

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEREK JOHNSTON

PETITIONER

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Dec 22 2021 1:27 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE MARY
KAY HOLTHUS, DISTRICT COURT JUDGE,

Respondent

Docket No.

Petition for Writ of Mandamus
Eighth Judicial District Court
The Honorable Mary Kay Holthus
District Court No. C-21-354689-1

APPENDIX VOL 2

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DEPARTMENT NO. 15

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

PLAINTIFF,

VS.

CASE NO. 20-CR-030809

21-CR-021016

DEREK GREG JOHNSTON,

CERTIFIED COPY

DEFENDANT.

REPORTER'S TRANSCRIPT

OF

PROCEEDINGS

BEFORE THE HONORABLE MELISA DE LA GARZA

JUSTICE OF THE PEACE

TUESDAY, NOVEMBER 16, 2021

AT 7:30 A.M.

APPEARANCES:

For the State:

HAGAR TRIPPIEDI, ESQ.

Chief Deputy District Attorney

For the Defendant:

AUGUSTUS T. CLAUS, ESQ.

Reported by: Loree Murray, CCR #426

1 LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 16, 2021

2 7:30 A.M.

3
4 * * * * *

5 THE COURT: State of Nevada versus
6 Derek Johnston. This is 20-CR-030809 and 21-CR-021016.

7 Mr. Johnston, did you let Mr. Claus know that
8 you're back in custody?

9 THE DEFENDANT: He does know, yes.

10 THE COURT: And he's going to be here this
11 morning?

12 THE DEFENDANT: He's supposed to be here this
13 morning, yes, your Honor.

14 THE COURT: I will trail it for him.

15 (Break in the proceedings.)

16 THE COURT: All right. We still have
17 Derek Johnston. We're still waiting for Mr. Claus, so
18 we'll bring you back at 9:00, unless he shows up in the
19 next minute.

20 (Break in the proceedings.)

21 THE COURT: State of Nevada versus
22 Derek Johnston, 20-CR-030809 and 21-CR-021016.

23 Mr. Claus is here on his behalf.

24 Mr. Claus?

25 MR. CLAUS: We have a violation report, your

1 Honor. I also have cell phone records showing my
2 client checking in three times a day almost every day.
3 I think there's one day that was the exception.
4 October 18th, three times; October 19th, three times.

5 THE COURT: I don't doubt he's calling the
6 officer. The officer admits he calls the officer, but
7 he doesn't pick the phone up when the officer calls
8 him.

9 MR. CLAUS: Respectfully, your Honor.

10 THE COURT: Do you have cell phone records
11 for me that show him picking up the phone when he
12 receives the calls?

13 MR. CLAUS: Yes, your Honor.

14 THE COURT: All right, sir, I will bring you
15 back at 9:00 o'clock. Mr. Claus is gonna give me these
16 cell phone records, and I'm gonna look at them, okay?

17 MR. CLAUS: I will have get them emailed to
18 you, your Honor. I don't have a hard copy with me.

19 THE COURT: You know Kiara's email?

20 MR. CLAUS: Yes, Judge.

21 THE COURT: Email them to the State also.

22 (Break in the proceedings.)

23 THE COURT: All right, let's go back to
24 Mr. Johnston, 20-CR-030809 and 21-CR-021016.

25 Mr. Johnston, let me say this, number one,

1 when you are out of custody awaiting hearings on three
2 separate cases, you should be on your best behavior.
3 Any rules that are imposed upon you, you should be
4 following to a T instead of playing these games that
5 you're playing.

6 I don't like it, and you're getting this
7 close to staying in custody to wait for your hearings,
8 because when these house arrest officers tell you to
9 pick up the phone when they call you, you need to pick
10 up the phone.

11 When you see them coming to your house, you
12 don't just keep driving to your work, which as we've
13 all seen on the video, has all kinds of fencing around,
14 and he has all kinds of time to prep up whatever he
15 needs to prep up before they let him in or lets the
16 officers into that area, and then he goes to call them
17 back.

18 MR. CLAUS: I don't want to belabor the
19 point here, but this is another --

20 THE COURT: Please do belabor the point,
21 Mr. Claus. I'm very curious to know why Mr. Johnston
22 thinks that he is more important and his time is more
23 important and his business is more important than the
24 Court's, than these officers and even yours. I'm just
25 very curious.

1 MR. CLAUS: I don't believe that that's the
2 case, your Honor. I think he will tell the Court, and
3 I've given the Court phone records that will show that
4 he's been, frankly, more in touch with house arrest,
5 with electronic monitoring, than your Honor would
6 reasonably be expecting.

7 These letters that we get from house arrest,
8 they're just -- I don't know if they are just simply
9 inaccurate, or -- from the phone records I have given
10 you from the account that I can show you, when house
11 arrest indicates they had no contact with him or had
12 trouble getting ahold of him on October 20, the phone
13 records show he actually called them three times.

14 On October 26th they had trouble getting
15 ahold of him. The phone records show he called them
16 four times. On October 19th --

17 THE COURT: But Mr. Claus, here's what house
18 arrest is saying. He calls, says, Call me back, and
19 when they call him, he doesn't pick up. So then he
20 waits again at his convenience to call them, and then
21 they call him back and he doesn't pick up.

22 I think what really concerns me is the fact
23 that he thinks he gets to call them at his convenience
24 and he doesn't have to answer the phone when they call
25 him.

1 And on top of that, I will tell you I am
2 very disturbed by the fact that the officer literally
3 says, We're driving to his house because he never calls
4 us back when we call him. He's making eye contact with
5 us as we're passing him. They call him, he doesn't
6 pick up the phone, conveniently, again, and he goes all
7 the way to work.

8 MR. CLAUS: I know --

9 THE COURT: And then guess what happens at
10 work? He goes behind his gate, goes into his bedroom
11 and his living quarters where he has whatever he has
12 there, as we've all seen in the hours of video that I
13 watched.

14 That was probably an exaggeration, but --

15 MR. CLAUS: Close to hours, your Honor.

16 THE COURT: But, you know, where is --

17 MR. CLAUSE: If I might, and I, I, I know --

18 THE COURT: Please do, Mr. Claus, because
19 I'm losing my patience with Mr. Johnston. I'm trying
20 not to lose my patience with you, because I know you
21 are doing your job and you're doing a great job, but
22 sometimes, sometimes an attorney needs to be recognized
23 as an attorney and not as a magician, Mr. Johnston.

24 Mr. Claus is a great attorney. He works
25 very hard for his clients, but he cannot create facts

1 that you are creating. Last time when I was watching
2 the video, I got to hear about how everybody was making
3 you lose thousands of dollars, you're costing me
4 thousands of dollars. Guess who's costing everybody
5 thousands of dollars rights now with their inability to
6 follow the rules?

7 Mr. Claus?

8 MR. CLAUS: I know you are extraordinarily
9 frustrated, your Honor, and as any good jurist, you
10 take a lot of what's told to you at your word, which is
11 why I gave you the phone records that we could obtain
12 from Mr. Johnston's cell phone, and your Honor, what
13 that shows is far from actually getting a missed phone
14 call on the 13th. The only phone call that shows from
15 house arrest and it does show as coming through as an
16 unidentified number, just because on the day of the
17 13th there's no other phone call that shows that's
18 coming through, answered or not, from house arrest, but
19 that being said, your Honor, Mr. Johnston calls house
20 arrest an hour before he gets the phone call from house
21 arrest and answers it at his work.

22 Your Honor, I understand the Court's
23 frustration, but there's, there really is a problem
24 that's brewing here.

25 I'm not asking the Court to reward

1 Mr. Johnston, but, your Honor, the Court, I think I
2 would ask the Court to bear in mind this is not a man
3 out picking up new charges, this is a man who is at his
4 job Saturday morning and while house arrest does,
5 indeed -- they feel that they believe they made eye
6 contact with him, your Honor, you'll notice he didn't
7 admit that in the report, and he said to them, I didn't
8 see you. They felt he did.

9 Here's the kicker, your Honor, they said
10 they called him. You have the phone records in your
11 hand. No, they didn't. The only time they called him
12 he picked up. The phone records show that, and they
13 show he called them an hour before they called him, so,
14 your Honor, I'm not sure what's going on here.

15 But we have two questions when it comes to
16 putting somebody out on some form of supervised
17 release: Are they gonna come to court, and are they
18 gonna be a danger to the community? But here we have
19 him doing nothing more than being at work, and we have
20 house arrest coming to court saying, We can't get ahold
21 of this individual, and on the four days they called
22 out, we know one thing, Mr. Johnston called them before
23 they called him. We don't show their phone call to him
24 that's not answered. We do show their phone call to
25 him that was answered at his work.

1 And then for the other days they called out
2 and said that they can't get ahold of him, it's
3 verifiably false. He talks to them no less than two,
4 three, and four times on each one of those days.

5 THE COURT: He talks to them?

6 MR. CLAUS: The phone log you have in front
7 of you --

8 THE COURT: The phone log shows him calling?
9 I guess my question is: Is he talking to someone?

10 MR. CLAUS: That's the problem. He asked
11 them for an email address, for a text message.

12 That's the other problem. The report you
13 have in front of you said they texted him to say that
14 this is how this works. No, your Honor, it doesn't,
15 because even before we had this problem, I told him to
16 get a phone number that he can text, do something that
17 we can actually put in writing, and the EMP officers
18 refused to give him a cell phone that he could text
19 with.

20 The most that he can do to remain in contact
21 with EMP is call them, which, your Honor, as you can
22 see, he has done virtually every single day, not once,
23 not twice, but as many as four times a day.

24 THE COURT: Mr. Claus?

25 MR. CLAUS: Every single day that he's been

1 out.

2 Now, your Honor --

3 THE COURT: Here's gonna be my question,
4 okay? What do you think is gonna happen when I put him
5 back out on house arrest?

6 MR. CLAUS: We know what's gonna happen.

7 THE COURT: Exactly.

8 MR. CLAUS: My question, your Honor, I
9 understand there has to be a penalty for the putative
10 violations here. We are gonna talk about them in front
11 of Judge Holthus again, your Honor.

12 My request is simply to increase the amount
13 of his bail, put him on intensive supervision. This is
14 not a reward, but this is literally a person who's not
15 out committing new crimes. He's showing up to all of
16 his court dates.

17 THE COURT: Well, supposedly --

18 MR. CLAUS: And he's working on a Saturday.

19 THE COURT: I'm not sure why the police,
20 and, you know, it's very hard for me to say, because
21 I'm not out on the street, but for some reason I think
22 what they think is happening, and maybe, maybe it's
23 indicated a little bit on the past videos, I think what
24 they think is that he's going to work, he might be
25 working a little bit here and there, but he's living at

1 work, and they think he's doing drugs at work, and
2 that's why they think that he's hiding behind that gate
3 every time they want to contact him.

4 So I don't know, I guess it's a little bit
5 hard to prove that when, in fact, he is behind a gate
6 every time that they go to see him, right? It's hard
7 to catch somebody with drugs or whatever they're trying
8 to catch him with when he sees them and says, Uh-oh,
9 they're gonna see me, I'm here, who knows what I have
10 on me or what I'm doing, but let me get to my work and
11 get behind my gate again.

12 MR. CLAUS: Your Honor, respectfully, if
13 that were the facts, I get their suspicions. Your
14 Honor watched hours of video. They searched his home
15 from stem to stern. They found no drugs, no drug
16 paraphernalia. They searched his house again. This
17 time, no drugs, no drug paraphernalia. This is not a
18 case of reasonable suspicion, this is someone that has
19 made up their mind that they are going to treat him
20 different.

21 This was his concern that he voiced to me
22 when he got out on the EMP. He said, They brought me
23 inside, they treated me differently, they told him a
24 series of things he felt was not told to the other
25 individuals. I said, You know what, you have to comply

1 as best you can.

2 And your Honor, here he is, and with the
3 last report we had demonstrable falsehoods,
4 demonstrable falsehoods, and here we have this report
5 with demonstrable falsehoods. I have the records in
6 front of you where they say, We can't get ahold of him,
7 but we have phone records that say the exact opposite,
8 that he is in contact with them.

9 And they say, We called him before. You
10 don't see that in the phone records, your Honor. What
11 you see one time that they call after he calls in the
12 morning, he answered.

13 So, your Honor, what I agree with you
14 wholeheartedly on is this is probably not going to get
15 fixed by placing him back on EMP.

16 To the extent the Court has concerns about
17 him leaving the jurisdiction, then place him on
18 intensive supervision. Increase --

19 THE COURT: Well, intensive supervision
20 doesn't keep him from leaving the jurisdiction.

21 MR. CLAUS: But it will make sure he returns
22 to the jurisdiction every week.

23 THE COURT: No, it doesn't.

24 MR. CLAUS: Well, your Honor, that's what
25 I'm trying to get at. He has been doing -- he has been

1 staying in town. He has been working, and he's there,
2 and from the house arrest report, your Honor, he's not
3 sleeping at the work anymore. He's got a house.

4 Their gripe is that he's driving to work and
5 he supposedly sees them as he's driving to work. He's
6 driving to work on a Saturday, your Honor. What more
7 can we ask from somebody who's charged with a crime
8 from going to staying at his house and going to work on
9 a Saturday.

10 Granted, your Honor, I think you and I work
11 that hard, but most citizens don't. They take their
12 Saturdays off. They spend it at home. They try and
13 relax a little bit.

14 THE COURT: Well, his work is like his home.
15 He's got his bed, he has his food, he's got his
16 alcohol, I mean --

17 MR. CLAUS: Again --

18 THE COURT: -- let's not fool ourselves, his
19 work isn't my work. When I come to the courthouse, I
20 don't have my bottle of beer and my bed.

21 MR. CLAUS: Unfortunately, your Honor, when
22 I come to my work, I do have a bed.

23 And, your Honor, again, with the alcohol,
24 there was no proof of the last one there was any
25 alcohol, what they found was alcohol bottles where he

1 stores containers with things like acetates and things
2 you use with wraps.

3 We even looked at pictures. There wasn't a
4 single one full or even halfway full or in the process
5 of being drunk. There wasn't any question he had this
6 odor of alcohol coming off him.

7 He has house arrest wanting to treat him
8 differently. The only solution is, you don't want to
9 reward him, your Honor, then at the very least, give
10 him an increased bail, but don't put him back on EMP,
11 put him back on something like intensive supervision.

12 THE COURT: So what does he have, this one
13 that has a jury trial 12/6 and 12/14, and he has
14 another jury trial a week later, right?

15 MR. CLAUS: Yes, your Honor.

16 THE COURT: 12/13 and 12/21, and when is his
17 stuff with Judge Holthus?

18 MR. CLAUS: January, I believe, your Honor,
19 but we're having trouble with -- I don't want to throw
20 the State under the bus here, your Honor, but we
21 haven't gotten complete discovery on the misdemeanor
22 cases set for trial. We asked that from the State.
23 There was a video.

24 THE COURT: What are you waiting for on the
25 misdemeanors?

1 MR. CLAUS: Say again, your Honor?

2 THE COURT: What are you waiting for on the
3 misdemeanors?

4 MR. CLAUS: Court's indulgence for just a
5 moment.

6 MS. TRIPPIEDI: For the one that's on the
7 18th?

8 MR. CLAUS: No. The very first one that's
9 up. We have a trial setting on the 14th. I thought
10 that was the first one coming up.

11 So we're looking for body camera footage,
12 your Honor. We asked for digital photographs, if there
13 is a voluntary statement of Chelsea Sellinger, that
14 hasn't been made available; also, a voluntary statement
15 by Monica Maldonado hasn't been provided. There's also
16 indication there was video from Ms. Maldonado, so we'd
17 ask for that additionally and anything else the State's
18 planning on using.

19 MS. TRIPPIEDI: Who did you ask for it from?

20 MR. CLAUS: This was sent to Ms. Lamanna,
21 who had the previous case.

22 THE COURT: What about the other one that's
23 in 20-CR-030809?

24 MR. CLAUS: Yes, your Honor.

25 THE COURT: And what about in 21-CR-021016?

1 MR. CLAUS: We'll be getting that request
2 out shortly, your Honor, but I don't have that in front
3 of me, and that's a more complicated case. The one
4 with Ms. Maldonado is, frankly, simpler.

5 THE COURT: It doesn't seem like anything is
6 simple with Mr. Johnston.

7 MR. CLAUS: Well, if it was simple, your
8 Honor, he probably wouldn't want to hire me.

9 THE COURT: What are you looking for, State,
10 in terms of his release?

11 MS. TRIPPIEDI: Your Honor, I mean we're
12 also concerned. I'm with you that I feel like he is
13 kind of playing the system, but I am also concerned
14 that he keeps refusing to take these drug tests,
15 because that's part of the release.

16 THE COURT: No, he doesn't refuse, he just
17 says little things that add confusion to the situation
18 instead of -- I mean it's a game. It's a game we're
19 playing. I'm not refusing, I'm just asking you all
20 kinds of questions about it, and then I want you to
21 give me all kinds of answers about it, but I'm not
22 refusing.

23 MS. TRIPPIEDI: Well, it says he couldn't
24 provide it.

25 THE COURT: I feel like I'm dealing with

1 like a little kid here, I really do, who's just trying
2 to get his way, and, I didn't say no, I just ran away,
3 or, I didn't say no, I just ask you stuff like what if
4 this.

5 So State?

6 MS. TRIPPIEDI: I mean I, I, I would ask at
7 this point he's got that trial in here in this case on
8 November 18th.

9 Are you gonna be ready on that date?

10 THE COURT: December?

11 MS. TRIPPIEDI: I have November 18th.

12 THE COURT: No. So one is December 6th and
13 December 14th.

14 MS. TRIPPIEDI: Okay.

15 THE COURT: So it's December 14th and
16 December 21st, and then he's got something in district
17 court in January, so he's got three cases, and for some
18 reason they're targeting him at house arrest and he's
19 being treated differently than everybody else.

20 MR. CLAUS: I'm sorry, your Honor, it's just
21 that if you look at the phone records and you see how
22 many times he's been in contact with them, literally
23 there's only one day in the last 30 days that he wasn't
24 called.

25 MS. TRIPPIEDI: But like the Court said,

1 he's playing games. He's calling them, and then when
2 they respond, he's not picking up the phone, so they
3 are not able to make --

4 MR. CLAUS: Respectfully, that's what they
5 say, and the only evidence you have in front of you of
6 that is phone records saying the exact opposite. And
7 your Honor, it won't be the first, second, or third
8 time that EMP has put a false report in to the Court,
9 something that is demonstrably and provable, provably
10 false. And your Honor, this is, in speaking purely
11 theoretically, this is one of the key problems with the
12 house arrest program.

13 THE COURT: I know.

14 MR. CLAUS: There's no affirmation that
15 these people put into the Court that says under penalty
16 of perjury this is what happened, and your Honor, this
17 is the second time we have this with this individual
18 where we can prove that's not what happened.

19 So we have a problem with EMP. I don't
20 think we are gonna solve it structurally here. We may
21 solve it by going to the Supreme Court with
22 Judge Holthus, your Honor, but we're not gonna solve it
23 here.

24 What we know is there is a problem. What we
25 know is that it's a demonstrable problem, in that for

1 as much as some fault can be laid at the feet of
2 Mr. Johnston, I think --

3 THE COURT: Tell me this, Mr. Claus.

4 MR. CLAUS: Yes, your Honor?

5 THE COURT: Why from 11/6 to 11/13 does it
6 look a certain way?

7 MR. CLAUS: Different billing periods, your
8 Honor.

9 THE COURT: So he just didn't have the bill?

10 MR. CLAUS: We has to get this from his
11 father, so his father was able to access the billing
12 history one way versus another, because apparently we
13 are still in the middle of a billing period, so that's
14 why it looks differently, is my understanding.

15 THE COURT: Okay.

16 MR. CLAUS: But your Honor, we are not gonna
17 solve this problem with EMP today. Increase his bail,
18 put him on --

19 THE COURT: I agree with you.

20 Mr. CLAUS: We're not gonna be able to solve
21 things with EMP today, but I'm trying to figure out
22 what to do with this gentleman.

