

SENATE BILL NO. 20—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 6, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal procedure. (BDR 14-476)

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 governing the waiver of the right of a defendant to have a preliminary examination; revising requirements relating to certain proceedings in justice court; requiring the joinder of certain misdemeanors with certain felonies or gross misdemeanors; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) grants a defendant who is charged with an offense that is not triable in the Justice Court the right to have a preliminary examination; and (2) authorizes the defendant to waive the preliminary examination. (NRS 171.196) **Section 1** of this bill provides that if a defendant waives preliminary examination, the matter must not be returned to the justice court if: (1) the magistrate advises the defendant in open court on the record that the waiver is unconditional; or (2) the defendant affirms in writing that the waiver is unconditional.

Existing law authorizes a magistrate, when presiding over a preliminary hearing in justice court, in any case other than a case in which the death penalty is sought, to choose whether to employ a certified court reporter or appoint a person to use sound recording equipment to record certain testimony and the proceedings of the court. (NRS 171.198) **Section 2** of this bill eliminates language prohibiting a magistrate from appointing a person to use sound recording equipment in a case in which the death penalty is sought. **Section 2** thereby authorizes a magistrate, when presiding over any preliminary hearing in justice court, to choose whether to employ a certified court reporter or appoint a person to use sound recording equipment to record certain testimony and proceedings of the court.

Existing law requires certain proceedings in a justice court to be recorded by the use of sound recording equipment. (NRS 4.390) Existing law also specifies that



20 if a case is tried by jury in a justice court, a certified court reporter must be present
21 and report on the trial under certain circumstances. (NRS 175.011) **Section 4** of this
22 bill eliminates this requirement, thereby authorizing a justice court to record a
23 proceeding before a jury using sound recording equipment under certain
24 circumstances.

25 Existing law provides that certain misdemeanors must be joined with related
26 felonies or gross misdemeanors in the district courts. (NRS 173.115) **Section 3** of
27 this bill expands this requirement by providing that a misdemeanor must be joined
28 with a related felony or gross misdemeanor in the district courts unless: (1) the
29 misdemeanor is based solely upon an alleged violation of municipal code; or (2) an
30 indictment is brought or information is filed in the district court for a felony or
31 gross misdemeanor or both after the convening of a grand jury. **Section 3** also: (1)
32 requires a magistrate to hold a defendant to answer in district court for a
33 misdemeanor charge contained in the same criminal complaint as a related felony
34 or gross misdemeanor under certain circumstances; and (2) makes various other
35 changes relating to misdemeanors which must be joined with a related felony or
36 gross misdemeanor in district court. **Section 5** of this bill makes a conforming
37 change to reflect the exception to the jurisdiction of municipal courts created by
38 **section 3**.

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

1 **Section 1.** NRS 171.196 is hereby amended to read as follows:

2 171.196 1. If an offense is not triable in the Justice Court, the
3 defendant must not be called upon to plead. If the defendant waives
4 preliminary examination, the magistrate shall immediately hold the
5 defendant to answer in the district court. *If the defendant is advised*
6 *by the magistrate in open court on the record that the waiver is*
7 *unconditional or the defendant affirms in a written waiver that the*
8 *waiver is unconditional, the matter must not be returned to the*
9 *Justice Court and all further proceedings are in the exclusive*
10 *jurisdiction of the district court.*

11 2. If the defendant does not waive examination, the magistrate
12 shall hear the evidence within 15 days, unless for good cause shown
13 the magistrate extends such time. Unless the defendant waives
14 counsel, reasonable time must be allowed for counsel to appear.

15 3. Except as otherwise provided in this subsection, if the
16 magistrate postpones the examination at the request of a party, the
17 magistrate may order that party to pay all or part of the costs and
18 fees expended to have a witness attend the examination. The
19 magistrate shall not require a party who requested the postponement
20 of the examination to pay for the costs and fees of a witness if:

21 (a) It was not reasonably necessary for the witness to attend the
22 examination; or

23 (b) The magistrate ordered the extension pursuant to
24 subsection 4.



1 4. If application is made for the appointment of counsel for an
2 indigent defendant, the magistrate shall postpone the examination
3 until:

4 (a) The application has been granted or denied; and

5 (b) If the application is granted, the attorney appointed or the
6 public defender has had reasonable time to appear.

7 5. The defendant may cross-examine witnesses against him or
8 her and may introduce evidence in his or her own behalf.

