours after a person has been taken into custody, hold a pretrial
20 release hearing, in open court or by means of remote
21 communication, to determine the custody status of the person.

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

24 (a) *At the request of either party or the court and* for good
25 cause shown.

26 ~~[2.]~~ (b) *Upon stipulation of the parties. The court shall*
27 *schedule a hearing continued pursuant to this paragraph for the*
28 *date specified by stipulation.*

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

30 (a) An oral stipulation; or

31 (b) A written stipulation communicated by mail, by electronic
32 mail, via the Internet or by other electronic means.

33 4. *The prosecuting attorney, the defendant and the*
34 *defendant's attorney may appear at a pretrial release hearing by*
35 *means of remote communication. An appearance by means of*
36 *remote communication must be treated in the same manner as an*
37 *appearance in person.*

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

40 6. As used in this section ~~[, "remote"]~~ :

41 (a) *"Magistrate" means a judicial officer who presides over a*
42 *pretrial release hearing.*

43 (b) *"Remote communication"* means communication through
44 telephone or videoconferencing.



1 **Sec. 1.5.** NRS 178.4851 is hereby amended to read as follows:
2 178.4851 1. Except as otherwise provided in subsection 4,
3 the court shall only impose bail or a condition of release, or both, on
4 a person as it deems to be the least restrictive means necessary to
5 protect the safety of the community or to ensure that the person will
6 appear at all times and places ordered by the court, with regard to
7 the factors set forth in NRS 178.4853 and 178.498. Such conditions
8 of release may include, without limitation:

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

11 (b) Prohibiting the person from contacting or attempting to
12 contact a specific person or from causing or attempting to cause
13 another person to contact that person on the person's behalf;

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

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

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

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

28 3. If a court imposes bail or any condition of release, or both,
29 other than release on recognizance with no other conditions of
30 release, the court shall make findings of fact for such a
31 determination and state its reasoning on the record, and, if the
32 determination includes the imposition of a condition of release, the
33 findings of fact must include why the condition of release
34 constitutes the least restrictive means necessary to protect the safety
35 of the community or to ensure that the person will appear at the
36 times and places ordered by the court.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

20 (f) To take and enter judgment on the confession of a defendant,
21 when the amount confessed, exclusive of interest, does not exceed
22 \$15,000.

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

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

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

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

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

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

40 (m) Except as otherwise provided in this paragraph, in any
41 action for the issuance of a temporary or extended order for
42 protection against domestic violence pursuant to NRS 33.020. A
43 justice court does not have jurisdiction in an action for the issuance
44 of a temporary or extended order for protection against domestic
45 violence:



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

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

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

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

11 (n) Except as otherwise provided in this paragraph, in any action
12 for the issuance of an emergency or extended order for protection
13 against high-risk behavior pursuant to NRS 33.570 or 33.580. A
14 justice court does not have jurisdiction in an action for the issuance
15 of an emergency or extended order for protection against high-risk
16 behavior:

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

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

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

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

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

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

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

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

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

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



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

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

4 (w) In any action to determine whether a person has committed
5 a civil infraction punishable pursuant to NRS 484A.703 to
6 484A.705, inclusive.

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

11 3. Justice courts have jurisdiction of all misdemeanors and no
12 other criminal offenses except as otherwise provided by specific
13 statute. Upon approval of the district court, a justice court may
14 transfer original jurisdiction of a misdemeanor to the district court
15 for the purpose of assigning an offender to a program established
16 pursuant to NRS 176A.250 or, if the justice court has not
17 established a program pursuant to NRS 176A.280, to a program
18 established pursuant to that section.

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

22 5. A justice of the peace may conduct a pretrial release hearing

23 ~~For~~ :

24 (a) *For* a person located outside of the township of the justice of
25 the peace.

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

27 6. In the case of any arrest made by a member of the Nevada
28 Highway Patrol, the jurisdiction of the justices of the peace extends
29 to the limits of their respective counties and to the limits of all
30 counties which have common boundaries with their respective
31 counties.

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

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

36 5.050 1. Municipal courts have jurisdiction of civil actions or
37 proceedings:

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

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

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

44 2. Except as otherwise provided in subsection 2 of NRS
45 173.115, the municipal courts have jurisdiction of all misdemeanors



1 committed in violation of the ordinances of their respective cities.
2 Upon approval of the district court, a municipal court may transfer
3 original jurisdiction of a misdemeanor to the district court for the
4 purpose of assigning an offender to a program established pursuant
5 to NRS 176A.250 or, if the municipal court has not established a
6 program pursuant to NRS 176A.280, to a program established
7 pursuant to that section.

8 3. The municipal courts have jurisdiction of:

9 (a) Any action for the collection of taxes or assessments levied
10 for city purposes, when the principal sum thereof does not exceed
11 \$2,500.

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

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

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

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

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

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

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

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

37 (b) Required by the United States Constitution, the Nevada
38 Constitution or statute.

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

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