23 And I sent the email to Ms. Trippiedi so she
24 could have them.

25 And your Honor, I have to say this for the

1 Court, I have to say this for the Court: EMP, when I
2 have had other judges looking at their work and the
3 judge has ordered them into court, the few times I have
4 had EMP officers ordered in court by the Court itself,
5 the level of disobeying they have shown for the Court
6 is shocking.

7 MS. MARLAND: And your Honor, if I may, I
8 know I'm popping in in the middle, but I have heard
9 most of this argument so I'm somewhat familiar with
10 some of the facts, but the State's concern is, I know
11 your Honor has the records, I haven't seen those phone
12 records. I guess my question would be I believe
13 Mr. Claus stated Mr. Johnston had been calling house
14 arrest. My question is: Are those calls actually
15 answered? Because at some point there needs to be some
16 communication.

17 THE COURT: They are not answered.

18 MS. MARLAND: House arrest, it's difficult
19 to get ahold of them. I understand that. It takes me
20 a bit of time to get ahold of them. That being said,
21 Mr. Johnston is the one currently on house arrest. The
22 alternative for Mr. Johnston on house arrest is him
23 going in custody. He has a district court case with
24 serious allegations to them as well as those two
25 misdemeanor jury trials.

1 House arrest rules are, I understand they
2 may be very difficult for some people to follow, but
3 they are relatively simple, one of them being,
4 obviously, don't do drugs, check in, answer your phone.
5 There's curfew, there's GPS monitoring.

6 In this case, given the fact that.
7 Mr. Johnston has three open cases, and I'm not familiar
8 enough to know whether all three of them are against
9 the same victim, I think I heard that there were two
10 different victims.

11 MR. CLAUS: No, same person.

12 MS. MARLAND: All those things are a concern
13 for the State, and house arrest is a method of
14 monitoring Mr. Johnston. If he is unable to be
15 monitored through house arrest and the fact he has
16 three open cases, I don't believe that removing house
17 arrest is the solution here.

18 THE COURT: All right. See you in the
19 morning, Mr. Johnston. I'm gonna go through these
20 records.

21 THE CLERK: November 17th at 7:30.

22 THE COURT: Parties, I will see you in the
23 back.

24 (Break in the proceedings.)

25 THE COURT: So Mr. Claus, are you needing me

1 to recall State of Nevada versus Derek Johnston?

2 MR. CLAUS: Yes, your Honor.

3 THE COURT: State of Nevada versus
4 Derek Johnston, 20-CR-030809, 21-CR-021016.

5 He is present in custody.

6 I did tell the officers that they could take
7 him, because I was gonna have it on calendar tomorrow
8 at 7:30, Mr. Claus.

9 MR. CLAUS: Yes, your Honor.

10 You know, my request, your Honor, if you
11 would like more time, we'll have to give it to you, I
12 will try get some answers to questions, but you have
13 what we've been able to gather in the short amount of
14 time we have had.

15 Court's indulgence. At this moment, I'm
16 standing in front of another judge.

17 THE COURT: I think we're fine. I will see
18 you in the morning, and I will kind of look at what I
19 have, try and go from there.

20 MR. CLAUS: Thank you, your Honor.

21 THE COURT: Thank you, Mr. Claus. I
22 appreciate your time today. I really do.

23 MR. CLAUS: Thank you, your Honor.

24 MS. MARLAND: Thank you, your Honor.

25 THE COURT: Thank you, counsel.

1 THE CLERK: November 17th at 7:30.

2 (Proceedings concluded.)

3 * * * * *

4
5 ATTEST: FULL, TRUE, ACCURATE, AND CERTIFIED
6 TRANSCRIPT OF PROCEEDINGS.

7
8 /s/ Loree Murray

9
10 LOREE MURRAY, CCR NO. 426

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Loree Murray, CCR No. 426

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,)
)
Plaintiff,)
) CASE NO. **20-CR-030809**
vs.) 21-CR-021016
) ATTEST RE: NRS 239B.030
DEREK GREG JOHNSTON,)
)
Defendant.)
_____)

STATE OF NEVADA)
) SS
COUNTY OF CLARK)

I, Loree Murray, a Certified Court Reporter
within and for the County of Clark and the State of
Nevada, do hereby certify:

That this REPORTER'S TRANSCRIPT OF
PROCEEDINGS was reported in open court pursuant to NRS
3.360 regarding the above proceedings held in Las Vegas
Justice Court, 200 Lewis Avenue, Las Vegas, Nevada.

That said TRANSCRIPT:

 X Does not contain the Social Security number
of any person.

 Contains the Social Security number of a
person.

* * * * *

1 * * * * * *

2 ATTEST: I FURTHER CERTIFY THAT I AM NOT INTERESTED IN
3 THE EVENTS OF THIS ACTION.

4
5
6 /s/ Loree Murray

7 _____
8 LOREE MURRAY, CCR NO. 426
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1 LAS VEGAS, NEVADA, WEDNESDAY, NOVEMBER 17, 2021

2 7:30 A.M.

3
4 * * * * *

5 THE COURT: State of Nevada versus
6 Derek Johnston, 20-CR-030809 and 21-CR-021016.

7 So it looks like there's been a lot going
8 back and forth regarding the telephone calls and him
9 checking in, not checking in with house arrest.

10 I'm gonna go ahead and set this down for a
11 revocation hearing. That will be in two weeks.

12 State, I'm asking you to subpoena your
13 officer. I want the officer here for testimony. We're
14 gonna have a hearing.

15 MS. CONLIN: Yes, your Honor.

16 THE CLERK: December 1 at 7:30.

17 THE COURT: All right.

18 (Break in the proceedings.)

19 THE COURT: State of Nevada versus
20 Derek Johnston, 20-CR-030809 and 21-CR-021016.

21 MR. CLAUS: If we're having an evidentiary
22 hearing on this, your Honor, I would ask for two
23 things: One, I would ask the Court to sign an ex parte
24 order for medical testing to be done, so we need an
25 order from the Court for medical personnel to go in and

1 get urinary/blood samples from the defendant.

2 THE COURT: Okay. What does --

3 MR. CLAUS: We need an order from the Court
4 so our medical personnel can enter the jail and obtain
5 a specimen, a phlebotomist enters the jail and obtains
6 tests from Mr. Johnston to rebut the implied
7 accusations that he's on drugs, so we are going to
8 get --

9 THE COURT: I don't know that we're gonna
10 find anything at this point though, Mr. Claus.

11 MR. CLAUS: Well, certainly, your Honor,
12 it's something that needs to be put in front of the
13 Court, so we would ask for that order to be signed by
14 the Court, and it was the second reason why he was --

15 THE COURT: I thought that was a refusal to
16 take the drug test, not necessarily -- he has now been
17 in custody for how many days? When was the --

18 MR. CLAUS: Saturday, your Honor.

19 MS. CONLIN: On the 13th, they went to visit
20 him and he refused.

21 THE COURT: Mr. Claus, I don't know that I'm
22 comfortable having other medical personnel go into the
23 Clark County Detention Center for purposes of medical
24 testing.

25 MR. CLAUS: This is an order I have drafted

1 before and have had Judges sign, your Honor. It is
2 necessary, otherwise CCDC --

3 THE COURT: I don't think that it is
4 necessary, so at this time I'm gonna deny your request
5 for this order.

6 MR. CLAUS: Understood.

7 The second request would be, your Honor, for
8 him to be released pending the evidentiary hearing we
9 have scheduled in two weeks, your Honor.

10 It's the State's burden under the case law.
11 We have briefed this before, but this is the State's
12 burden to show. Granted, while we have a situation
13 where de facto we have entered their will and he's in
14 custody, but it's the State's burden to prove at that
15 evidentiary hearing he violated the terms of the
16 electronic monitoring. Pending that information, your
17 Honor, I would ask that he be released, increase his
18 bail, place him on intensive supervision.

19 We already discussed the probability of
20 placing him back on electronic monitoring.

21 THE COURT: All right. And again, that
22 request is denied, Mr. Claus.

23 MR. CLAUS: Understood.

24 THE COURT: All right. Thank you.

25 THE CLERK: December 1st at 7:30.

1 MR. CLAUS: Thank you, your Honor.

2 (Proceedings concluded.)

3 * * * * *

4
5 ATTEST: FULL, TRUE, ACCURATE, AND CERTIFIED
6 TRANSCRIPT OF PROCEEDINGS.

7
8 /s/ Loree Murray

9
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IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

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) CASE NO. **20-CR-030809**
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/s/ Loree Murray

LOREE MURRAY, CCR NO. 426

Loree Murray, CCR No. 426

CASE NO. ORDER

DEPARTMENT NO. 15

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

PLAINTIFF,

vs.

DEREK GREG JOHNSTON,

DEFENDANT.

CASE NO. **20-CR-030809**
21-CR-021016

CERTIFIED COPY

REPORTER'S TRANSCRIPT

OF

PROCEEDINGS

BEFORE THE HONORABLE MELISA DE LA GARZA

JUSTICE OF THE PEACE

WEDNESDAY, DECEMBER 1, 2021

AT 7:30 A.M.

APPEARANCES:

For the State: BRIANNA LAMANNA, ESQ.
Deputy District Attorney

For the Defendant: AUGUSTUS T. CLAUS, ESQ.

Reported by: Loree Murray, CCR #426

1 LAS VEGAS, NEVADA, WEDNESDAY, DECEMBER 1, 2021

2 7:30 A.M.

3
4 * * * * *

5 THE COURT: Then I have Derek Johnston.

6 We are waiting for Mr. Claus.

7 (Break in the proceedings.)

8 THE COURT: All right. I think we're going to
9 go ahead and bring back Mr. Johnston, because Mr. Claus
10 is not present at -- is this the time set for the --

11 MS. LAMANNA: It's set for an evidentiary
12 hearing, your Honor. I have two officers present, and
13 the State's ready to go.

14 I also have preliminary hearing calendar next
15 door at 10:00 o'clock.

16 THE COURT: Oh, okay. I guess we'll try and
17 wait for Mr. Claus.

18 Do you, by any chance, have his phone number?
19 Maybe you can text him. We'll try and get ahold of him
20 also.

21 MS. LAMANNA: I don't have a cell phone number,
22 but I will try to reach out to him via email.

23 THE COURT: Let's see if we can get ahold of
24 him, and I will hold him here until we can get him
25 here.

1 My clerk has a number. She will try and text
2 him.

3 MS. LAMANNA: Okay. Thank you, your Honor.

4 (Break in the proceedings.)

5 THE COURT: State of Nevada versus
6 Derek Johnston, 20-CR-030809 and 21-CR-021016.

7 He is present in custody, and Mr. Claus is here
8 on his behalf.

9 This is the time set for the evidentiary
10 hearing regarding his violations or potential
11 violations of the electronic monitoring program.

12 So Mr. Stromenger, I'm sorry, I'm gonna have to
13 ask you guys to vacate the table so that I can bring
14 Mr. Johnston down beside Mr. Claus so we can have this
15 hearing.

16 MR. CLAUS: Your Honor, the phone records that
17 have already been provided to the Court and for the
18 State, I would ask you to make those a defense exhibit,
19 please.

20 MS. LAMANNA: And your Honor, Mr. Claus
21 informed me that he gave a copy to the State. I'm not
22 sure who he gave a copy to, because the only thing that
23 I have from the hearing specifically on this house
24 arrest violation are our paper files, so I never
25 received the phone records. And I don't mind taking a

1 look at them, but I can't really make an objection or
2 argument as to whether they should be admitted at this
3 point, because I haven't seen them.

4 THE COURT: I thought they were provided at the
5 last hearing.

6 MR. CLAUS: They were, your Honor.

7 THE COURT: In open court.

8 MR. CLAUS: They were, your Honor.

9 MS. LAMANNA: And that's what I'm saying, I'm
10 not sure what happened to them, because the only thing
11 that I received was the paper file.

12 Were they provided to Ms. Conlin at the last
13 hearing, because there's been so many hearings?

14 THE COURT: Who was here? I can't remember,
15 Mr. Claus. There's been so many hearings on this
16 gentleman.

17 MR. CLAUS: I'm having difficulty recalling.

18 If the Court's inclined, I didn't bring paper
19 copies with me, because they had already been supplied
20 to the Court and the State, I can have them emailed to
21 the Court's chambers, and if you're inclined to have
22 them printed out, we can work off those papers.

23 THE COURT: Let me go ahead and have you email
24 them to the LVJC Department 15 email.

25 THE CLERK: And it was Ms. Conlin.

1 MS. LAMANNA: Yeah, and the only thing
2 Ms. Conlin gave me was our paper file, so I don't know
3 what happened to the phone records, honestly.

4 THE COURT: Okay. So I guess that means that
5 you probably haven't had an opportunity to go through
6 these phone records with your officers.

7 MS. LAMANNA: I haven't, your Honor, and I, I'm
8 assuming, if I can see your copy, I can kind of make
9 the record of what I would assume is my objection at
10 this point to them being admitted as evidence.

11 Your Honor, my objection at this point is lack
12 of foundation. I don't know where these phone records
13 came from, how they were pulled, what they even show,
14 so I would ask that we don't admit them right now until
15 somebody can lay foundation as to those phone records,
16 who they belong to, how they were pulled, specifically
17 what they do show in terms of the contact. That would
18 be my objection.

19 MR. CLAUS: Foundation is different than what
20 they show, your Honor. In terms of foundation, I have
21 a family member outside to testify they went down to
22 the AT&T store.

23 THE COURT: I think what you would really need
24 is a custodian of records from AT&T, which is gonna
25 show, in fact, these are the type of documents that are

1 held in normal business. I know that we were even
2 trying to figure out what some of these numbers meant
3 when we were in the hallway last time, and so I think
4 probably a custodian records would be the one that
5 would be able to tell us exactly what the numbers meant
6 and that they were, in fact, authentic --

7 MR. CLAUS: Well, typically, your Honor --

8 THE COURT: -- documentation from AT&T.

9 MR. CLAUS: Your Honor, as you are aware,
10 typically even with a COR, we don't usually get the COR
11 themselves. At the trial, usually we have a COR
12 affidavit, custodian of records affidavit, pursuant to
13 statute.

14 I have someone here who went and obtained those
15 records. I have someone here who can testify to the
16 accuracy of those records, and they can be used to
17 refresh as to when he actually called the probation
18 officer.

19 So Mr. Johnston will testify.

20 THE COURT: Mr. Who?

21 MR. CLAUS: Johnston, I'm sorry. Mr. Johnston
22 will testify as to using those records to refresh his
23 recollection. Anything can be used to do so.

24 THE COURT: I believe that they could refresh
25 his recollection, but I don't know that he can testify

1 as to the accuracy and the authentication of these
2 records if we don't have a COR affidavit or anybody
3 here from AT&T.

4 MR. CLAUS: Well, with an order of the Court, I
5 can get a custodian of records affidavit. I'm just not
6 sure how short order that will be required, your Honor.
7 This is the first time that I've, after having
8 presented those, this is the first argument by the
9 State to their admission, so this is two weeks later.
10 I could have worked on this, your Honor, if someone had
11 raised that objection before.

12 THE COURT: I think they just have so many
13 people working on this, Mr. Claus, but if they make the
14 objection, I just have to look at the legality of
15 admitting records, and they're making the objection at
16 this point, so are you ready to go forward without
17 those records?

18 MR. CLAUS: Well, without those records, your
19 Honor, those are a substantial portion of the case.
20 They prove the contact being had with Mr. Johnston,
21 they prove contact indisputably from Mr. Johnston to
22 house arrest, which makes it not a he said she said
23 situation but verifiable proof of contact every single
24 day.

25 THE COURT: If we are going to rely on that

1 verifiable proof, we need know that they're authentic
2 and that they're accurate.

3 So Mr. Claus, you tell me when you want me to
4 continue this until.

5 MR. CLAUS: Let's try for one day, your Honor.
6 I will get an order of the Court and see how long until
7 we can actually get the custodian of records.

8 THE COURT: Status check tomorrow?

9 MR. CLAUS: The question I have is: Do they
10 want the actual custodian of records, or are they going
11 to accept the custodian of records affidavit?

12 MS. LAMANNA: Your Honor, part of my concern is
13 I don't know what's not shown in these records as well,
14 and if the contention is that house arrest reached out
15 to the defendant but he never answered the phone, I
16 don't know whether those would be shown in the records,
17 and so I'm not sure how to prove a negative here,
18 especially since all we have is an affidavit that these
19 are the certified records.

20 THE COURT: So are you asking for the actual
21 custodian of records?

22 MS. LAMANNA: I think that it might be
23 necessary.

24 THE COURT: So they're asking for the custodian
25 of records to be present.

1 MR. CLAUS: That's actually easier, your Honor.
2 I will ask for it to be passed for one day, a status
3 check for when we can get the custodian of records. I
4 will reach out to AT&T.

5 I will ask the Court for permission to supply
6 an ex parte order for the production of the custodian
7 of records from the AT&T store.

8 So the record is clear, the State's objection
9 is purely as to foundation. As to the custodian of
10 records, testifying about what the records show and
11 interpreting them, that's the province of someone else,
12 right, how the phone calls are not gathered, how the
13 phone calls are to be interpreted, the interpretation
14 can be held by the custodian of records in certain
15 circumstances, but the custodian of records can't
16 testify this is what we don't gather and this is how
17 these phones operate.

18 THE COURT: Well, they might be able to tell us
19 that, because they tell us what records are held in the
20 ordinary course of business, and they will be able to
21 testify as to these are the type of things we keep,
22 these are the type of things that we don't keep, so
23 they might be able to testify as to those type of
24 things. I don't know.

25 MR. CLAUS: Understood.

1 I want to set everyone's expectation
2 accordingly. If the State is asking for an expert on
3 phone records, that's not what a COR is. That's a
4 person from the company saying that these records are
5 gathered in the ordinary course of business, this is
6 what we normally do, and these are accurate records,
7 things we maintain.

8 THE COURT: Right.

9 MR. CLAUS: So we'll get somebody here
10 physically, your Honor.

11 THE COURT: Okay. Status check tomorrow.

12 MR. CLAUS: Status check tomorrow, and with the
13 Court's permission and the State's non-objection to me
14 having ex parte communications with the Court to obtain
15 that order for the production of the records from AT&T
16 on an expedited basis and the attendance of a custodian
17 of records witness from AT&T on an expedited basis?

18 MS. LAMANNA: That's fine, your Honor.

19 THE CLERK: December 2 at 7:30.

20 MS. LAMANNA: Just to make sure, we are not
21 having a hearing tomorrow, so my officers --

22 THE COURT: Not a hearing, it's just a status
23 check on obtaining the custodian of records.

24 MS. LAMANNA: Thank you, your Honor.

25 THE COURT: And in the meantime, who's gonna be

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,)

Plaintiff,)

vs.)

DEREK GREG JOHNSTON,)

Defendant.)

CASE NO. **20-CR-030809**

21-CR-021016

ATTEST RE: NRS 239B.030

STATE OF NEVADA)

) SS

COUNTY OF CLARK)

I, Loree Murray, -a Certified Court Reporter
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ATTEST: I FURTHER CERTIFY THAT I AM NOT INTERESTED IN
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/s/ Loree Murray

LOREE MURRAY, CCR NO. 426

Loree Murray, CCR No. 426

PA285 234-0845 Docket 83968 Document 2021-36519

DEPARTMENT NO. 15

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

PLAINTIFF,

VS.

CASE NO. 20-CR-030809

21-CR-021016

DEREK GREG JOHNSTON,

CERTIFIED COPY

DEFENDANT.

REPORTER'S TRANSCRIPT

OF

PROCEEDINGS

BEFORE THE HONORABLE MELISA DE LA GARZA

JUSTICE OF THE PEACE

THURSDAY, DECEMBER 2, 2021

AT 7:30 A.M.

APPEARANCES:

For the State:

BRIANNA LAMANNA, ESQ.

Deputy District Attorney

For the Defendant:

AUGUSTUS T. CLAUS, ESQ.

Reported by: Loree Murray, CCR #426

1 LAS VEGAS, NEVADA, WEDNESDAY, JULY 7, 2021

2 7:30 A.M.