9 6. Hearsay evidence consisting of a statement made by the
10 alleged victim of the offense is admissible at a preliminary
11 examination conducted pursuant to this section only if the defendant
12 is charged with one or more of the following offenses:

13 (a) A sexual offense committed against a child who is under the
14 age of 16 years if the offense is punishable as a felony. As used in
15 this paragraph, "sexual offense" has the meaning ascribed to it in
16 NRS 179D.097.

17 (b) Abuse of a child pursuant to NRS 200.508 if the offense is
18 committed against a child who is under the age of 16 years and the
19 offense is punishable as a felony.

20 (c) An act which constitutes domestic violence pursuant to NRS
21 33.018, which is punishable as a felony and which resulted in
22 substantial bodily harm to the alleged victim.

23 **Sec. 2.** NRS 171.198 is hereby amended to read as follows:

24 171.198 1. Except as otherwise provided in subsection 2, a
25 magistrate shall employ a certified court reporter to take down all
26 the testimony and the proceedings on the hearing or examination
27 and, within such time as the court may designate, have such
28 testimony and proceedings transcribed into typewritten transcript.

29 2. A magistrate who presides over a preliminary hearing in a
30 justice court ~~[, in any case other than in a case in which the death~~
31 ~~penalty is sought,]~~ may employ a certified court reporter to take
32 down all the testimony and the proceedings on the hearing or
33 appoint a person to use sound recording equipment to record all the
34 testimony and the proceedings on the hearing. If the magistrate
35 appoints a person to use sound recording equipment to record the
36 testimony and proceedings on the hearing, the testimony and
37 proceedings must be recorded and transcribed in the same manner as
38 set forth in NRS 4.390 to 4.420, inclusive. Any transcript of the
39 testimony and proceedings produced from a recording conducted
40 pursuant to this subsection is subject to the provisions of this section
41 in the same manner as a transcript produced by a certified court
42 reporter.

43 3. When the testimony of each witness is all taken and
44 transcribed by the reporter, the reporter shall certify to the transcript
45 in the same manner as for a transcript of testimony in the district



1 court, which certificate authenticates the transcript for all purposes
2 of this title.

3 4. Before the date set for trial, either party may move the court
4 before which the case is pending to add to, delete from or otherwise
5 correct the transcript to conform with the testimony as given and to
6 settle the transcript so altered.

7 5. The compensation for the services of a reporter employed as
8 provided in this section are the same as provided in NRS 3.370, to
9 be paid out of the county treasury as other claims against the county
10 are allowed and paid.

11 6. Testimony reduced to writing and authenticated according to
12 the provisions of this section must be filed by the examining
13 magistrate with the clerk of the district court of the magistrate's
14 county, and if the prisoner is subsequently examined upon a writ of
15 habeas corpus, such testimony must be considered as given before
16 such judge or court. A copy of the transcript must be furnished to
17 the defendant and to the district attorney.

18 7. The testimony so taken may be used:

19 (a) By the defendant; or

20 (b) By the State if the defendant was represented by counsel or
21 affirmatively waived his or her right to counsel,

22 ↪ upon the trial of the cause, and in all proceedings therein, when
23 the witness is sick, out of the State, dead, or persistent in refusing to
24 testify despite an order of the judge to do so, or when the witness's
25 personal attendance cannot be had in court.

26 **Sec. 3.** NRS 173.115 is hereby amended to read as follows:

27 173.115 1. Two or more offenses may be charged in the same
28 indictment or information in a separate count for each offense if the
29 offenses charged, whether felonies or gross misdemeanors or both,
30 are:

31 (a) Based on the same act or transaction; or

32 (b) Based on two or more acts or transactions connected
33 together or constituting parts of a common scheme or plan.

34 2. Except as otherwise provided in subsection ~~3~~ 4:

35 (a) A misdemeanor which was committed within the boundaries
36 of a city and which would otherwise be within the jurisdiction of the
37 municipal court must be charged in the same criminal complaint as a
38 felony or gross misdemeanor or both if the misdemeanor is based on
39 the same act or transaction as the felony or gross misdemeanor. A
40 charge of a misdemeanor which meets the requirements of this
41 subsection and which is erroneously included in a criminal
42 complaint that is filed in the municipal court shall be deemed to be
43 void ab initio and must be stricken.