3
4 * * * * *

5 THE COURT: Then I have State of Nevada
6 versus Derek Johnston, 20-CR-030809 and 21-CR-021016.

7 He's present in custody.

8 We are waiting for Mr. Claus. He was
9 supposed to give us an update about obtaining the
10 records from either AT&T, or the, I think it was AT&T,
11 so sir, I will trail that.

12 (Break in the proceedings.)

13 THE COURT: State of Nevada versus
14 Derek Johnston, 21-CR-021016 and 20-CR-030809.

15 He is present in custody, and Mr. Claus is
16 here on his behalf.

17 The question today was how long you needed,
18 Mr. Claus, to get the custodian of records from the
19 mobile store.

20 MR. CLAUS: Your Honor, I don't have an
21 answer to that. I reached out to AT&T, spoke to their
22 office. They wouldn't give us a firm answer as to when
23 that's gonna happen. We have the contact information
24 to serve, so with the Court's permission, what I'm
25 going to be doing is submitting two separate ex parte

1 orders, one for the production of the documents
2 themselves with the custodian of records affidavit on
3 Monday of next week, and then asking the Court to set a
4 hearing on Wednesday of next week, which is the soonest
5 that I can reasonably expect the personnel from AT&T,
6 with the State's insistence to have the physical
7 custodian of records.

8 THE COURT: So do you want me to set a
9 status check for Monday and then the hearing for
10 Wednesday?

11 MR. CLAUS: Yes, your Honor.

12 MS. LAMANNA: And your Honor, per the notes,
13 the officer is available on Thursdays.

14 THE COURT: Okay. Then I guess I will do a
15 status check on Monday, and then I will do the hearing
16 on Thursday.

17 MR. CLAUS: Court's indulgence please, your
18 Honor.

19 I will make it work.

20 THE COURT: Okay. Thank you, Mr. Claus.

21 Those dates will be:

22 THE CLERK: December 6 for status check at
23 7:30 a.m., and then --

24 MR. CLAUS: It's actually a hearing.

25 THE CLERK: -- a hearing on December 9.

1 Do you want that at 9:00?

2 THE COURT: Both of them at 7:30, because
3 he's in custody.

4 THE CLERK: Okay.

5 MR. CLAUS: Your Honor, as I said, we'll be
6 submitting two separate ex parte orders.

7 THE COURT: Absolutely.

8 Mr. Claus, would you approach?

9 MR. CLAUS: Yes, your Honor.

10 THE COURT: You can approach too, State.

11 (Conference at the bench.)

12 (Proceedings concluded.)

13 * * * * *

14
15 ATTEST: FULL, TRUE, ACCURATE, AND CERTIFIED
16 TRANSCRIPT OF PROCEEDINGS.

17
18 /s/ Loree Murray

19
20 LOREE MURRAY, CCR NO. 426

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IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

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Defendant.)
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Loree Murray, CCR No. 426

(702) 234-0845

PA291 Docket 83968 Document 2021-36519

CASE NO. ORDER

DEPARTMENT NO. 15

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COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

PLAINTIFF,

vs.

DEREK GREG JOHNSTON,

DEFENDANT.

CASE NO. 20-CR-030809
21-CR-021016

CERTIFIED COPY

REPORTER'S TRANSCRIPT

OF

PROCEEDINGS

BEFORE THE HONORABLE MELISA DE LA GARZA

JUSTICE OF THE PEACE

MONDAY, DECEMBER 6, 2021

AT 7:30 A.M.

APPEARANCES:

For the State: BRIANNA LAMANNA, ESQ.
Deputy District Attorney

For the Defendant: AUGUSTUS T. CLAUS, ESQ.

Reported by: Loree Murray, CCR #426

1 LAS VEGAS, NEVADA, MONDAY, DECEMBER 6, 2021

2 7:30 A.M.

3
4 * * * * *

5 THE COURT: State of Nevada versus
6 Derek Johnston. This is 20-CR-030809 and 21-CR-021016.

7 Mr. Claus, I did see the order for those
8 records on my desk this morning. I did sign that, so
9 where are we in terms of resetting the revocation
10 hearing?

11 MR. CLAUS: Well, I thought we were on for
12 Thursday, your Honor, because I had a dual order there.
13 The order provides for the production of the records
14 and also for the attendance of the custodian of
15 records.

16 THE COURT: Okay.

17 MR. CLAUS: So if I can have a copy of the
18 order, your Honor, if you have already executed that, I
19 can take that this morning and start the service
20 process.

21 THE COURT: Fantastic.

22 Are you gonna be able to have your witnesses
23 here on Thursday, State?

24 MR. CLAUS: That was the date the State
25 requested.

1 THE COURT: Okay. We'll leave it for
2 Thursday then for the hearing, and then --

3 THE CLERK: There is also a pretrial
4 conference on today.

5 THE COURT: Are we leaving it for the
6 pretrial conference?

7 MR. CLAUS: We are, your Honor. At this
8 point, it's set for trial next week, and one way or the
9 other it's going forward.

10 THE COURT: All right. Mr. Claus, you can
11 go in the back. I think Kiara will have the order.

12 MR. CLAUS: Okay. Thank you.

13 THE COURT: We'll see you on Thursday and
14 also see you this afternoon, sir.

15 THE CLERK: 1:30 p.m., and December 9 at
16 7:30.

17 (Proceedings concluded.)

18 * * * * *

19

20 ATTEST: FULL, TRUE, ACCURATE, AND CERTIFIED
21 TRANSCRIPT OF PROCEEDINGS.

22

23

24

/s/ Loree Murray

25

LOREE MURRAY, CCR NO. 426

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

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DEREK GREG JOHNSTON,

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21-CR-021016

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COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,

PLAINTIFF,

vs.

DEREK GREG JOHNSTON,

DEFENDANT.

CASE NO. **20-CR-030809**
21-CR-021016

CERTIFIED COPY

REPORTER'S TRANSCRIPT

OF

PROCEEDINGS

BEFORE THE HONORABLE MELISA DE LA GARZA

JUSTICE OF THE PEACE

THURSDAY, DECEMBER 9, 2021

AT 7:30 A.M.

APPEARANCES:

For the State: BRIANNA LAMANNA, ESQ.
Deputy District Attorney

For the Defendant: AUGUSTUS T. CLAUS, ESQ.

Reported by: Loree Murray, CCR #426

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 9, 2021

2 7:30 A.M.

3
4 * * * * *

5 THE COURT: Let's go to State of Nevada
6 versus Derek Johnston, 20-CR-030809 and 21-CR-021016.

7 MR. CLAUS: Good morning, your Honor.

8 Augustus Claus appearing on behalf of
9 Mr. Derek Johnston, who's present in custody in CCDC.

10 THE COURT: Okay. State, are we ready to
11 go?

12 MS. LAMANNA: Yes, your Honor.

13 MR. CLAUS: And my witness from the or the
14 State's requested witness, the custodian of records
15 from AT&T, should be on the line.

16 THE COURT: On BlueJeans?

17 MR. CLAUS: On BlueJeans, your Honor.

18 THE COURT: Okay.

19 MS. LAMANNA: And, your Honor, before we
20 proceed with the evidentiary hearing, did the Court get
21 the State's motion to continue the jury trial?

22 THE COURT: No -- oh, yes, right on top.

23 Sorry. Sorry. My clerk has already got it
24 out there for me, and I did not see it. Sorry.

25 Okay. Well, that may make all of this moot.

1 MS. LAMANNA: That's why I wanted to address
2 it first. I understand while it's certainly not the
3 State's position he should be released, given the fact
4 that he has failed to comply with house arrest, I
5 understand that the Court and defense counsel may be in
6 a difficult position, which is why I wanted to address
7 the motion to continue first.

8 THE COURT: All right. Let me look at the
9 motion.

10 Okay. She is unavailable --

11 MS. LAMANNA: She is.

12 THE COURT: -- until the 20th, okay.

13 So Mr. Claus, let's break it up. Number
14 one, any objection to the motion to continue?

15 MR. CLAUS: I have to object for the record,
16 your Honor. The State, if you'll recall, insisted on
17 these trial dates. Over my strenuous objection, they
18 insisted on those dates.

19 If you will recall the colloquy we had at
20 the time this date was set, I said that the misdemeanor
21 cases should not be going before the felony case.

22 THE COURT: Understood, but is there any
23 legal objection to this motion to continue?

24 MR. CLAUS: I suppose what's missing from
25 here is the State's averment on the 6th that they

1 actually learned on the 6th that Ms. Sellinger wasn't
2 going to be in town. This motion comes on the 9th,
3 three days after they learned that information.

4 I will object for the record, but I don't
5 doubt the veracity of the averments so far as they are
6 contained in the affidavit, I just believe the
7 additional facts will show the State learned on
8 December 6, not December 8th.

9 THE COURT: I thought it said December 6.

10 MS. LAMANNA: Well, I called her and left
11 her a voicemail on December 6th. Then my office
12 followed up and texted her, because I did not hear back
13 from her. I did not speak to her yesterday.

14 THE COURT: All right. I'm granting the
15 motion to continue. I'm also releasing Mr. Johnston on
16 his own recognizance.

17 Sir, listen to me, stay out of trouble.
18 Have no contact with this victim, and that will be
19 until the next trial date.

20 THE CLERK: It's on for a jury trial for
21 20-CR-030809 December the 14th.

22 THE COURT: That's gonna be vacated.

23 THE CLERK: That's vacated.

24 THE COURT: That's the motion to continue,
25 and that's granted.

1 THE CLERK: Okay. Then on 21-CR-021016,
2 that's vacated, the pretrial on that one too?

3 THE COURT: They're both vacated. The
4 State's motion to continue is granted, and we'll reset
5 both.

6 The defendant is released on his own
7 recognizance. He's to stay out of trouble.

8 MR. CLAUS: On both cases, your Honor?

9 THE COURT: Both cases, yes.

10 He is to stay out of trouble and stay away
11 from the victim, and we'll reset both of those on:

12 THE CLERK: Jury trial?

13 MR. CLAUS: Yes, please.

14 THE COURT: Yes.

15 THE CLERK: February 14th is pretrial
16 conference at 1:30, jury trial will be February the
17 22nd at 1:30.

18 MS. LAMANNA: And your Honor?

19 THE COURT: That's for one of them, and then
20 the next one needs to be the next week, correct?

21 MR. CLAUS: I would ask your Honor that this
22 -- Court's indulgence for just a moment.

23 THE COURT: Sure.

24 MR. CLAUS: Because it's this case I would
25 like to have go first.

1 THE COURT: Let us know which one you want
2 to go first.

3 MR. CLAUS: One moment, your Honor.

4 I believe it is 20-CR-030809, the, the one
5 that was set for trial next week, your Honor, I would
6 ask that that one be set first.

7 THE COURT: So we'll do that one first and
8 the other one the next week.

9 MR. CLAUS: Thank you.

10 THE COURT: So 030809 will be set for
11 February 14 at 1:30 for pretrial conference, jury trial
12 February 22nd at 1:30 for jury trial.

13 Sir, you need to be at both dates, and the
14 other one will be the following week.

15 THE CLERK: February 28th.

16 MS. LAMANNA: The following week there's
17 actually a holiday, so we don't have Monday, so I don't
18 believe we have the trials.

19 THE CLERK: February the 28th at 1:30, and
20 jury trial will be on March 8th.

21 THE COURT: Got it.

22 THE CLERK: At 1:30.

23 MS. LAMANNA: Thank you, your Honor.

24 If I can have a quick recess to speak with
25 the house arrest officers?

1 THE COURT: Yes.

2 MR. CLAUS: And your Honor, some
3 housekeeping matters. I prepared for this hearing.
4 This hearing is going to be part of the writ that's
5 going up to the Supreme Court, so your Honor, I do have
6 the custodian of records on the line, and I have those
7 records. I want to produce them into the record in
8 this case, your Honor.

9 THE COURT: Hold on one second, because I'm
10 not even on BlueJeans.

11 Do we have BlueJeans up?

12 THE CLERK: Yes.

13 THE COURT: All right. Hold on.

14 So what is the name of your custodian of
15 records?

16 MR. CLAUS: Mr. Chris Richell, your Honor.

17 THE COURT: All right.

18 Mr. Richell, if you'd unmute yourself?

19 Let's unmute him.

20 Mr. Richell, Mr. Claus is here, and I think
21 he needs to ask you a couple of questions.

22 Can you hear me, Mr. Richell?

23 Okay, I can't hear him.

24 Sir, I need you to -- there you are.

25 Can you answer me one more time?

1 How come I can't hear him?

2 THE CLERK: I don't know.

3 MR. CLAUS: I've given a copy of these to
4 the State, your Honor. He's here to testify to the
5 veracity of these records.

6 THE COURT: Do you have a cell phone for
7 him? How are you contacting him?

8 MR. CLAUS: He's been contacting us, your
9 Honor.

10 I might see if my investigator might have a
11 number to get in touch with him, your Honor, because I
12 don't have --

13 THE COURT: If you can get him on a cell
14 phone, at least we can do what we need to do.

15 Mr. Richell, try again for me, if you can.
16 We're in the beautiful spot of having technical
17 difficulties.

18 Are you sure your microphone is turned on,
19 Mr. Richell?

20 MR. CLAUS: We're getting the cell phone
21 number right now.

22 THE COURT: Thank you, Mr. Claus. We'll try
23 and do it that way.

24 MR. CLAUS: Perfect.

25 THE COURT: Quite honestly, this is one of

1 the reasons that I didn't want to have the witness here
2 on BlueJeans.

3 MS. LAMANNA: I didn't want the COR here on
4 BlueJeans either for that reason, but obviously I don't
5 know that I have any objection other than technical
6 difficulties.

7 THE COURT: I don't know that we're gonna be
8 doing any direct examination or cross-examination.
9 Basically all we're gonna have him do is authenticate
10 the records at this point, right, because the issue is
11 moot.

12 MS. LAMANNA: I agree. I'm not sure why
13 they're even going through this process and they're
14 getting admitted for writ purposes, because the issue
15 is moot.

16 MR. CLAUS: The cell phone number, your
17 Honor.

18 MS. LAMANNA: Not sure what issue there is
19 with --

20 MR. CLAUS: Do you want to call him, or do
21 you want me to call him?

22 THE COURT: Go ahead and call him, and put
23 your phone right here.

24 MR. CLAUS: The issue is the record, your
25 Honor.

1 THE COURT: Okay.

2 MS. LAMANNA: You're gonna have to put your
3 phone up there.

4 MR. CLAUS: I'm seeing if he can answer.
5 (Whereupon, a call was made to the COR
6 for AT&T.)

7 THE COURT: Wonderful. Let's go ahead.
8 We are gonna put the cell phone beside the
9 speaker.

10 Sir, please try and speak as loud as you
11 can. Sorry about this, it's a very odd way of doing
12 this, but this is what we have to do, so I'm gonna ask
13 you, number one, to state your name and spell it for
14 the record.

15 THE WITNESS: My name is Christopher
16 Richell, R-i-c-h-e-l-l.

17 THE COURT: Mr. Richell, who do you work
18 for?

19 THE WITNESS: I work for AT&T.

20 THE COURT: And what is your position there?

21 THE WITNESS: Trial analyst.

22 THE COURT: And what do you do as a trial
23 analyst?

24 THE WITNESS: Custodian of records. I
25 describe how the records are kept and how they are

1 formatted.

2 THE COURT: And pursuant to your duties as a
3 trial analyst, were you able to procure records for
4 Mr. Claus regarding -- what is the phone number,
5 Mr. Claus?

6 MR. CLAUS: I should know that off the top
7 of my head. Court's indulgence.

8 It should be, the telephone number should
9 be, I believe, 702-460-1674.

10 THE WITNESS: That's correct.

11 THE COURT: Thank you.

12 THE WITNESS: Thank you.

13 THE COURT: Mr. Claus, I will allow you to
14 ask him just a few questions to authenticate those
15 records, and then they'll be introduced.

16 MR. CLAUS: So you have a copy of these
17 records, and you can verify that these are true and
18 accurate copies of the records that were made close in
19 time to the events that they purport to be related to?

20 THE WITNESS: Yes.

21 MR. CLAUS: And you are qualified to admit
22 -- you are qualified to authenticate the records,
23 because you're familiar with how the records are
24 created, stored, or retrieved?

25 THE WITNESS: Yes.

1 MR. CLAUS: And the records that were
2 attached to the response to the Court order for the
3 production of these records are true and accurate
4 copies of the original records in the custody of AT&T?

5 THE WITNESS: Yes, they are.

6 THE COURT: And are they particular dates,
7 Mr. Claus?

8 MR. CLAUS: Yes, your Honor.

9 So at the top of the page for the mobility
10 records, it indicates that these records came from AT&T
11 from October 16th, 2021, 12:00 a.m., until November
12 13th, 2021, at 11:59:59 p.m.; is that correct?

13 THE WITNESS: That's correct.

14 THE COURT: And these are complete and total
15 records, to the best of your knowledge?

16 THE WITNESS: Yes, they are.

17 MR. CLAUS: And these contain records not
18 only of the voice calls to and from that phone number,
19 but also of the missed phone calls to and from that
20 number, and also the text messages sent to and from
21 that number as well as summaries and abstracts,
22 including wire line reports basically showing hard line
23 phone calls to that telephone number?

24 THE WITNESS: That is correct, yes.

25 MR. CLAUS: Okay. So to the extent that --

1 and these are all the records that AT&T possesses for
2 that telephone number; is that correct?

3 THE WITNESS: Between those dates, yes.

4 MR. CLAUS: I would move to admit those
5 records, your Honor, as Defense Exhibit A.

6 THE COURT: Any objection, State?

7 MS. LAMANNA: No, your Honor.

8 THE COURT: So admitted.

9 Thank you so much, sir, for being here, and
10 my apologies for --

11 MR. CLAUS: One final question, your Honor.

12 THE COURT: Yes.

13 MR. CLAUS: The AT&T records key that is
14 attached to the subpoena, that is attached to the
15 records return, is that how these records should be
16 interpreted?

17 THE WITNESS: Yes. Each one of those
18 records keys indicate the, the, the feature codes at
19 the end, etc., etc.

20 MR. CLAUS: Okay. Thank you very much, sir.

21 THE COURT: Thank you, Mr. Richell.

22 MR. CLAUS: Thank you, sir. I'm gonna hang
23 up now.

24 THE WITNESS: Okay. That's it? I can go?

25 THE COURT: Yes. Thank you very, very much.

1 MR. CLAUS: You can disconnect from
2 BlueJeans. Thank you.

3 THE WITNESS: Thank you.

4 THE COURT: And I'm also gonna state for the
5 record as part of the admission of those records that
6 NRS 178.487, Bail After Felony Offense While on Bail,
7 notes that if the defendant is released on bail, he is
8 to be on his best behavior, and his bail may be revoked
9 by the new judge for the new felony or the original
10 judge for the original charges.

11 Pending that revocation, the defendant may
12 be held without bail by order of the judge on a new
13 felony, and also that the defendant is to comply with
14 the requirements of house arrest when released on bail.

15 MR. CLAUS: Couple other matters, your
16 Honor, I'm gonna move to admit as Defense Exhibit B a
17 demonstrative exhibit of those phone records showing
18 just that there is contact with Mr. Derek Johnston.

19 THE COURT: I'm not gonna be accepting any
20 more evidence other than -- because we're not having a
21 hearing.

22 MR. CLAUS: I understand.

23 THE COURT: I will not go through
24 demonstrative evidence. The point is essentially moot
25 at this point, because he is being released, however, I

1 did want to allow you, because you had the custodian of
2 records here, to introduce those records, since he took
3 his time out of his day to be here.

4 MR. CLAUS: Just a few other quick matters,
5 your Honor, very brief.

6 One, there was a order for the production of
7 records from house arrest, your Honor, that was signed
8 by this Court that was served on house arrest. I would
9 ask to admit that as Defense Exhibit B. That is a copy
10 of the transmission, which the Court was copied into
11 that request from house arrest.

12 THE COURT: Okay.

13 MR. CLAUS: As of right now, neither the
14 State or myself have received any of those records from
15 house arrest, including body camera contact or what
16 have you.

17 MS. LAMANNA: Because --

18 THE COURT: Again, I know that the officer
19 wasn't going to be here for this hearing. I don't know
20 if there was gonna be some type of evidence presented,
21 but I will accept this order at this time. It is
22 already part of record in that it's the Court's order,
23 so I will allow it to be admitted as Defense Exhibit --
24 the other one was A, Mr. Claus?

25 MR. CLAUS: The other one was A. This will

1 be B.

2 THE COURT: It will be admitted as B.

3 MS. LAMANNA: If I can make a brief record
4 about that, that order I believe was submitted to us
5 maybe, maybe even Wednesday, if I recall correctly, so
6 I think that there's a timing issue as to why the
7 records weren't provided as quickly as Mr. Claus would
8 have liked.

9 THE COURT: Again, I will not go into all
10 that. I'm not having a hearing. Mr. Johnston has been
11 released, and the only reason I want to allow those
12 AT&T records is because the custodian of records was
13 here and he was present, but we're not having a
14 hearing, because I have now released Mr. Johnston on
15 his own recognizance, all right?

16 MR. CLAUS: Other than the records, we would
17 be ready to go forward, your Honor, and thank you very
18 much.

19 THE COURT: Thank you all.

20 MR. CLAUS: Your Honor, could I ask for one
21 final matter?

22 THE COURT: Not really, Mr. Claus.

23 MR. CLAUS: An expedited copy of the hearing
24 and proceeding?

25 THE COURT: You will have to file an order,

1 and once you file that order, my court reporter will
2 provide those transcripts.

3 MR. CLAUS: Thank you very much, your Honor.

4 (Proceedings concluded.)

5 * * * * *

6

7 ATTEST: FULL, TRUE, ACCURATE, AND CERTIFIED
8 TRANSCRIPT OF PROCEEDINGS.

9

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11

/s/ Loree Murray

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LOREE MURRAY, CCR NO. 426

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IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,)

Plaintiff,)

vs.)

DEREK GREG JOHNSTON,)

Defendant.)

CASE NO. **20-CR-030809**

21-CR-021016

ATTEST RE: NRS 239B.030

STATE OF NEVADA)
COUNTY OF CLARK) SS

I, Loree Murray, a Certified Court Reporter
within and for the County of Clark and the State of
Nevada, do hereby certify:

That this REPORTER'S TRANSCRIPT OF
PROCEEDINGS was reported in open court pursuant to NRS
3.360 regarding the above proceedings held in Las Vegas
Justice Court, 200 Lewis Avenue, Las Vegas, Nevada.

That said TRANSCRIPT:

X Does not contain the Social Security number
of any person.

 Contains the Social Security number of a
person.

* * * * *

* * * * *

ATTEST: I FURTHER CERTIFY THAT I AM NOT INTERESTED IN
THE EVENTS OF THIS ACTION.

/s/ Loree Murray

LOREE MURRAY, CCR NO. 426

Loree Murray, CCR No. 426

PA315 234-0845 Docket 83968 Document 2021-36519

Inmate In-Custody Status

ID	Name	Age	Race	Sex
Case	Charge	Status		
Related Case	Arrest Date	Detainer	Cash Bail	Surety Bail
Housing	Sched Department	Sched Action	Sched Date	Sched Time

01875685	JOHNSTON, DEREK G	38	White	Male
C-21-354689-1	BATT DOM VIOL W/SBH	Active		
	7/20/2021	N	\$0.00	\$0.00
ST2P	18	CALENDAR CALL	1/3/2022	11:00 AM

01875685	JOHNSTON, DEREK G	38	White	Male
C-21-354689-1	DESTROY PROP OF ANOTHER, \$250 - \$5K	Active		
	7/20/2021	N	\$0.00	\$0.00
ST2P	18	CALENDAR CALL	1/3/2022	11:00 AM

Searched On

Defendant's ID: 01875685

Defendant's Case No:

Records Found: 2

[Top](#)[Another Search](#)[Back to CCDC Home Page](#)