44 (b) A battery which constitutes domestic violence that is
45 punishable as a misdemeanor pursuant to NRS 200.485 must be



1 charged in the same indictment or information in district court as a
2 felony or gross misdemeanor or both if the battery is based on the
3 same act or transaction as the felony or gross misdemeanor.

4 3. *A misdemeanor:*

5 (a) *Must be charged in the same indictment or information as*
6 *a felony or gross misdemeanor or both, if the misdemeanor:*

7 (1) *Meets the requirements of paragraph (a) or (b) of*
8 *subsection 2; or*

9 (2) *Was based on the same:*

10 (I) *Act or transaction as the felony or gross*
11 *misdemeanor or both; or*

12 (II) *Two or more acts or transactions connected together*
13 *or constituting part of a common scheme or plan as the felony or*
14 *gross misdemeanor or both.*

15 (b) *That meets the requirements of paragraph (a) and which is*
16 *erroneously included in a criminal complaint that is filed in the*
17 *municipal court shall be deemed to be void ab initio and must be*
18 *stricken.*

19 4. The provisions of ~~[subsection]~~ *subsections 2 and 3* do not
20 apply:

21 (a) To a misdemeanor based solely upon an alleged violation of
22 a municipal ordinance.

23 (b) If an indictment is brought or an information is filed in the
24 district court for a felony or gross misdemeanor or both after the
25 convening of a grand jury.

26 5. *A magistrate shall hold a defendant to answer in district*
27 *court for a misdemeanor that is charged pursuant to this section*
28 *in the same criminal complaint as a felony or gross misdemeanor*
29 *or both, if:*

30 (a) *The defendant waives preliminary examination; or*

31 (b) *The magistrate, following a preliminary examination:*

32 (1) *Holds the defendant to answer in district court pursuant*
33 *to NRS 171.206 for a felony or a gross misdemeanor charge*
34 *contained in the criminal complaint; and*

35 (2) *Finds there is probable cause to believe that the*
36 *misdemeanor has been committed and that the defendant has*
37 *committed it.*

38 6. *The district court shall dispose of a misdemeanor charged*
39 *pursuant to this section in the same indictment or information as a*
40 *felony or gross misdemeanor or both.*

41 **Sec. 4.** NRS 175.011 is hereby amended to read as follows:

42 175.011 1. Cases required to be tried by jury must be so tried
43 unless the defendant waives a jury trial in writing with the approval
44 of the court and the consent of the prosecuting attorney. A defendant



1 who pleads not guilty to the charge of a capital offense must be tried
2 by jury.

3 2. Except as otherwise provided in subsection 1, in a justice
4 court, a case must be tried by jury only if the defendant so demands
5 in writing not less than 30 days before trial. ~~Except as otherwise
6 provided in NRS 4.390 and 4.400, if a case is tried by jury, a
7 reporter must be present who is a certified court reporter and shall
8 report the trial.]~~

9 *3. Any proceeding before a jury in justice court may be
10 recorded using sound recording equipment in accordance with
11 NRS 4.390 and 4.400.*

12 **Sec. 5.** NRS 5.050 is hereby amended to read as follows:

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

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

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

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

21 2. Except as otherwise provided in ~~subsection~~ *subsections 2*
22 *and 3* of NRS 173.115, the municipal courts have jurisdiction of all
23 misdemeanors committed in violation of the ordinances of their
24 respective cities. A municipal court may, upon approval of the
25 district court, transfer original jurisdiction of a misdemeanor to the
26 district court for the purpose of assigning an offender to a program
27 established:

28 (a) By the district court pursuant to:

29 (1) NRS 176A.250, if the municipal court:

30 (I) Has not established its own program pursuant to that
31 section; or

32 (II) Determines that the transfer is appropriate and
33 necessary; or

34 (2) NRS 176A.280, if the municipal court has not established
35 its own program pursuant to that section; or

36 (b) Pursuant to NRS 433A.335, if the offender is eligible to
37 receive assisted outpatient treatment pursuant to that section.

38 3. The municipal courts have jurisdiction of:

39 (a) Any action for the collection of taxes or assessments levied
40 for city purposes, when the principal sum thereof does not exceed
41 \$2,500.

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



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

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

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

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

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

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

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

23 (b) Required by the United States Constitution, the Nevada
24 Constitution or statute.

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

27 **Sec. 6.** This act becomes effective on July 1, 2025.