CASE No. C-21-354689-1

~~~~~

Lower Court Case Number: **20-CR-027683**

**Steven B Wolfson**  
702-671-2700(W)

| Charges: Johnston, Derek Greg                                                     | Statute   | Level             | Date       |
|-----------------------------------------------------------------------------------|-----------|-------------------|------------|
| 1. BATTERY RESULTING IN SUBSTANTIAL BODILY HARM<br>CONSTITUTING DOMESTIC VIOLENCE | 200.485.5 | Felony            | 08/19/2020 |
| 2. MALICIOUS DESTRUCTION OF PROPERTY                                              | 206.310   | Gross Misdemeanor | 08/19/2020 |

Result: Granted

05/24/2021 [Status Check](#) (12:30 PM) (Judicial Officer Silva, Cristina D.)  
*Status Check: Deft's Presence / New Counsel*  
[Parties Present](#)  
[Minutes](#)

05/24/2021 Result: Counsel Confirmed  
[Motion](#) **Doc ID# 10**  
*[10] Motion to Quash Bench Warrant*

05/25/2021 [Clerk's Notice of Hearing](#) **Doc ID# 11**  
*[11] Notice of Hearing*

06/02/2021 [Motion to Quash Bench Warrant](#) (12:30 PM) (Judicial Officer Silva, Cristina D.)  
*Motion to Quash Bench Warrant*  
[Parties Present](#)  
[Minutes](#)

07/07/2021 Result: Motion Granted  
[Status Check: Negotiations/Trial Setting](#) (12:30 PM) (Judicial Officer Silva, Cristina D.)  
**07/07/2021, 07/26/2021**  
[Parties Present](#)  
[Minutes](#)

07/08/2021 Result: Matter Continued  
[Amended Information](#) **Doc ID# 12**  
*[12] Amended Information*

07/16/2021 [Substitution of Attorney](#) **Doc ID# 13**  
*[13] Substitution of Attorney*

07/16/2021 [Motion to Remand](#) **Doc ID# 14**  
*[14] Notice of Motion and Motion to Remand Defendant Pursuant to NRS 178.487*

07/26/2021 **Motion to Remand** (12:30 PM) (Judicial Officer Silva, Cristina D.)  
*State's Motion to Remand Defendant Pursuant to NRS 178.487*  
Result: Granted in Part

07/26/2021 [All Pending Motions](#) (12:30 PM) (Judicial Officer Silva, Cristina D.)  
[Parties Present](#)  
[Minutes](#)

08/30/2021 Result: Matter Heard  
[Reporters Transcript](#) **Doc ID# 15**  
*[15] Unconditional Waiver of Preliminary Hearing*

09/01/2021 [Substitution of Attorney](#) **Doc ID# 16**  
*[16] Substitution of Attorney*

09/02/2021 [Motion to Remand](#) **Doc ID# 17**  
*[17] State's Notice of Motion and Motion to Remand Defendant Without Bail Pursuant to NRS 178.487*

09/03/2021 [Clerk's Notice of Hearing](#) **Doc ID# 18**  
*[18] Notice of Hearing*

09/07/2021 **Case Reassigned to Department 18**  
*From Judge Cristina Silva to Judge Mary Kay Holthus*

09/08/2021 [Motion](#) **Doc ID# 19**  
*[19] Motion to Release Defendant*

09/09/2021 [Clerk's Notice of Hearing](#) **Doc ID# 20**  
*[20] Notice of Hearing*

09/09/2021 [Subpoena Duces Tecum](#) **Doc ID# 21**  
*[21] Subpoena Duces Tecum*

09/09/2021 [Subpoena Electronically Issued](#) **Doc ID# 22**  
*[22] Supoena*

09/13/2021 [Motion to Remand](#) (11:00 AM) (Judicial Officer Holthus, Mary Kay)  
*State's Motion to Remand Defendant Without Bail Pursuant to NRS 178.487*  
[Parties Present](#)  
[Minutes](#)  
*09/13/2021 Reset by Court to 09/13/2021*

09/20/2021 Result: Granted  
[Motion](#) (11:00 AM) (Judicial Officer Holthus, Mary Kay)  
**09/20/2021, 10/11/2021, 10/13/2021**  
*Motion to Release Defendant*  
[Parties Present](#)  
[Minutes](#)  
*10/13/2021 Reset by Court to 10/13/2021*

09/28/2021 Result: Matter Continued  
[Order](#) **Doc ID# 23**  
*[23] Order for Records from Electronic Monitoring Program*

10/04/2021 [Opposition](#) **Doc ID# 24**  
*[24] Opposition to State's Motion to Remand Defendant*

10/05/2021 [Exhibits](#) **Doc ID# 25**  
*[25] Exhibit N to the Opposition to State's Motion to Remand Defendant*

10/08/2021 [Recorders Transcript of Hearing](#) **Doc ID# 26**  
*[26] Recorder's Transcript Re: - State's Motion to Remand Defendant Without Bail Pursuant to NRS 178.487 - September 13, 2021*

10/08/2021 [Recorders Transcript of Hearing](#) **Doc ID# 27**  
*[27] Recorder's Transcript Re: Motion to Release Defendant - September 20, 2021*

10/11/2021 **Evidentiary Hearing** (1:30 PM) (Judicial Officer Holthus, Mary Kay)  
**10/11/2021, 10/13/2021**  
**EVIDENTIARY HEARING: MOTION TO RELEASE DEFT.**  
[Parties Present](#)

|            |            |                                                                                                                                                                                                            |
|------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | 10/13/2021 | Reset by Court to 10/13/2021                                                                                                                                                                               |
| 10/11/2021 |            | Result: Matter Continued<br><a href="#">All Pending Motions</a> (1:30 PM) (Judicial Officer Holthus, Mary Kay)<br><a href="#">Parties Present</a><br><a href="#">Minutes</a>                               |
| 10/11/2021 |            | Result: Matter Heard<br><a href="#">Notice of Motion</a> <b>Doc ID# 28</b><br>[28] State's Notice of Motion and Motion to Continue - Filed in Open Court                                                   |
| 10/13/2021 |            | <a href="#">All Pending Motions</a> (11:00 AM) (Judicial Officer Holthus, Mary Kay)<br><a href="#">Parties Present</a><br><a href="#">Minutes</a>                                                          |
| 11/23/2021 |            | Result: Matter Heard<br><a href="#">Recorders Transcript of Hearing</a> <b>Doc ID# 29</b><br>[29] Recorder's Transcript Re: Status Check: Restitution Documents - October 11, 2021                         |
| 11/23/2021 |            | <a href="#">Recorders Transcript of Hearing</a> <b>Doc ID# 30</b><br>[30] Recorder's Transcript Re: Evidentiary Hearing (Continued from 10/11/21)/Status Check: Restitution Documents - October 13, 2021   |
| 12/02/2021 |            | <b>Show Cause Hearing</b> (10:30 AM) (Judicial Officer Bell, Linda Marie)<br>Result: Off Calendar                                                                                                          |
| 12/10/2021 |            | <a href="#">Recorders Transcript of Hearing</a> <b>Doc ID# 31</b><br>[31] Recorder's Transcript Re: Status Check: Restitution Documents - October 11, 2021                                                 |
| 12/10/2021 |            | <a href="#">Recorders Transcript of Hearing</a> <b>Doc ID# 32</b><br>[32] Recorder's Transcript Re: Evidentiary Hearing (Continued from 10/11/21) - Status Check: Restitution Documents - October 13, 2021 |
| 01/03/2022 |            | <b>Calendar Call</b> (11:00 AM) (Judicial Officer Holthus, Mary Kay)<br>01/05/2022 Reset by Court to 01/03/2022<br>01/05/2022 Reset by Court to 01/05/2022                                                 |
| 01/10/2022 |            | <b>Jury Trial</b> (1:00 PM) (Judicial Officer Holthus, Mary Kay)<br>01/10/2022 Reset by Court to 01/10/2022                                                                                                |

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**FINANCIAL INFORMATION**


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|            |                                       |                            |             |
|------------|---------------------------------------|----------------------------|-------------|
|            | <b>Defendant</b> Johnston, Derek Greg |                            |             |
|            | Total Financial Assessment            |                            | 7.00        |
|            | Total Payments and Credits            |                            | 7.00        |
|            | <b>Balance Due as of 12/19/2021</b>   |                            | <b>0.00</b> |
| 08/12/2021 | Transaction Assessment                |                            | 3.50        |
| 08/12/2021 | Payment (Window)                      | Receipt # 2021-50379-CCCLK | (3.50)      |
| 08/25/2021 | Transaction Assessment                |                            | 3.50        |
| 08/25/2021 | Payment (Window)                      | Receipt # 2021-53136-CCCLK | (3.50)      |
|            |                                       | Susana Guillermina Ortiz   |             |
|            |                                       | Vegas Stevie LLC           |             |

# Bills and Resolutions by Effective Date

< [BILLS AND RESOLUTIONS](#)

## Bills and Resolutions Effective October 1, 2021 - 147 Results

### [AB4](#)

Revises provisions relating to the Nevada Insurance Guaranty Association. (BDR 57-314)

### [AB13](#)

Revises requirements related to certain financial reporting by the State Controller. (BDR 18-353)

### [AB18](#)

Revises provisions relating to contracts of insurance and casualty insurance. (BDR 57-315)

### [AB32](#)

Revises provisions relating to the towing or immobilization of a motor vehicle. (BDR 43-387)

### [AB33](#)

Authorizes the establishment of paternity in proceedings concerning the protection of children. (BDR 11-436)

### [AB37](#)

Revises provisions relating to the enforcement of obligations for the support of children. (BDR 3-301)

### [AB43](#)

Requests that the Nevada Supreme Court study certain issues relating to the Commission on Judicial Discipline. (BDR S-393)

### [AB45](#)

Revises provisions relating to insurance. (BDR 57-316)

### [AB47](#)

Revises provisions relating to unfair trade practices. (BDR 52-425)

### [AB58](#)

Makes changes relating to the authority and duties of the Attorney General. (BDR 3-417)

### [AB61](#)

Revises provisions relating to trade practices. (BDR 52-424)

### [AB63](#)

Makes various changes relating to the financial administration of local governments. (BDR 31-404)

**AB64**

Revises provisions relating to certain crimes. (BDR 15-407)

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**AB72**

Revises provisions relating to the Nevada State Board on Geographic Names. (BDR 26-258)

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**AB73**

Revises provisions relating to the licensure of dietitians. (BDR 54-259)

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**AB84**

Revises provisions relating to wildfires. (BDR 42-110)

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**AB85**

Revises provisions relating to noxious weeds. (BDR 49-108)

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**AB86**

Makes various changes relating to the recovery of certain expenses and costs incurred in extinguishing certain fires and emergencies. (BDR 42-111)

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**AB87**

Makes various changes to provisions governing the vacation or abandonment of certain easements. (BDR 22-460)

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**AB88**

Makes various changes relating to governmental entities. (BDR 34-147)

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**AB91**

Revises provisions relating to the State Board of Nursing. (BDR 54-60)

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**AB101**

Revises provisions governing the administration of certain substances to animals by licensed veterinarians. (BDR 54-113)

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**AB103**

Revises provisions governing the preservation of certain prehistoric sites. (BDR 33-763)

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**AB112**

Revises provisions relating to compromised claims of a minor. (BDR 3-806)

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**AB123**

Revises provisions governing special license plates indicating support for the Vegas Golden Knights hockey team. (BDR 43-797)

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**AB130**

Revises provisions governing insurance. (BDR 57-780)

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**AB140**

Enacts provisions relating to service of process on certain lessors of vehicles. (BDR 2-544)

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**AB143**

Establishes provisions concerning victims of human trafficking. (BDR 16-856)

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**AB145**

Adopts the Uniform Registration of Canadian Money Judgments Act. (BDR 2-772)

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**AB149**

Requires the Cannabis Compliance Board to create an electronic database containing certain information relating to testing conducted by cannabis independent testing laboratories. (BDR 56-693)

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**AB154**

Revises provisions governing certain notice provided by public utilities. (BDR 58-510)

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**AB157**

Authorizes a person who is the victim of certain discriminatory conduct relating to an incident involving a peace officer to bring a civil action under certain circumstances. (BDR 3-227)

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**AB158**

Revises the penalties for certain offenses involving alcohol or cannabis. (BDR 15-360)

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**AB169**

Revises provisions governing higher education. (BDR 34-745)

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**AB182**

Revises the elements of the crime of advancing prostitution. (BDR 15-744)

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**AB188**

Abolishes the Commission on Special License Plates. (BDR 43-476)

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**AB190**

Provides certain employees with the right to use sick leave to assist certain family members with medical needs. (BDR 53-379)

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**AB200**

Revises provisions governing veterinary medicine. (BDR 54-168)

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**AB207**

Provides that certain businesses which offer goods or services through an Internet website, mobile application or other electronic medium are places of public accommodation. (BDR 54-567)

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**AB212**

Makes various changes relating to court interpreters. (BDR 1-758)

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**AB214**

Revises provisions governing sexual assault. (BDR 15-103)

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**AB219**

Revises provisions governing the sealing of criminal records. (BDR 14-137)

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**[AB220](#)**

Establishes provisions relating to the use of mobile devices by peace officers. (BDR 23-924)

**[AB227](#)**

Revises provisions relating to contractors. (BDR 54-720)

**[AB230](#)**

Revises provisions relating to juvenile justice. (BDR 5-791)

**[AB249](#)**

Revises provisions relating to common-interest communities. (BDR 10-796)

**[AB277](#)**

Revises provisions governing insurance. (BDR 57-984)

**[AB278](#)**

Provides for the collection of certain information from physicians. (BDR 54-771)

**[AB280](#)**

Revises provisions relating to public restrooms. (BDR 54-132)

**[AB281](#)**

Revises provisions governing the retention of certain records by short-term lessors, brokers and dealers of vehicles. (BDR 43-794)

**[AB290](#)**

Revises provisions relating to financial institutions. (BDR 55-979)

**[AB298](#)**

Revises provisions relating to noncommercial vehicle leases. (BDR 8-782)

**[AB301](#)**

Revises provisions governing motor vehicles. (BDR 58-696)

**[AB302](#)**

Authorizes the Nevada Commission on Minority Affairs to request the drafting of not more than 2 legislative measures for each regular session of the Legislature. (BDR 17-990)

**[AB307](#)**

Revises provisions governing employment practices. (BDR 18-764)

**[AB318](#)**

Revises various provisions relating to estates. (BDR 3-805)

**[AB320](#)**

Revises provisions governing the operation of large all-terrain vehicles on certain streets and highways. (BDR 43-196)

**[AB330](#)**

Establishes provisions governing occupational training and licensing. (BDR 54-759)

**[AB333](#)**

Makes changes to provisions relating to land use planning. (BDR 22-357)

**[AB335](#)**

Revises provisions governing the redevelopment of communities. (BDR 22-852)

**[AB341](#)**

Revises provisions relating to cannabis. (BDR 56-583)

**[AB344](#)**

Authorizes the establishment of a program to facilitate transition of the care of older persons and persons with disabilities. (BDR 38-743)

**[AB349](#)**

Revises provisions governing motor vehicles. (BDR 43-58)

**[AB359](#)**

Revises provisions governing trade practices. (BDR 52-684)

**[AB376](#)**

Enacts the Keep Nevada Working Act and makes various other changes relating to immigration. (BDR 18-737)

**[AB378](#)**

Revises various provisions relating to public lands. (BDR 26-718)

**[AB405](#)**

Revises provisions relating to gaming. (BDR 41-643)

**[AB406](#)**

Revises provisions relating to the collection of child support. (BDR 3-138)

**[AB409](#)**

Revises provisions relating to the recruitment and selection of peace officers. (BDR 23-1031)

**[AB426](#)**

Makes various changes relating to the protection of children. (BDR 38-516)

**[AB436](#)**

Revises provisions relating to vision insurance. (BDR 57-808)

**[AB437](#)**

Revises provisions relating to embalming. (BDR 54-513)

**AB440**

Revises provisions relating to law enforcement. (BDR 14-376)

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**AB459**

Revises provisions relating to workforce development. (BDR 18-1068)

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**AB480**

Revises provisions governing legal services for indigent defendants. (BDR 1-1076)

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**AB481**

Requires the Division of Child and Family Services of the Department of Health and Human Services to designate a statewide center to provide assistance to certain victims. (BDR 16-1143)

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**SB5**

Makes changes relating to telehealth. (BDR 40-416)

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**SB7**

Makes various changes relating to certain orders for protection where the adverse party is a child under 18 years of age. (BDR 1-391)

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**SB12**

Requires certain notices before the termination, expiration or ending of a restriction relating to the affordability of certain housing. (BDR 25-372)

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**SB29**

Authorizes the appointment of an agent of the Department of Motor Vehicles to issue salvage titles. (BDR 43-348)

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**SB35**

Revises provisions relating to the Private Investigator's Licensing Board. (BDR 54-419)

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**SB37**

Revises certain provisions relating to the process by which a district attorney may request assistance in criminal cases from the Office of the Attorney General. (BDR 18-411)

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**SB38**

Establishes provisions governing the retention of pro bono legal assistance by the Office of the Attorney General. (BDR 18-409)

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**SB41**

Revises provisions relating to orders authorizing the installation and use of a pen register or trap and trace device. (BDR 14-412)

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**SB42**

Revises provisions relating to certain court rules and decisions. (BDR 1-389)

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**SB45**

Revises provisions relating to crimes. (BDR 18-421)

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**SB46**

Revises provisions relating to the Office of the Attorney General. (BDR 20-410)

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**SB50**

Revises provisions relating to warrants. (BDR 14-405)

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**SB52**

Requires the establishment of a program for awarding a dark sky designation to certain sites in this State. (BDR 35-427)

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**SB62**

Revises provisions relating to the solicitation of contributions. (BDR 7-413)

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**SB66**

Enacts provisions relating to access to the Internet and telecommunications technology for pupils. (BDR 34-430)

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**SB67**

Creates a pilot program to gather data on the use of job order contracts for certain public works. (BDR S-400)

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**SB70**

Revises provisions governing mental health. (BDR 39-418)

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**SB71**

Revises provisions governing unclaimed property. (BDR 10-398)

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**SB82**

Makes changes to various provisions of the Charter of the City of Sparks. (BDR S-489)

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**SB94**

Revises provisions relating to property. (BDR 15-440)

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**SB95**

Revises provisions relating to business entities. (BDR 7-493)

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**SB109**

Revises provisions relating to the collection of certain information by governmental agencies. (BDR 19-95)

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**SB114**

Authorizes food that contains certain components of hemp to be produced or sold at certain food establishments under certain circumstances. (BDR 49-65)

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**SB125**

Revises provisions related to falconry. (BDR 45-158)

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**SB127**

Revises provisions relating to the Charter of the City of Mesquite. (BDR S-619)

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**SB145**

Revises provisions relating to financial institutions. (BDR 55-481)

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**SB147**

Establishes provisions relating to conditions of release that prohibit the contact or attempted contact of certain persons. (BDR 14-377)

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**SB148**

Establishes provisions regarding the reporting of hate crimes. (BDR 15-715)

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**SB163**

Provides for the issuance of special license plates to support the Divine Nine. (BDR 43-1018)

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**SB166**

Revises provisions relating to crimes motivated by certain characteristics of the victim. (BDR 15-246)

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**SB175**

Enacts provisions relating to lupus. (BDR 40-8)

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**SB181**

Revises provisions relating to alcohol and drug counselors. (BDR 54-558)

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**SB186**

Revises provisions relating to property. (BDR 10-582)

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**SB193**

Revises provisions relating to the education of veterans and their spouses and dependents. (BDR 34-382)

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**SB212**

Revises provisions relating to the use of force by peace officers. (BDR 14-215)

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**SB217**

Revises provisions related to applied behavior analysis. (BDR 54-533)

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**SB219**

Revises provisions relating to offenses. (BDR 14-249)

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**SB229**

Revises provisions relating to the practice of pharmacy. (BDR 54-823)

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**SB236**

Makes various changes relating to public safety. (BDR 23-217)

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**SB247**

Revises provisions relating to apprenticeships. (BDR 53-575)

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**SB259**

Revises provisions relating to tow cars. (BDR 58-179)

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**SB260**

Revises provisions relating to Internet privacy. (BDR 52-253)

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**SB283**

Revises provisions relating to local improvements. (BDR 22-792)

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**SB285**

Revises provisions relating to transportation. (BDR 43-965)

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**SB293**

Revises provisions relating to employment. (BDR 53-907)

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**SB295**

Revises provisions relating to industrial insurance. (BDR 53-996)

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**SB297**

Revises provisions relating to agriculture. (BDR 22-480)

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**SB303**

Revises provisions relating to professions. (BDR 54-669)

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**SB305**

Makes various changes relating to access to organ transplants for persons with disabilities. (BDR 40-40)

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**SB311**

Revises provisions relating to rural housing. (BDR 25-542)

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**SB325**

Establishes provisions relating to preventing the acquisition of human immunodeficiency virus. (BDR 54-632)

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**SB327**

Revises provisions relating to discriminatory practices. (BDR 53-574)

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**SB329**

Revises provisions relating to competition in health care markets. (BDR 40-998)

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**SB332**

Revises provisions relating to structured settlements. (BDR 3-960)

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**SB340**

Revises provision relating to the wages and working conditions of certain employees. (BDR 53-573)

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**[SB358](#)**

Revises provisions relating to wire communications. (BDR 15-1008)

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**[SB359](#)**

Revises the penalties for the commission of certain prohibited acts relating to controlled substances. (BDR 40-1006)

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**[SB362](#)**

Revises provisions relating to public transit systems. (BDR 22-836)

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**[SB363](#)**

Revises provisions relating to charter schools. (BDR 34-530)

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**[SB364](#)**

Revises provisions relating to emergency medical care for a victim of sexual assault or attempted sexual assault. (BDR 40-1004)

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**[SB369](#)**

Revises provisions relating to criminal procedure. (BDR 14-375)

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**[SB370](#)**

Revises provisions relating to food policy. (BDR 50-824)

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**[SB372](#)**

Revises provisions relating to injury caused by fire. (BDR 54-1007)

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**[SB376](#)**

Revises provisions relating to child welfare. (BDR 38-503)

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**[SB380](#)**

Revises provisions governing the reporting of data concerning the prices of prescription drugs. (BDR 40-445)

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**[SB383](#)**

Revises provisions relating to electric bicycles. (BDR 43-835)

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**[SB387](#)**

Provides for the regulation of certain suppliers that provide an inmate calling service. (BDR 58-1015)

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**[SB389](#)**

Establishes provisions governing peer-to-peer car sharing programs. (BDR 43-585)

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**[SB441](#)**

Revises provisions governing the issuance and renewal of a seller's permit. (BDR 32-1077)

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**[SB445](#)**

Revises provisions relating to state purchasing. (BDR 27-1075)

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**SB453**

Revises provisions relating to certain persons licensed or certified by the Division of Financial Institutions of the Department of Business and Industry or the Commissioner of Financial Institutions. (BDR 55-1095)

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# SB369

< [SENATE BILLS](#)

## Summary

Revises provisions relating to criminal procedure. (BDR 14-375)

## Introduction Date

Thursday, March 25, 2021

## Fiscal Notes

Effect on Local Government: No.

Effect on the State: No.

## Primary Sponsor

[Senate Committee on Judiciary](#)

## Title

AN ACT relating to criminal procedure; removing the requirement that an arrested person show good cause before being released without bail; providing that a court may only impose bail or a condition of release, or both, on a person if the imposition is the least restrictive means necessary to protect the safety of the community or to ensure the appearance of the person in court; requiring prosecuting attorneys under certain circumstances to prove by clear and convincing evidence that the imposition of bail or a condition of release, or both, on a person is necessary to protect the safety of the community or to ensure the appearance of the person in court; and providing other matters properly relating thereto.

## Digest

The Nevada Constitution prohibits the imposition of excessive bail and requires all persons arrested for offenses other than murder of the first degree to be admitted to bail. (Nev. Const. Art. 1, §§ 6, 7) Recently, the Nevada Supreme Court held that a provision of law requiring an arrested person to show good cause before being released without bail violated his or her constitutional right to nonexcessive bail. Specifically, the Nevada Supreme Court held that the provision of law was unconstitutional because it: (1) did not require the court to consider less restrictive conditions of release before determining that the imposition of bail was necessary; and (2) effectively relieved the State from its burden of proving that the imposition of bail on the person was necessary to protect the safety of the community or to ensure the appearance of the person in court. (Valdez-Jimenez v. Eighth Jud. Dist. Court, 136 Nev. 155 (2020); Nev. Const. Art. 1, §§ 6, 7; NRS 178.4851) Section 3 of this bill removes the provision of law that was found unconstitutional and section 4 of this bill makes a conforming change. Existing law sets forth separate procedures for releasing persons with bail and releasing persons without bail. (NRS 178.484, 178.4851) Specifically, existing law: (1) restricts persons from being released on bail under certain circumstances; and (2) mandates specific amounts of bail for offenses involving domestic violence and violations of certain orders for protections. (NRS 178.484) Section 2 of this bill retains the existing restrictions and specific amounts of bail while section 3 consolidates the existing procedures for releasing persons with bail and releasing persons without bail into a standard procedure for courts to follow in making pretrial custody determinations. Sections 1, 5 and 6 of this bill make conforming changes to reflect the consolidation of the procedures. Section 3 requires the court: (1) to only impose bail or a condition of release, or both, on a person as it deems to be the least restrictive means necessary to protect the safety of the community or to ensure that the person will appear at all times and places ordered by the court, with regard to certain factors; and (2) to make certain findings of fact relating to the imposition of bail or any condition of release, or both. Section 3 also requires a prosecuting attorney, if he or she requests the imposition of bail or a condition of release on a person, to prove by clear and convincing evidence that the imposition of bail is necessary to protect the safety of the community or to ensure the appearance of the person in court.

## Most Recent History Action

Chapter 532.

(See full list below)

## Upcoming Hearings

None scheduled

## Past Hearings

|                                                   |                              |                         |                        |                         |                               |
|---------------------------------------------------|------------------------------|-------------------------|------------------------|-------------------------|-------------------------------|
| <a href="#">Senate Judiciary</a>                  | <a href="#">Apr 01, 2021</a> | <a href="#">1:00 PM</a> | <a href="#">Agenda</a> | <a href="#">Minutes</a> | Heard, No Action              |
| <a href="#">Assembly Judiciary</a>                | <a href="#">Apr 06, 2021</a> | <a href="#">8:00 AM</a> | <a href="#">Agenda</a> | <a href="#">Minutes</a> | Mentioned not agendized       |
| <a href="#">Senate Judiciary (Work Session)</a>   | <a href="#">Apr 08, 2021</a> | <a href="#">1:00 PM</a> | <a href="#">Agenda</a> | <a href="#">Minutes</a> | Amend, and do pass as amended |
| <a href="#">Assembly Judiciary</a>                | <a href="#">Apr 29, 2021</a> | <a href="#">9:00 AM</a> | <a href="#">Agenda</a> | <a href="#">Minutes</a> | Heard                         |
| <a href="#">Assembly Judiciary (Work Session)</a> | <a href="#">May 14, 2021</a> | <a href="#">9:00 AM</a> | <a href="#">Agenda</a> | <a href="#">Minutes</a> | Amend, and do pass as amended |
| <a href="#">Senate Judiciary</a>                  | <a href="#">May 14, 2021</a> | <a href="#">1:00 PM</a> | <a href="#">Agenda</a> | <a href="#">Minutes</a> | Mentioned No Jurisdiction     |

## Final Passage Votes

### Assembly Final Passage

( 3rd Reprint )

May 21, 2021

Yeas: 39, Nays: 2, Absent: 1

### Senate Final Passage

( 1st Reprint )

Apr 20, 2021

Yeas: 17, Nays: 4

## Conference Committees

[May 31, 2021 7:51 PM](#)

Conference Report Not Available

## Bill Text

[As Introduced](#)

[Reprint 1](#)

[Reprint 2](#)

[Reprint 3](#)

[Reprint 4](#)

[As Enrolled](#)

## Adopted Amendments

[Amendment 439](#)

[Amendment 652](#)

[Amendment 676](#)

## Bill History

| Date         | Action                                                                                                                                                                                                                                                                                                                                                           | Journal                                                              |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| Mar 25, 2021 | Read first time. Referred to Committee on Judiciary. To printer.                                                                                                                                                                                                                                                                                                 | Assembly: Not discussed<br>Senate: <a href="#">Journal</a>           |
| Mar 26, 2021 | From printer. To committee.                                                                                                                                                                                                                                                                                                                                      | Assembly: Not discussed<br>Senate: Not discussed                     |
| Apr 19, 2021 | From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 439.) To printer.                                                                                                                                                                                                                           | Assembly: Not discussed<br>Senate: <a href="#">Journal</a>           |
| Apr 20, 2021 | From printer. To engrossment. Engrossed. First reprint. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 17, Nays: 4.) To Assembly.                                                                                                                                                                                                       | Assembly: Not discussed<br>Senate: <a href="#">Journal</a>           |
| Apr 22, 2021 | In Assembly. Read first time. Referred to Committee on Judiciary. To committee.                                                                                                                                                                                                                                                                                  | Assembly: <a href="#">Journal</a><br>Senate: Not discussed           |
| May 20, 2021 | From committee: Amend, and do pass as amended. Declared an emergency measure under the Constitution. Read third time. Amended. (Amend. No. 652.) To printer.                                                                                                                                                                                                     | Assembly: <a href="#">Journal</a><br>Senate: Not discussed           |
| May 21, 2021 | From printer. To reengrossment. Reengrossed. Second reprint. Read third time. Amended. (Amend. No. 676.) Dispensed with reprinting. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 39, Nays: 2, Absent: 1.) To printer.                                                                                                                 | Assembly: <a href="#">Journal</a><br>Senate: Not discussed           |
| May 24, 2021 | From printer. To reengrossment. Reengrossed. Third reprint. To Senate. In Senate.                                                                                                                                                                                                                                                                                | Assembly: Not discussed<br>Senate: <a href="#">Journal</a>           |
| May 30, 2021 | Assembly Amendment Nos. 652 and 676 not concurred in. To Assembly.                                                                                                                                                                                                                                                                                               | Assembly: Not discussed<br>Senate: <a href="#">Journal</a>           |
| May 31, 2021 | In Assembly. Assembly Amendment Nos. 652 and 676 not receded from. Conference requested. Conference Committee appointed by Assembly. To Senate. In Senate. Conference Committee appointed by Senate. To committee. From committee: Concur in Assembly Amendment No. CA3. Conference report adopted by Senate. Conference report adopted by Assembly. To printer. | Assembly: <a href="#">Journal</a><br>Senate: <a href="#">Journal</a> |

| Date                       | Action                                                         | Journal                                                |
|----------------------------|----------------------------------------------------------------|--------------------------------------------------------|
| Jun 01, 2021               | From printer. To re-engrossment. Re-engrossed. Fourth reprint. | Assembly: No Floor Session<br>Senate: No Floor Session |
| Jun 02, 2021               | To enrollment.                                                 |                                                        |
| Jun 03, 2021               | Enrolled and delivered to Governor.                            |                                                        |
| Jun 08, 2021               | Approved by the Governor.                                      |                                                        |
| Effective October 1, 2021. | Chapter 532.                                                   |                                                        |

CHAPTER.....

AN ACT relating to criminal procedure; removing the requirement that an arrested person show good cause before being released without bail; providing that a court may only impose bail or a condition of release, or both, on a person if the imposition is the least restrictive means necessary to protect the safety of the community or to ensure the appearance of the person in court; requiring prosecuting attorneys under certain circumstances to prove by clear and convincing evidence that the imposition of bail or a condition of release, or both, on a person is necessary to protect the safety of the community or to ensure the appearance of the person in court; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Nevada Constitution prohibits the imposition of excessive bail and requires all persons arrested for offenses other than murder of the first degree to be admitted to bail. (Nev. Const. Art. 1, §§ 6, 7)

Recently, the Nevada Supreme Court held that a provision of law requiring an arrested person to show good cause before being released without bail violated his or her constitutional right to nonexcessive bail. Specifically, the Nevada Supreme Court held that the provision of law was unconstitutional because it: (1) did not require the court to consider less restrictive conditions of release before determining that the imposition of bail was necessary; and (2) effectively relieved the State from its burden of proving that the imposition of bail on the person was necessary to protect the safety of the community or to ensure the appearance of the person in court. (*Valdez-Jimenez v. Eighth Jud. Dist. Court*, 136 Nev. 155 (2020); Nev. Const. Art. 1, §§ 6, 7; NRS 178.4851) **Section 3** of this bill removes the provision of law that was found unconstitutional and **section 4** of this bill makes a conforming change.

Existing law sets forth separate procedures for releasing persons with bail and releasing persons without bail. (NRS 178.484, 178.4851) Specifically, existing law: (1) restricts persons from being released on bail under certain circumstances; and (2) mandates specific amounts of bail for offenses involving domestic violence and violations of certain orders for protections. (NRS 178.484) **Section 2** of this bill retains the existing restrictions and specific amounts of bail while **section 3** consolidates the existing procedures for releasing persons with bail and releasing persons without bail into a standard procedure for courts to follow in making pretrial custody determinations. **Sections 1, 5 and 6** of this bill make conforming changes to reflect the consolidation of the procedures.

**Section 3** requires the court: (1) to only impose bail or a condition of release, or both, on a person as it deems to be the least restrictive means necessary to protect the safety of the community or to ensure that the person will appear at all times and places ordered by the court, with regard to certain factors; and (2) to make certain findings of fact relating to the imposition of bail or any condition of release, or both.

**Section 3** also requires a prosecuting attorney, if he or she requests the imposition of bail or a condition of release on a person, to prove by clear and convincing evidence that the imposition of bail is necessary to protect the safety of the community or to ensure the appearance of the person in court.



EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for mitted material~~ is material to be omitted.

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

**Section 1.** NRS 171.1845 is hereby amended to read as follows:

171.1845 1. If a person is brought before a magistrate under the provisions of NRS 171.178 or 171.184, and it is discovered that there is a warrant for the person's arrest outstanding in another county of this State, the magistrate may release the person in accordance with the provisions of NRS ~~[178.484 or]~~ 178.4851 if:

(a) The warrant arises out of a public offense which constitutes a misdemeanor; and

(b) The person provides a suitable address where the magistrate who issued the warrant in the other county can notify the person of a time and place to appear.

2. If a person is released under the provisions of this section, the magistrate who releases the person shall transmit the cash, bond, notes or agreement submitted under the provisions of NRS 178.502 or 178.4851, together with the person's address, to the magistrate who issued the warrant. Upon receipt of the cash, bonds, notes or agreement and address, the magistrate who issued the warrant shall notify the person of a time and place to appear.

3. Any bail set under the provisions of this section must be in addition to and apart from any bail set for any public offense with which a person is charged in the county in which a magistrate is setting bail. In setting bail under the provisions of this section, a magistrate shall set the bail in an amount which is sufficient to induce a reasonable person to travel to the county in which the warrant for the arrest is outstanding.

4. A person who fails to appear in the other county as ordered is guilty of failing to appear and shall be punished as provided in NRS 199.335. A sentence of imprisonment imposed for failing to appear in violation of this section must be imposed consecutively to a sentence of imprisonment for the offense out of which the warrant arises.

**Sec. 2.** NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:



(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

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

5. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on the person's own recognizance unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.

6. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on the person's own recognizance sooner than 12 hours after arrest.

7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after arrest. If the person is admitted to bail more than 12 hours after arrest, without appearing personally before a



magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation;

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

➤ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or for violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 must not be admitted to bail sooner than 12 hours after arrest if:





(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection of the type for which the person has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in the person's blood or breath; or

(2) An amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110.

9. If a person is admitted to bail more than 12 hours after arrest, pursuant to subsection 8, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought



pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378.

↪ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378, if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

10. ~~{The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.~~

~~— 11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:~~

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

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

~~— (c) Prohibiting the person from entering a certain geographic area; or~~

~~— (d) Prohibiting the person from engaging in specific conduct that may be harmful to the person's own health, safety or welfare, or the health, safety or welfare of another person.~~

↪ ~~In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.~~



~~—12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:~~

~~—(a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

~~—(b) Increase the amount of bail pursuant to NRS 178.499.~~

~~—13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if the officer has probable cause to believe that the person has violated a condition of bail.~~

~~—14. Before a person may be admitted to bail, the person must sign a document stating that:~~

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

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

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

~~➤ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.~~

~~—15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.~~

~~—16.} For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.~~

~~[17.] 11.~~ As used in this section, “strangulation” has the meaning ascribed to it in NRS 200.481.

**Sec. 3.** NRS 178.4851 is hereby amended to read as follows:

178.4851 1. ~~[Upon a showing of good cause, a court may release without bail any person entitled to bail if it appears to the court that it can impose conditions on the person that will adequately protect the health, safety and welfare of the community and ensure that the person will appear at all times and places ordered by the court.~~

~~—2. In releasing a person without bail, the court may impose such conditions.] Except as otherwise provided in subsection 4, the court shall only impose bail or a condition of release, or both, on a person~~



as it deems *to be the least restrictive means* necessary to protect the ~~[health,]~~ safety ~~[and welfare]~~ of the community ~~[and]~~ *or* to ensure that the person will appear at all times and places ordered by the court, ~~[including, without limitation, any condition set forth in subsection 11 of NRS 178.484.~~

~~—3. Upon a showing of good cause, a sheriff or chief of police may release without bail any person charged with a misdemeanor pursuant to standards established by a court of competent jurisdiction.~~

~~—4. Before a person may be released without bail, the]~~ *with regard to the factors set forth in NRS 178.4853 and 178.498. Such conditions of release may include, without limitation:*

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

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

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

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

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

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

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

*4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in*



*the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.*

5. The person must ~~[file with the clerk of the court of competent jurisdiction a signed]~~ *sign a* document *before the person's release* stating that:

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

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

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

(d) The person understands that any court of competent jurisdiction may revoke the order of release without bail and may order the person into custody or require the person to furnish bail or otherwise ensure the protection of the ~~[health,]~~ safety ~~[and welfare]~~ of the community or the person's appearance ~~[~~  
~~—5.]~~ *, if applicable.*

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

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

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

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

(c) *Revoke bail and remand the person into custody.*

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

~~[6.]~~ 9. An order issued pursuant to this section that imposes a condition on a person ~~[who is released without bail]~~ must include a provision ordering a law enforcement officer to arrest the person if the law enforcement officer has probable cause to believe that the person has violated a condition of release.

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



**Sec. 4.** NRS 178.4853 is hereby amended to read as follows:

178.4853 In ~~[deciding whether there is good cause to release]~~ *reviewing the custody status of* a person, ~~[without bail,]~~ the court at a minimum shall consider the following factors concerning the person:

1. The length of residence in the community;
2. The status and history of employment;
3. Relationships with the person's spouse and children, parents or other family members and with close friends;
4. Reputation, character and mental condition;
5. Prior criminal record, including, without limitation, any record of appearing or failing to appear after release on bail or without bail;
6. The identity of responsible members of the community who would vouch for the reliability of the person;
7. The nature of the offense with which the person is charged, the apparent probability of conviction and the likely sentence, insofar as these factors relate to the risk of not appearing;
8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;
9. The likelihood of more criminal activity by the person after release; and
10. Any other factors concerning the person's ties to the community or bearing on the risk that the person may willfully fail to appear.

**Sec. 5.** NRS 178.498 is hereby amended to read as follows:

178.498 ~~[If the defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to:]~~ *In deciding the amount of bail to impose on a person, the court shall consider:*

1. The nature and circumstances of the offense charged;
2. The financial ability of the defendant to give bail;
3. The character of the defendant; and
4. The factors listed in NRS 178.4853.

**Sec. 6.** NRS 178.502 is hereby amended to read as follows:

178.502 1. A person required or permitted to give bail shall execute a bond for the person's appearance. The magistrate or court or judge or justice, having regard to the considerations set forth in NRS ~~[178.498,]~~ *178.4851*, may require one or more sureties or may authorize the acceptance of cash or bonds or notes of the United States in an amount equal to or less than the face amount of the bond.



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

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

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

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

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

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

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

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

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

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

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

↪ If the defendant has already been indicted or charged, or is later indicted or charged, with a public offense arising out of the same act or omission supporting the charge upon which bail was first given, the bail must be applied to the public offense for which the defendant has been indicted or charged or is later indicted or charged, and the bond or undertaking must be transferred to the clerk of the appropriate court. Within 10 days after its receipt, the clerk of the court to whom the bail is transferred shall mail or electronically transmit notice of the transfer to the surety on the bond and the bail agent who executed the bond.



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

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**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-First Session  
May 14, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:12 a.m. on Friday, May 14, 2021, Online and in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/81st2021](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Steve Yeager, Chairman  
Assemblywoman Rochelle T. Nguyen, Vice Chairwoman  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblywoman Lesley E. Cohen  
Assemblywoman Cecelia González  
Assemblywoman Alexis Hansen  
Assemblywoman Heidi Kasama  
Assemblywoman Lisa Krasner  
Assemblywoman Elaine Marzola  
Assemblyman C.H. Miller  
Assemblyman P.K. O'Neill  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Melissa Hardy (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Melanie Scheible, Senate District No. 9  
Senator James Ohrenschall, Senate District No. 21  
Senator James A. Settelmeyer, Senate District No. 17

**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Ashlee Kalina, Assistant Committee Policy Analyst

Minutes ID: 1198



Bradley A. Wilkinson, Committee Counsel  
Bonnie Borda Hoffecker, Committee Manager  
Traci Dory, Committee Secretary  
Melissa Loomis, Committee Assistant

**OTHERS PRESENT:**

Tonja Brown, Private Citizen, Carson City, Nevada  
Annemarie Grant, Private Citizen, Quincy, Massachusetts

**Chairman Yeager:**

[Roll was called. Committee protocol was explained.] We have nine bills on our work session this morning. We will start with Senate Bill 6 (2nd Reprint).

**Senate Bill 6 (2nd Reprint): Revises provisions governing orders for protection against high-risk behavior. (BDR 3-394)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 6 (2nd Reprint) was sponsored by the Senate Committee on Judiciary on behalf of the Nevada Supreme Court and was heard in Committee on April 27, 2021 [[Exhibit C](#)].

Senate Bill 6 (2nd Reprint) makes various changes to provisions governing orders for protection against high-risk behavior. Among other things, the bill:

- Replaces the term "ex parte order" with "emergency order";
- Revises various procedures and requirements associated with filing an application for an order for protection against high-risk behavior;
- Establishes various procedures relating to hearings on an application for an order for protection;
- Removes custody of a firearm from the list of factors a court may consider in finding whether a person poses an imminent risk of causing a self-inflicted injury or injuring another person;
- Revises the persons to whom an adverse party must surrender firearms;
- Requires a court to order the return of any surrendered firearm of an adverse party upon the expiration of an extended order for protection;
- Revises provisions relating to the dissolution of orders for protection; and
- Eliminates the requirement for a court clerk or designee to assist certain persons relating to orders for protection.

There is one amendment to the bill proposed by Senator Scheible, and it proposes to:

1. Revise section 1.3, subsection 1, paragraph (b) by adding that upon request of either party and showing of good cause by that party, the court may schedule a hearing in accordance with section 1.5 of this act;
2. Revise section 6, subsection 1, paragraph (a), to require that the court must issue an extended order if it finds by clear and convincing evidence that the person poses a risk of causing a self-inflicted injury or a personal injury to another person by possessing, controlling, purchasing, or otherwise acquiring any firearm;
3. Revise section 9, subsection 2, to provide that the law enforcement agency must serve the adverse party personally with the application and any supplemental documents that were submitted to the court;
4. Amend section 9 by adding a new subsection 8 to provide that:
  - (a) The court may withhold or redact certain information from the application;
  - (b) Upon the request of the adverse party, the court must provide the party or the party's attorney or agent with an opportunity to interview the applicant or witness in an environment that provides for protection of the applicant or witness; and
  - (c) Any information or documents redacted must be maintained in a confidential file and be made available to the adverse party to inspect and copy or photograph prior to the hearing.

**Chairman Yeager:**

Committee, we are just seeing the amendment for the first time. Are there any questions on S.B. 6 (R2) as detailed in the work session document?

**Assemblywoman Cohen:**

Senator Scheible and I have been discussing section 9, subsection 8, the interview portion. I wanted to confirm that the interview happens at the courthouse before the hearing if there is certain information that was redacted from the application for the high-risk protective order.

**Senator Melanie Scheible, Senate District No. 9:**

Yes, that is correct. This language is borrowed from the criminal statute and it was approved by the public defenders, the Eighth Judicial District Court, and the Administrative Office of the Courts. You are exactly correct. The idea is that we do not want to be serving people who are the subject of a high-risk protective order with information that is incendiary, that is going to provoke them to retaliate against the person who is seeking the order. However, they are also entitled to have that information before they have to respond on the record to the allegations. There may be a circumstance in which the easiest way to facilitate that

transfer of information is simply to allow the attorney for the person who the order is being sought against to talk to the applicant for the order, and then the court would be able to set any parameters. We have witness rooms at the Eighth Judicial District Court. They might have a bailiff go with them. They might do it in the courtroom but off the record or something like that, just trying to be accommodating of the unique circumstances that come with high-risk protection orders.

**Chairman Yeager:**

Thank you for being here this morning, Senator Scheible. Are there any additional questions from Committee members on S.B. 6 (R2) as detailed in the work session document? [There were none.] I would be looking for a motion to amend and do pass S.B. 6 (R2).

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS  
SENATE BILL 6 (2ND REPRINT).

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman O'Neill:**

I will be a no on this, but I want to explain. I appreciate the work that has been done on it. I understand that, actually, with some of the amendments, various firearm groups have gone to a neutral position on it. I will be a no because basically, it is the whole premise that I still have problems with on Second Amendment rights in the process.

**Chairman Yeager:**

Is there any further discussion on the motion? [There was none.] Senator Scheible, I appreciate your working on the amendment. I know there were a lot of interested parties on this one, so thank you for bringing what appears to be consensus in terms of those who are actually in the courtroom trying to process these hearings.

THE MOTION PASSED. (ASSEMBLYMEN O'NEILL AND WHEELER  
VOTED NO. ASSEMBLYWOMAN HARDY WAS ABSENT FOR THE  
VOTE.)

I will assign the floor statement to Assemblywoman Bilbray-Axelrod. We will go next to Senate Bill 45 (1st Reprint).

**Senate Bill 45 (1st Reprint): Revises provisions relating to crimes. (BDR 18-421)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 45 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of the Office of the Attorney General and was heard in Committee on April 16, 2021 [[Exhibit D](#)].

Senate Bill 45 (1st Reprint) changes the name of the Office of Ombudsman for Victims of Domestic Violence within the Office of the Attorney General to the Office of Ombudsman for Victims of Domestic Violence, Sexual Assault and Human Trafficking to reflect the expanded scope of the Office to include the crimes of sexual assault and human trafficking and makes conforming changes to the name, duties, and qualifications of the ombudsman. In addition, the bill revises the composition and duties of the Committee on Domestic Violence. The bill also revises the punishment imposed upon a person convicted of a first offense of domestic violence against a pregnant victim to require that the offender be imprisoned in county jail for not less than 30 days, but not more than 6 months. The offender may be further punished by a fine of between \$500 and \$1,000 and must participate in weekly counseling for not less than 12 months, at his or her expense.

There is one amendment to the bill proposed by Assemblywoman Nguyen. The amendment proposed revising section 7, subsection 4, paragraph (a) of the bill to do the following:

1. Revise the mandatory minimum from 30 days to 20 days and removes the 6-month maximum for the first offense of battery which constitutes domestic violence against a victim who was pregnant; and
2. Delete the proposed increase in the period of mandatory counseling for not less than 12 months, thereby restoring the requirement that the person must participate in weekly counseling sessions for not less than six months.

**Chairman Yeager:**

Committee, you may remember there was some discussion when we heard this bill about the mechanics of how it will work. I want to thank Assemblywoman Nguyen and Ms. Jessica Adair, who I think have figured it out to make sure that this is going to work given the way folks are supervised and the sentencing structure. That is what you see in the amendment. Are there any questions on S. B. 45 (R1) as detailed in the work session document? [There were none.] I will take a motion to amend and do pass S.B. 45 (R1).

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS  
SENATE BILL 45 (1ST REPRINT).

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN HARDY WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Kasama. We will take Senate Bill 94 (1st Reprint) next.

**Senate Bill 94 (1st Reprint): Provides that an unlocked gate does not, in and of itself, constitute a public nuisance. (BDR 15-440)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 94 (1st Reprint) was sponsored by Senator Settlemeyer and was heard in Committee on April 27, 2021 [[Exhibit E](#)].

Senate Bill 94 provides that an unlocked gate does not, in and of itself, constitute a nuisance. There are two amendments to this measure.

1. Senator James Settlemeyer proposed an amendment clarifying when an unlocked gate, in and of itself, does not constitute a public nuisance:
  - A gate in counties with populations less than 100,000 must be placed and maintained on the road in a manner according to and consistent with the specifications, standards, and requirements of the county developed under certain provisions in statute; and
  - A gate in counties with populations over 100,000 must be authorized by ordinance and/or by written agreement with the county.

Further, Senator Settlemeyer proposed that it is not a public nuisance for a person to fence or otherwise enclose public land where the fencing is required or authorized by the appropriate federal agency.

2. Assemblyman Orentlicher proposed deleting the language, "Where vagrants resort, is a public nuisance" in section 1, subsection 2, paragraph (g).

**Chairman Yeager:**

This was the bill we had opposition testimony, closed opposition, and then had to come back to opposition because there were folks in neutral but who were in opposition. The reason I tell you all of that is the amendment proposed by Senator Settlemeyer certainly backed off the opposition to where they are in a place of neutral, if not support, of the measure. That is why you see the amendment, and then you may remember, Assemblyman Orentlicher had a couple of suggestions on changing the vagrancy or the nuisance statute. In consultation with Senator Settlemeyer, we agreed to take out "where vagrants resort, is a public nuisance" but leave everything else in there perhaps for a further discussion on another day.

We do have Senator Settlemeyer here with us. Are there any questions from Committee members on S.B. 94 (R1) as detailed in the work session document? [There were none.] I would be looking for a motion to amend and do pass with both amendments.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS  
SENATE BILL 94 (1ST REPRINT).

ASSEMBLYWOMAN KRASNER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN HARDY WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Wheeler. Thank you for being here, Senator Settlemeyer. That takes us to Senate Bill 107 (1st Reprint).

**Senate Bill 107 (1st Reprint): Makes various changes relating to the statute of limitations for certain causes of action. (BDR 2-872)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 107 (1st Reprint) was sponsored by Senator Ohrenschall and was heard in Committee on May 4, 2021 [[Exhibit F](#)].

Senate Bill 107 (1st Reprint) provides for a two-year statute of limitations to commence an action in tort for common law wrongful termination of employment. The statute of limitations is tolled during consideration of any pending related state or federal administrative charge on the matter until 93 days after the conclusion of the administrative proceedings. The bill also requires the default statute of limitations of four years to apply to certain causes of action whose statute of limitations is not otherwise prescribed by law, regardless of whether the underlying cause of action is analogous to any other cause of action with a statute of limitations expressly prescribed by law. There are no amendments to this measure.

**Chairman Yeager:**

Committee, you might remember this is the bill we heard where there was some opposition that I think was based on a misunderstanding. There was a belief that some existing law in the *Nevada Revised Statutes* was being deleted by way of an amendment, which was not the case. The reason I tell you that is, we heard that testimony from Clark County. They had indicated to me that they were simply misunderstanding the way the bill was operating. They moved into a neutral position and they let me know that by email, so they are no longer in opposition, if anybody was concerned about that.

Are there any questions on S. B. 107 (R1) as detailed in the work session document? [There were none.] I am looking for a motion to do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO DO PASS SENATE BILL 107 (1ST REPRINT).

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, O'NEILL, AND WHEELER VOTED NO. ASSEMBLYWOMAN HARDY WAS ABSENT FOR THE VOTE.)

Thank you, Senator Ohrenschall, for being here for any questions. I will assign the floor statement to Assemblywoman Marzola. That takes us to Senate Bill 166 (1st Reprint).

**Senate Bill 166 (1st Reprint): Revises provisions relating to crimes motivated by certain characteristics of the victim. (BDR 15-246)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 166 (1st Reprint) was sponsored by Senator Scheible and was heard in Committee on April 28, 2021 [[Exhibit G](#)].

Senate Bill 166 (1st Reprint) removes a provision from law which requires that, in order for certain penalty enhancements to apply to felonies committed because of characteristics of the victim—including color, gender identity or expression, mental or physical disability, national origin, race, religion, or sexual orientation—the perpetrator must not share those characteristics with the victim. Instead, this bill provides that the perpetrator may be punished by an additional penalty if the crime was committed based solely on the characteristics of the victim, which makes the standard for these crimes the same as the standard that applies in misdemeanor cases.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office, and John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office, proposed the following amendments:

1. Amend section 1 by striking the language "by reason of" and replacing it with "because of" to clarify that the actual or perceived characteristic must be the primary cause of the willful violation of certain provisions in statute;
2. Provides a definition of "because of"; and
3. Amend section 2 to provide conforming changes.



**Chairman Yeager:**

Before I take questions, I will let the Committee know that you have an amendment. In speaking to legal, I think the amendment is likely going to need some work and some tidying up, which is what legal does on a regular basis when we process amendments. I just wanted to let Committee members know that the amendment that comes back from legal might not look exactly like the one you see on your work session document. We are going to try to make sure that we are being consistent with how we characterize things in terms that we use in statute. Then, of course, you always have a chance to review that amendment before there would be a potential floor vote on the bill as well.

Are there any questions on S.B. 166 (R1) as detailed in the work session document? [There were none.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN GONZÁLEZ MOVED TO AMEND AND DO PASS  
SENATE BILL 166 (1ST REPRINT).

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblywoman Summers-Armstrong:**

Thank you, Senator Scheible, for hearing me and my concerns and working with the public defenders to address that. I really appreciate it.

**Chairman Yeager:**

Is there any further discussion on the motion?

**Assemblywoman Krasner:**

I will be voting yes to get it out of Committee but want to reserve my right.

**Chairman Yeager:**

Is there further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KASAMA,  
O'NEILL, AND WHEELER VOTED NO. ASSEMBLYWOMAN HARDY  
WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to myself. We will go next to Senate Bill 203 (1st Reprint).

**Senate Bill 203 (1st Reprint): Revises provisions relating to civil actions involving certain sexual offenses. (BDR 2-577)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 203 (1st Reprint) was sponsored by Senator Dondero Loop and was heard in Committee on April 28, 2021 [[Exhibit H](#)].

Senate Bill 203 (1st Reprint) sets a 30-year statute of limitations on commencing a civil action to recover damages for sexual abuse or exploitation that occurred when the plaintiff was less than 18 years of age and for injuries suffered by a victim of pornography involving minors. A plaintiff may bring such an action against a perpetrator or whoever knowingly benefits financially or receives anything of value from participation in a venture which that person knew or should have known was an act that violates provisions of the bill. A person who is found liable to a plaintiff under these provisions is liable for treble damages as well as reasonable attorney's fees. The bill also provides that the mere rental of a hotel room in an establishment having more than 200 rooms does not constitute proof of a benefit to a defendant.

There are two proposed amendments to this measure.

1. Senator Marilyn Dondero Loop and the Nevada Justice Association proposed an amendment, which does the following:
  - Provides in section 1, subsection 2 that an action to recover damages for an injury suffered by a victim of pornography involving minors may be commenced at any time against the perpetrator;
  - Provides in section 1, subsection 3 that an action to recover such damages must be commenced within 20 years after the victim reaches 18 years of age;
  - Revises in section 2, subsection 2 that a person is liable to a plaintiff for damages if the person knowingly benefits, financially or by receiving anything of tangible value;
  - Revises in section 2, subsection 4 the number of rooms to 175 from 200 in a hotel, motel, or other establishment deemed not to benefit, or to have gained a benefit, from the rental of a room in relation to the sexual abuse or exploitation of another person; and
  - Revises in section 2, subsection 5 the definition of "sexual abuse" and adds the definition of "sexual exploitation."
2. Senator Marilyn Dondero Loop proposed adding Assemblywoman Krasner as a cosponsor of the bill.

**Chairman Yeager:**

Before we take questions, I had a question for legal in looking at the amendment that is proposed in the work session document. In section 1, it adds the phrase "against the perpetrator," which is somewhat concerning because it is a civil suit, so we do not usually speak of perpetrators. I wanted to ask Mr. Wilkinson if that language was necessary in the amendment or if it was already covered by existing statute.

**Bradley A. Wilkinson, Committee Counsel:**

The term "perpetrator," as you mentioned, is not used elsewhere in the statute. More importantly, the underlying statute, *Nevada Revised Statutes* 41.1396, clearly establishes the person against whom one of these civil actions may be brought, which is a person who promotes, possesses, or uses the Internet to access the child pornography. It also establishes that the person has to be 18 years of age or older, so it would not apply to a minor and it would not apply to any type of corporation, nonprofit organization, or other business entity.

**Chairman Yeager:**

Thank you, Mr. Wilkinson. When we get to the motion section, I will probably ask that we remove those words just for clarity because I think they are already included. Are there any questions on S.B. 203 (R1) as detailed in the work session document? [There were none.] I am looking for a motion to amend and do pass with the clarification.

ASSEMBLYWOMAN KRASNER MOVED TO AMEND AND DO PASS  
SENATE BILL 203 (1ST REPRINT) WITH THE CLARIFICATION.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Orentlicher:**

I think it is unfortunate that in section 2.4 we have this carve-out for larger hotels that will not be held accountable for sexual exploitation that they are aware of, but I will not let the perfect be the enemy of the good, and I will support this.

**Chairman Yeager:**

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KASAMA,  
O'NEILL, AND WHEELER VOTED NO. ASSEMBLYWOMAN HARDY  
WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Krasner. We will hear Senate Bill 212 (1st Reprint) next.

**Senate Bill 212 (1st Reprint): Revises provisions relating to the use of force by peace officers. (BDR 14-215)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 212 (1st Reprint) was sponsored by Senator Harris and was heard in Committee on April 23, 2021 [[Exhibit I](#)].

Senate Bill 212 (1st Reprint) places restrictions on the use of restraint chairs by peace officers and prohibits a peace officer who is responding to a protest or demonstration from

discharging a kinetic energy projectile indiscriminately into a crowd or targeting the head, pelvis, spine, or other vital areas of a person. Prior to using a chemical agent, an officer must first declare that the protest or demonstration constitutes an unlawful assembly and then provide orders to disperse, an egress route, and reasonable time for protesters or demonstrators to disperse.

The bill also requires a peace officer to employ de-escalation techniques and other alternatives consistent with his or her training before resorting to higher levels of force to effect an arrest. If an officer uses a higher level of force, the officer is to identify himself or herself as a peace officer—if this can be done safely—and is to use only the objectively reasonable amount of force necessary to safely accomplish a lawful purpose.

Law enforcement agencies are required to adopt written policies on the threat posed by certain persons to peace officers and to others and are required to report data on the use of force to the Central Repository for Nevada Records of Criminal History. Law enforcement agencies are required to participate in the National Use-of-Force Data Collection program of the Federal Bureau of Investigation, but the data collected may not be used against a peace officer during any criminal proceeding.

Senator Harris proposed an amendment, which does the following:

- Revises section 2 by requiring each law enforcement agency's written policy on the threat that certain persons pose to peace officers or others to include certain information on the use of force;
- Revises section 3.3, subsection 1 by requiring each law enforcement agency to annually make available to the public and on a monthly basis submit to the Central Repository a report that includes statistics relating to incidents involving the use of force that occurred within the previous month;
- Revises section 3.3, subsection 4 to allow the Central Repository to accept gifts, grants, and donations from any source for the purpose of carrying out the provisions of the section;
- Provides in section 3.7 that a peace officer is prohibited from using deadly force against a person based on the danger that the person poses to himself or herself, if a reasonable peace officer would believe that the person does not pose an imminent threat of death or serious bodily harm to the peace officer or another person;

- Revises section 4, subsection 7, paragraph (b), subparagraph (3) to provide that in response to a protest or demonstration, if there is an immediate threat of physical harm or death to a person then no order to disperse must be provided. If there is an immediate threat of harm to property, then only one order to disperse must be provided; and
- Makes conforming changes in section 4.5.

**Chairman Yeager:**

We do have Senator Scheible here to answer any questions on behalf of Senator Harris. Are there any questions on S.B. 212 (R1) as detailed in the work session document?

**Assemblywoman Cohen:**

If we are talking about a situation where a family member calls the police because their family member is having a mental health crisis and is making suicidal threats, and that person who is making the suicidal threats has a gun because that is what they are going to use, so maybe they are held up in a room in the house, saying, I am going to use it on myself, I am going to do it, and the officer comes to deal with the situation. Does the imminent threat language in section 3.7 mean that the person who is threatening to commit suicide has to actually aim the gun at the officer, or are we saying that just because they have the gun is not considered an imminent threat?

**Senator Melanie Scheible, Senate District No. 9:**

I think that is more of a question for legal, but I can represent that in our discussions about it, we discussed a case where somebody does have a gun and that would not rise to the level of an imminent threat just because they have it, if they are making those threats to harm themselves so it is clear that is why they have the gun. They would have to change their behavior, point it at an officer, threaten an officer, or something like that.

**Chairman Yeager:**

Are there any additional questions on S.B. 212 (R1) as detailed in the work session document? [There were none.] I will take a motion to amend and do pass S.B. 212 (R1).

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS  
SENATE BILL 212 (1ST REPRINT).

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman O'Neill:**

I want to compliment Senators Harris and Scheible on their diligent work with some of the law enforcement groups to try to refine it. I will be voting no because I think there is still some work that needs to be done to get there and I am not quite in the yes place.

**Chairman Yeager:**

Is there further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KASAMA, KRASNER, O'NEILL, AND WHEELER VOTED NO. ASSEMBLYWOMAN HARDY WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Miller. We will go next to Senate Bill 358.

**Senate Bill 358: Revises provisions relating to wire communications. (BDR 15-1008)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 358 was sponsored by the Senate Committee on Judiciary and was heard in Committee on April 16, 2021 [[Exhibit J](#)].

Senate Bill 358 provides an exception to the general prohibition against intercepting any wire communication for situations wherein a person has barricaded himself or herself, is not exiting or surrendering at a peace officer's lawful request, and there is an imminent risk of harm to the life of another person resulting from the barricaded person's actions or the barricaded person has created a hostage situation.

Assemblyman Yeager proposed an amendment clarifying the circumstances when an interception or attempted interception of a wire communication is authorized, including when a person has barricaded himself or herself or created a hostage situation.

**Chairman Yeager:**

A point of clarification on the amendment. I do not know that it came out in the hearing, but some of the language that was in S.B. 358 was already in *Nevada Revised Statutes* (NRS) in a different statute. I think it was NRS Chapter 174. In working with legal, the Senate Majority Leader, and some other folks who were interested in this bill, I think we found the appropriate solution here in the amendment, which essentially allows for the recording of a phone call only back and forth in these hostage situations. Everything else in the statute would stay the same with respect to having to get ratifications of warrants. Essentially what the amendment does is, it says in this limited context, it is a one-party consent. As long as the officer doing the recording is consenting to record the call, then it makes it okay under the laws of our state. The reason I did that is, I think we want to incentivize recording of those conversations because if they are not recorded, then the public does not have the benefit of the transparency of knowing what those conversations were between whoever is in the hostage situation or barricade situation and the officer, and I think this will ensure that those conversations are recorded and can later be reviewed.

With that very long explanation of a very short amendment, are there any questions on S.B. 358 as detailed in the work session document? [There were none.] I will take a motion to amend and do pass S.B. 358.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS  
SENATE BILL 358.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblywoman Bilbray-Axelrod:**

I would like to thank you for that explanation because I was a little squishy on this and I appreciate it.

**Chairman Yeager:**

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN HARDY WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblyman O'Neill. Committee, that takes us to our final bill on the work session at this time, Senate Bill 359 (1st Reprint).

**Senate Bill 359 (1st Reprint): Provides additional penalties if a fire or explosion results from the commission of certain prohibited acts. (BDR 40-1006)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 359 (1st Reprint) was sponsored by the Senate Committee on Judiciary and was heard in Committee on April 21, 2021 [[Exhibit K](#)].

Senate Bill 359 (1st Reprint) provides that if a fire or explosion occurs as the result of the unauthorized manufacturing or compounding of a controlled substance other than marijuana, the person who has engaged in such unlawful activity is also guilty of a category C felony. Similarly, if a person unlawfully manufactures, grows, plants, cultivates, harvests, dries, propagates, or processes marijuana or extracts concentrated cannabis and that activity results in a fire or explosion, the person is also guilty of a category C felony.

Assemblyman Steve Yeager proposed the following amendment:

- Amend section 1 of the bill to provide that if a person commits a violation of the section by manufacturing or compounding a controlled substance other than marijuana and the violation causes a fire or explosion, then the person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than

20 years and may be further punished by a fine of not more than \$100,000. This means that the potential maximum term is increased by 5 years from the existing maximum of 15 years to 20 years;

- Amend section 2 of the bill to provide that the existing penalty for a violation of this section is reduced from a category C felony (minimum 1 year, maximum 5 years) to a category D felony (minimum 1 year, maximum 4 years), but if the violation causes a fire or explosion, then the person shall be punished by an additional, equal term of imprisonment that runs consecutively to the underlying offense; and
- Amend section 2 by adding language regarding the determination of the additional penalty imposed.

**Chairman Yeager:**

Committee members, I will let you know I worked with the Senate Majority Leader as well as the public defenders, who I believe were in support. We are still working on the language. They have seen this language, and they are in agreement that this is the best way to go forward with the bill, so I do not know of any opposition at this point. Are there any questions on S. B. 359 (R1) as detailed in the work session document? [There were none.] I am looking for a motion to amend and do pass.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
SENATE BILL 359 (1ST REPRINT).

ASSEMBLYMAN MILLER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN HARDY WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Hansen. That takes us through our agenda that we have this morning. I will open it for public comment.

**Tonja Brown, Private Citizen, Carson City, Nevada:**

On behalf of Advocates for the Inmates and the Innocent, we would like to thank you and let you know how much we appreciate the hard work you have put in during this legislative session. We would also like to state that over the years Nevada has created some wonderful legislation on criminal justice reform. However, there are some areas of criminal justice reform that has yet to be addressed. My hope is that in 2023 when our legislators return, they would look into making criminal justice reform complete by strengthening some of the previous laws that have passed, such as Assembly Bill 268 of the 79th Session, the DNA bill. In the original bill, it was asked to allow DNA testing to be conducted at the inmate's own expense if the court denied testing. There was opposition by the district attorney's office and



that part was removed. The district attorney's office continues to fight against DNA testing and the inmates are losing any chance of exonerating their names. That was not the intent of that bill.

Also, we talk about criminal justice reform. There are several areas of justice reform that need to be revised from the ground up. Those areas deal with the district attorney's office and their qualified immunity for any violations without any repercussions to them. When a prosecutor withholds evidence at the expense of an innocent person, they must be held accountable. Prosecuting attorneys must do their jobs if it means going against one of their own. And the statute of limitations must be revised.

**Chairman Yeager:**

Ms. Brown, we are right at two minutes so if could you please wrap up your comments.

**Tonja Brown:**

I am done. Thank you.

**Chairman Yeager:**

Is there anyone else wishing to provide public comment?

**Annemarie Grant, Private Citizen, Quincy, Massachusetts:**

I am the sister of Thomas Purdy, murdered by Reno Police Department and Washoe County Sheriff's Office. This session I have asked you to hold police accountable, and some of the bills passed out of this Committee are a step in the right direction. I would like to see the focus remain on police but also consider, next legislative session, holding prosecutors accountable for their actions. We need to take away qualified immunity.

I have listened to not only this Committee, but other committees over the session. Over and over I have heard the district attorneys' response that, We have a policy for that "type"—for any type of legislation that would provide oversight of them. Policy is not law and it is much easier to say, We are following our policy, than to have mandated legislative oversight. When *Brady* [*Brady v. Maryland*, 373 U.S. 83 (1963)] violations were brought up in one hearing, the district attorneys' representative acknowledged that there are no true consequences when a district attorney withholds evidence. Basically, what the response was, Well, we just never would do that. We would never defy a Supreme Court order. The personal assurance from other district attorneys that nobody from their office would do anything to jeopardize their good standing just is not sufficient insurance to the public that justice is truly just and fair. The resistance is concerning. I personally know of a case in which the public defender in the postconviction hearing provided a poor and inadequate performance at the hearing. The defendant could not understand why. The defendant was able to understand when he later found out that his public defender already had accepted a job from the appeals unit at the Washoe County District Attorney's Office, the very unit the defendant was going up against at that hearing. This is unacceptable when someone's freedom is on the line.

I would like to see legislatively mandated wrongful conviction units for Washoe. The Conviction Integrity Committee (CIC) has reviewed one case since inception and chose to only look at court orders when they should be looking at the entire case including the defendant's pleadings. If the CIC lead member stated, in that case, the CIC cannot offer a more thorough assessment of your claim than the 12 citizens that served on the jury—a jury that did not get to see all of the evidence, by the way—if that is their position, why even have a Conviction Integrity Committee? It appears to be a dog and pony show and further proves as to why we need legislation on this. If you do not hold them accountable with legislation, nobody can.

I would just like to mention in closing that today is the four-year anniversary of the asphyxiation murder of Tashii Brown by Las Vegas Metropolitan Police Department officer Kenneth Lopera. Brown died in 2015 after being tased and placed in a chokehold. Please keep his mother, Trinita Farmer, in your thoughts today.

**Chairman Yeager:**

Is there anyone else for public comment? [There was no one.] Last Wednesday was our legal counsel's birthday so I wanted to wish Mr. Wilkinson a belated happy birthday.

Committee, for the rest of the day, here is where things are at. We have gotten through the agenda. There are three more Senate bills that are still sitting in our Committee that could be work-sessioned today. That is to be determined, but I wanted to let the Committee know which bills those are so you might be ready for them. They are Senate Bill 57 (1st Reprint), which was presented by Clark County, about fines and fees being added to the tax roll. Next is Senate Bill 317 (1st Reprint), which is the juvenile justice employees back pay bill. And the third one is Senate Bill 369 (1st Reprint), which is one of the bills relating to bail. There is still some work being done on them. I do not yet know if we are going to work-session those or not. In terms of my best guess, if we do consider them today, it will be sometime in the afternoon. I do not think we will have it ready before we get to noon, and then I will be in Senate Committee on Judiciary for a little while this afternoon with a lot of work session bills myself. I would ask members to remain within 20 to 25 minutes of the building so in case I have to call you back, you are close. Thank you for your patience.

[The meeting was recessed at 9:57 a.m.]

**Chairman Yeager:**

We will come back to order [at 7 p.m.]. Welcome to late night, Committee, which I think is the first time this session. Thank you for your patience, Committee, as we work through some issues today. We have three additional bills on the work session document that we are going to consider at this time. You will find the work session document on Nevada Electronic Legislative Information System, with the three bills at the end of the work session document. The bills are not in chronological order because we finished the nine from this morning. We will pick up with Senate Bill 57 (1st Reprint).

**Senate Bill 57 (1st Reprint): Revises provisions governing the imposition of certain special assessments by a board of county commissioners or a governing body of a city. (BDR 20-403)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 57 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of Clark County and was heard in Committee on May 5, 2021 [[Exhibit L](#)].

Senate Bill 57 (1st Reprint) authorizes a board of county commissioners or a governing body of a city to recover an unpaid fine or fee for an offense relating to real property by making it a special assessment against the real property, which may be collected in the same manner as ordinary county taxes. The bill also eliminates the requirement that 180 days or 12 months, as applicable, have elapsed for a special assessment to be imposed.

Justin Harrison, Principal Management Analyst, Administrative Services, Clark County, proposed an amendment, which does the following:

- Revises section 1, subsection 2, paragraph (a) by deleting "and";
- Revises section 1, subsection 2 to provide that an ordinance adopted by a board of county commissioners to recover any unpaid fine or fee for an offense relating to real property must provide a process in which a special assessment against the property can be extinguished if the property comes into compliance and remains in compliance for 180 days; and
- Amends section 1 to include a definition of an "offense relating to real property" to include any violation of the transient lodging laws or abandoned properties.

**Chairman Yeager:**

The amendment that was referenced is the amendment that was presented at the hearing. I will let Committee members know there were a lot of additional efforts to try to find additional compromise or amendments on this measure. Ultimately, those efforts were not fruitful. Before I take questions, I will let members know on this particular bill, I intend to take a motion to amend and send to the floor without a policy recommendation. That will be the contemplated motion, just so everyone knows. Are there any questions on S.B. 57 (R1) as detailed in the work session document?

**Assemblywoman Kasama:**

It sounds like the assessments were not able to be made a junior lien to the banks, is that correct?

**Chairman Yeager:**

There were robust discussions about that. In the end analysis, we did not get to a place where we felt like we were comfortable doing that and that it made sense statutorily. At this time,

there is no secondary lien status. It would remain a primary lien because it would be part of the tax lien, which is already primary.

**Assemblywoman Kasama:**

Unfortunately, I would have to be a no then, because that would interfere with the first deed of the banks and that could increase premium pricing on loans in areas. I have trouble with that.

**Chairman Yeager:**

Are there any other questions from the Committee? [There were none.] I am looking for a motion to amend and send to the floor without recommendation.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND SEND TO THE FLOOR WITHOUT RECOMMENDATION SENATE BILL 57 (1ST REPRINT).

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Wheeler:**

I appreciate your trying to send it to the floor without recommendation, but I am still going to have to go no on it just because I do not like it.

**Assemblywoman Bilbray-Axelrod:**

I will be a yes out of Committee but still think the bill needs some work.

**Chairman Yeager:**

Is there any further discussion? [There was none.] Let me just say, I have had a lot of discussions on this bill. I do not know that the bill is in the place where it needs to be. I understand that Clark County, in particular, has a problem, but I also understand some of the counter-arguments. The reason we are doing the motion this way is to essentially give it a lifeline for another week to see if some compromise or solution can be reached. I understand the problem, but I do not know that we are there yet. That is why we are taking this motion, I believe, for the first time this session in this Committee.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KASAMA, KRASNER, O'NEILL, AND WHEELER VOTED NO. ASSEMBLYWOMAN HARDY WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to myself. We will go next to Senate Bill 317 (1st Reprint).

**Senate Bill 317 (1st Reprint): Revises provisions relating to juvenile justice.  
(BDR 5-1016)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 317 (1st Reprint) was sponsored by Senator Ohrenschall and was heard in Committee on May 4, 2021 [[Exhibit M](#)].

Senate Bill 317 (1st Reprint) provides that if an employee of a juvenile justice services department in a county whose population is more than 700,000, currently Clark County, is put on leave without pay, pending the outcome of a criminal prosecution, the employee will be awarded back pay for the duration of the leave if the charges against the employee are dismissed, the employee is found not guilty at trial, or the employee is not subjected to punitive action in connection with the alleged misconduct.

The bill also provides that the period of 180 days during which an employee of such a juvenile justice services department may resolve pending criminal charges begins after arrest.

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers, proposed an amendment, which does the following:

- Provides that a peace officer employed by a department of juvenile justice services shall be awarded back pay if: (a) the charges are dismissed or the peace officer is found not guilty at trial; and (b) the peace officer is not subjected to punitive action in connection with the alleged misconduct.

**Chairman Yeager:**

Are there any questions on S.B. 317 (R1) as detailed in the work session document?

**Assemblyman Wheeler:**

I am looking at the amendment changing from "employee" to "peace officer," which I think is a good idea. The amendment presented to me in my office looks a little different here. Maybe legal could tell me. Wait, I see it here. I am sorry, never mind. It is getting late and I am getting old.

**Chairman Yeager:**

It is no problem, Assemblyman Wheeler. It is getting late, and it has been a long week. Are there any other questions from the Committee?

**Assemblyman O'Neill:**

I just wanted to clarify. I keep hearing there is another amendment. Is this the only one that is being proposed?

**Chairman Yeager:**

This is the only one we are intending to work-session at this time. You are indeed correct. Mr. Ortiz is with us in the room and he has been working on a further amendment that

I honestly think is worthy of consideration. But given the hour, it is not something we are going to be able to get up and down today without keeping you all here until midnight, which I do not want to do. I will say that I am very much looking forward to discussions continuing to happen next week, if this bill is to get out of Committee, to potentially incorporate some of that amendment. Welcome, Senator Ohrenschall.

**Assemblyman O'Neill:**

Can I just speak out of turn, Chairman? I want to be a yes on this. I am confused right now on the amendments. With all due respect, I am going to end up being a no, but I know we can get to a yes. It is my confusion, late at night, but for now I will be a no.

**Chairman Yeager:**

Thank you, Assemblyman O'Neill. Senator Ohrenschall, just for your edification, what we were discussing is that the motion I intend to take is the one that includes the amendment that was proffered from Mr. McCann. There are no other amendments in the work session document, but Assemblyman O'Neill raised the question of an additional amendment. I had indicated that Mr. Ortiz, in fact, is working on another amendment that I think can be discussed and considered next week if the bill is to get out and make the best determination about how to proceed. I wanted to fill you in on that discussion so far and ask if you had anything else you wanted to add.

**Senator James Ohrenschall, Senate District No. 21:**

Yes, we have very recently, as of a few hours ago, gotten an amendment from Mr. Ortiz. I know that Mr. McCann and Mr. Richardson from the Juvenile Justice Probation Officers Association had been reviewing it. I would like to say that we are all in agreement, but unfortunately, we are not there yet. I still think it is possible and hope that the bill can live another day to try to get to a point where there is agreement.

**Chairman Yeager:**

Are there any additional questions from the Committee? [There were none.] At this time, I will take a motion to amend and do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS  
SENATE BILL 317 (1ST REPRINT).

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Wheeler:**

I think I can get there on this bill. I think it needs a little bit more work, and I think Mr. Ortiz and Mr. McCann and the Senator working together may just get me there on this bill. I will vote no in Committee but reserve to go yes, I probably do not have to tell you when I get down there if I go yes.

**Chairman Yeager:**

We will eagerly await that day when your no in Committee turns to a yes on the floor. I do not know if that has happened yet this session.

**Assemblyman Wheeler:**

It has not yet, but we will give it a try on this one if they can get together.

**Chairman Yeager:**

Is there any further discussion on the motion?

**Assemblywoman Krasner:**

I am going to vote yes to get it out of Committee and reserve my right.

**Chairman Yeager:**

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KASAMA, O'NEILL, AND WHEELER VOTED NO. ASSEMBLYWOMAN HARDY WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Orentlicher. Thank you, Senator Ohrenschall, for being here. We will move to our last item on the work session, Senate Bill 369 (1st Reprint).

**Senate Bill 369 (1st Reprint): Revises provisions relating to criminal procedure. (BDR 14-375)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 369 (1st Reprint) was sponsored by the Senate Committee on Judiciary on behalf of the Committee to Conduct an Interim Study of Issues Relating to Pretrial Release of Defendants in Criminal Cases and was heard in Committee on April 29, 2021 [[Exhibit N](#)].

Senate Bill 369 (1st Reprint) revises statutes regarding the imposition of bail or other conditions of release to comport with the *Nevada Constitution*. The bill removes provisions requiring an arrested person to show good cause in order to be released without bail. Additionally, the bill consolidates existing procedures for releasing a person with or without bail into a standard procedure for courts to follow in making pretrial custody determinations. A court must only impose bail or a condition of release, or both, on a person if it deems doing so to be the least restrictive means necessary to protect the safety of the community and ensure the person will appear at all times and places ordered by the court.

A prosecuting attorney may request bail but must prove by clear and convincing evidence why it is necessary to protect the community and ensure the accused will appear. Finally, if a person used a firearm in committing the act for which the person was arrested, there is a rebuttable presumption that the least restrictive means necessary to secure the community's

safety and ensure the person will appear in court includes the imposition of bail or a condition of release, or both.

Senators Harris and Scheible proposed an amendment revising section 3 of the bill. The amendment does the following:

1. Amends subsection 1 by changing "and" to "or" to clarify that bail may be imposed only for two purposes: to protect the safety of the community or to ensure the appearance of the accused at all stages of the proceedings;
2. Makes conforming changes in subsection 2 by changing "and" to "or";
3. Adds language from *Nevada Revised Statutes* 178.484 regarding the right to bail and provides language that the court may impose reasonable conditions on the person as it deems the least restrictive means necessary to protect the safety of the community or to ensure that the person will appear at all times and places ordered by the court;
4. Adds language from the mockup of Assembly Bill 424 (Proposed amendment 3374 to AB 424) presented in the Senate by Senator Dallas Harris:

Section 8. (9) If a court imposes bail or any condition of release, or both, other than release on recognizance with no other conditions of release, the court shall make findings of fact for such a determination and state its reasoning on the record, and if the determination includes the imposition of a condition of release, the findings of fact must include why the condition of release constitutes the least restrictive means necessary to:

(a) Protect the safety of the community; or

(b) Ensure the person will appear at the times and places ordered by the court.

5. Strikes subsection 5 from the bill, which allowed a sheriff or chief of police, upon a showing of good cause, to release without bail any person charged with a misdemeanor;
6. Revises subsection 6 to provide that a person must sign a document before his or her release stating that the person will appear in court, comply with any other conditions imposed, waive the right to extradition proceedings if the person fails to appear and is arrested in another state, and understands that the court may revoke the release without bail;
7. Revises subsection 7 to provide that the document is effective upon the person's signature; and



8. Revises subsection 8 by authorizing the court to revoke bail and remand the person into custody.

**Chairman Yeager:**

Are there any questions on S.B. 369 (R1) as detailed in the work session document?

**Assemblywoman González:**

I am curious if all the stakeholders who litigated this bill are in agreement with this bill and the amendment.

**Senator Melanie Scheible, Senate District No. 9:**

I think that with the exception of the defense bar, which is still in opposition to the added policy of a presumption that anybody who commits a crime with a firearm will have some conditions imposed on them before release, yes, everybody is in agreement. This reflects the law as it was stated by the Nevada Supreme Court in the *Valdez-Jimenez* [*Valdez-Jimenez v. Eighth Judicial District Court*, 163 Nev. Adv. Op. No. 20, April 9, 2020] decision. There were also a couple of other places where we had to make some decisions about how to reflect the Nevada Supreme Court's decision; for example, the process by which somebody could be released prior to their hearing, and that language has been vetted with the public defenders, the courts, the district attorneys, and the Nevada Attorneys for Criminal Justice. To the best of my knowledge and ability, it reflects a consensus, and I am still happy to work with stakeholders if there is something that we missed because it has been a very lengthy process and many provisions of multiple bills.

**Chairman Yeager:**

Are there any additional questions from the Committee? [There were none.] I will be looking for a motion to amend and do pass S.B. 369 (R1).

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS  
SENATE BILL 369 (1ST REPRINT).

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblywoman Nguyen:**

These are bills that came out of an interim study that we both sat on. Unfortunately, at this time I am a no on this. I will continue to work with you. I know that I have spent a great deal of time with you, Senator Harris, Assemblyman Flores, and others working on this bill. I just feel with the amendment and the rebuttable presumption when it comes to firearms, that this is a step backward from the *Valdez-Jimenez* decision. At this time, I will be voting no out of Committee but I look forward to working with you to continue to try to get the language right.

**Assemblywoman Summers-Armstrong:**

I am going to ditto Assemblywoman Nguyen. I think there is some room for discussion, and I am happy to have that discussion.

**Assemblywoman González:**

Ditto.

**Chairman Yeager:**

Thank you for keeping your comments brief on a Friday night. Is there any further discussion on the motion?

**Assemblyman Wheeler:**

What I am hearing is everybody has a little problem with the bill so therefore, it is the perfect bill. I will be voting yes.

**Chairman Yeager:**

You did not say it was a simple bill, so it was not the kiss of death. Is there further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMEN GONZÁLEZ, NGUYEN,  
AND SUMMERS-ARMSTRONG VOTED NO. ASSEMBLYWOMAN  
HARDY WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman O'Neill. Thank you, Senator Scheible.

That takes us through everything on our agenda. We have already taken public comment this morning. Just a couple of announcements. One, I wanted to congratulate all of our law school graduates from the William S. Boyd School of Law at the University of Nevada, Las Vegas, who graduated this morning. Assemblywoman Hardy's daughter graduated this morning, which is why she was not with us today. Congratulations to all of those new attorneys. Please, when you are in front of the Assembly Committee on Judiciary as a future attorney, if you could keep your comments brief, that would be appreciated.

Committee, I want to thank you for today. I know it was a very long day and we were waiting around quite a bit. I appreciate that. In terms of next week, we do not have any bills, so Monday's meeting has been cancelled. I am going to wait to see if we get a bill on the Assembly floor on Monday afternoon. So, there is a chance we could have a meeting Tuesday. If you are asking me to bet, I would say we probably are not going to have one on

Tuesday. With all of that behind us, please get some rest this weekend. Next week is going to be another long week as we march towards Friday's deadline. Again, I really appreciate you, Committee. We will see you in the near future.

The meeting is adjourned [at 7:20 p.m.].

RESPECTFULLY SUBMITTED:

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Traci Dory  
Committee Secretary

APPROVED BY:

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Assemblyman Steve Yeager, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the work session document for [Senate Bill 6 \(2nd Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the work session document for [Senate Bill 45 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the work session document for [Senate Bill 94 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the work session document for [Senate Bill 107 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the work session document for [Senate Bill 166 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the work session document for [Senate Bill 203 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the work session document for [Senate Bill 212 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the work session document for [Senate Bill 358](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the work session document for [Senate Bill 359 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the work session document for [Senate Bill 57 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the work session document for [Senate Bill 317 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is the work session document for [Senate Bill 369 \(1st Reprint\)](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Amendment No. 652

|                                                                                      |              |
|--------------------------------------------------------------------------------------|--------------|
| Assembly Amendment to Senate Bill No. 369 First Reprint                              | (BDR 14-375) |
| <b>Proposed by:</b> Assembly 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. 369—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 25, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal procedure. (BDR 14-375)

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; removing the requirement that an arrested person show good cause before being released without bail; providing that a court may only impose bail or a condition of release, or both, on a person if the imposition is the least restrictive means necessary to protect the safety of the community ~~and~~ **or** to ensure the appearance of the person in court; requiring prosecuting attorneys under certain circumstances to prove by clear and convincing evidence that the imposition of bail or a condition of release, or both, on a person is necessary to protect the safety of the community ~~and~~ **or** to ensure the appearance of the person in court; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Nevada Constitution prohibits the imposition of excessive bail and requires all persons arrested for offenses other than murder of the first degree to be admitted to bail. (Nev. Const. Art. 1, §§ 6, 7)

Recently, the Nevada Supreme Court held that a provision of law requiring an arrested person to show good cause before being released without bail violated his or her constitutional right to nonexcessive bail. Specifically, the Nevada Supreme Court held that the provision of law was unconstitutional because it: (1) did not require the court to consider less restrictive conditions of release before determining that the imposition of bail was necessary; and (2) effectively relieved the State from its burden of proving that the imposition of bail on the person was necessary to protect the safety of the community ~~and~~ **or** to ensure the appearance of the person in court. (*Valdez-Jimenez v. Eighth Jud. Dist. Court*, 136 Nev. 155 (2020); Nev. Const. Art. 1, §§ 6, 7; NRS 178.4851) **Section 3** of this bill removes the provision of law that was found unconstitutional and **section 4** of this bill makes a conforming change.

Existing law sets forth separate procedures for releasing persons with bail and releasing persons without bail. (NRS 178.484, 178.4851) Specifically, existing law: (1) restricts persons from being released on bail under certain circumstances; and (2) mandates specific amounts of bail for offenses involving domestic violence and violations of certain orders for protections.

(NRS 178.484) **Section 2** of this bill retains the existing restrictions and specific amounts of bail while **section 3** consolidates the existing procedures for releasing persons with bail and releasing persons without bail into a standard procedure for courts to follow in making pretrial custody determinations. **Sections 1, 5 and 6** of this bill make conforming changes to reflect the consolidation of the procedures.

**Section 3** requires the court to only impose bail or a condition of release, or both, on a person as it deems to be the least restrictive means necessary to protect the safety of the community ~~and~~ or to ensure that the person will appear at all times and places ordered by the court, with regard to certain factors.

**Section 3** also requires a prosecuting attorney, if he or she requests the imposition of bail or a condition of release on a person, to prove by clear and convincing evidence that the imposition of bail is necessary to protect the safety of the community ~~and~~ or to ensure the appearance of the person in court. Finally, **section 3 : (1) requires a court to make findings of fact for certain determinations relating to the imposition of bail or any condition of release, or both; and (2) provides that if a person used a firearm in the commission of the offense for which the person was arrested, there is a rebuttable presumption that the least restrictive means necessary to ensure the safety of the community includes the imposition of bail or a condition of release, or both.**

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

**Section 1.** NRS 171.1845 is hereby amended to read as follows:

171.1845 1. If a person is brought before a magistrate under the provisions of NRS 171.178 or 171.184, and it is discovered that there is a warrant for the person's arrest outstanding in another county of this State, the magistrate may release the person in accordance with the provisions of NRS ~~178.484 or~~ 178.4851 if:

(a) The warrant arises out of a public offense which constitutes a misdemeanor; and

(b) The person provides a suitable address where the magistrate who issued the warrant in the other county can notify the person of a time and place to appear.

2. If a person is released under the provisions of this section, the magistrate who releases the person shall transmit the cash, bond, notes or agreement submitted under the provisions of NRS 178.502 or 178.4851, together with the person's address, to the magistrate who issued the warrant. Upon receipt of the cash, bonds, notes or agreement and address, the magistrate who issued the warrant shall notify the person of a time and place to appear.

3. Any bail set under the provisions of this section must be in addition to and apart from any bail set for any public offense with which a person is charged in the county in which a magistrate is setting bail. In setting bail under the provisions of this section, a magistrate shall set the bail in an amount which is sufficient to induce a reasonable person to travel to the county in which the warrant for the arrest is outstanding.

4. A person who fails to appear in the other county as ordered is guilty of failing to appear and shall be punished as provided in NRS 199.335. A sentence of imprisonment imposed for failing to appear in violation of this section must be imposed consecutively to a sentence of imprisonment for the offense out of which the warrant arises.

**Sec. 2.** NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.



2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

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

5. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on the person's own recognizance unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.

6. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on the person's own recognizance sooner than 12 hours after arrest.

7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after arrest. If the person is admitted to bail more than 12 hours after arrest, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation;

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

➤ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or for violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 must not be admitted to bail sooner than 12 hours after arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection of the type for which the person has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in the person's blood or breath; or

(2) An amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110.

9. If a person is admitted to bail more than 12 hours after arrest, pursuant to subsection 8, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for

1 protection against stalking, aggravated stalking or harassment issued pursuant to  
2 NRS 200.591, or of violating a temporary or extended order for protection against  
3 sexual assault pursuant to NRS 200.378; or

4 (c) Fifteen thousand dollars, if the person has two or more previous convictions  
5 of violating a temporary or extended order for protection against domestic violence  
6 issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining  
7 order or injunction that is in the nature of a temporary or extended order for  
8 protection against domestic violence issued in an action or proceeding brought  
9 pursuant to title 11 of NRS, or of violating a temporary or extended order for  
10 protection against stalking, aggravated stalking or harassment issued pursuant to  
11 NRS 200.591, or of violating a temporary or extended order for protection against  
12 sexual assault pursuant to NRS 200.378.

13 ➤ The provisions of this subsection do not affect the authority of a magistrate or a  
14 court to set the amount of bail when the person personally appears before the  
15 magistrate or the court or when a magistrate or a court has otherwise been contacted  
16 to set the amount of bail. For the purposes of this subsection, a person shall be  
17 deemed to have a previous conviction of violating a temporary or extended order  
18 for protection against domestic violence issued pursuant to NRS 33.017 to 33.100,  
19 inclusive, or of violating a restraining order or injunction that is in the nature of a  
20 temporary or extended order for protection against domestic violence issued in an  
21 action or proceeding brought pursuant to title 11 of NRS, or of violating a  
22 temporary or extended order for protection against stalking, aggravated stalking or  
23 harassment issued pursuant to NRS 200.591, or of violating a temporary or  
24 extended order for protection against sexual assault pursuant to NRS 200.378, if the  
25 person has been convicted of such an offense in this State or has been convicted of  
26 violating a law of any other jurisdiction that prohibits the same or similar conduct.

27 10. ~~[The court may, before releasing a person arrested for an offense~~  
28 ~~punishable as a felony, require the surrender to the court of any passport the person~~  
29 ~~possesses;~~

30 ~~— 11. Before releasing a person arrested for any crime, the court may impose~~  
31 ~~such reasonable conditions on the person as it deems necessary to protect the~~  
32 ~~health, safety and welfare of the community and to ensure that the person will~~  
33 ~~appear at all times and places ordered by the court, including, without limitation:~~

34 ~~— (a) Requiring the person to remain in this State or a certain county within this~~  
35 ~~State;~~

36 ~~— (b) Prohibiting the person from contacting or attempting to contact a specific~~  
37 ~~person or from causing or attempting to cause another person to contact that person~~  
38 ~~on the person's behalf;~~

39 ~~— (c) Prohibiting the person from entering a certain geographic area; or~~

40 ~~— (d) Prohibiting the person from engaging in specific conduct that may be~~  
41 ~~harmful to the person's own health, safety or welfare, or the health, safety or~~  
42 ~~welfare of another person.~~

43 ➤ ~~In determining whether a condition is reasonable, the court shall consider the~~  
44 ~~factors listed in NRS 178.4853.~~

45 ~~— 12. If a person fails to comply with a condition imposed pursuant to~~  
46 ~~subsection 11, the court may, after providing the person with reasonable notice and~~  
47 ~~an opportunity for a hearing:~~

48 ~~— (a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

49 ~~— (b) Increase the amount of bail pursuant to NRS 178.499.~~

50 ~~— 13. An order issued pursuant to this section that imposes a condition on a~~  
51 ~~person admitted to bail must include a provision ordering any law enforcement~~  
52 ~~officer to arrest the person if the officer has probable cause to believe that the~~  
53 ~~person has violated a condition of bail.~~

1 ~~— 14. Before a person may be admitted to bail, the person must sign a document~~  
2 ~~stating that:~~

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

6 ~~— (b) The person will comply with the other conditions which have been imposed~~  
7 ~~by the court and are stated in the document; and~~

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

10 ~~➔ The signed document must be filed with the clerk of the court of competent~~  
11 ~~jurisdiction as soon as practicable, but in no event later than the next business day.~~

12 ~~— 15. If a person admitted to bail fails to appear as ordered by a court and the~~  
13 ~~jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial,~~  
14 ~~the person who failed to appear is responsible for paying those costs as restitution.~~

15 ~~— 16.] For the purposes of subsections 8 and 9, an order or injunction is in the~~  
16 ~~nature of a temporary or extended order for protection against domestic violence if~~  
17 ~~it grants relief that might be given in a temporary or extended order issued pursuant~~  
18 ~~to NRS 33.017 to 33.100, inclusive.~~

19 ~~[17.] 11.~~ As used in this section, “strangulation” has the meaning ascribed to  
20 it in NRS 200.481.

21 **Sec. 3.** NRS 178.4851 is hereby amended to read as follows:

22 178.4851 1. ~~[Upon a showing of good cause, a court may release without~~  
23 ~~bail any person entitled to bail if it appears to the court that it can impose conditions~~  
24 ~~on the person that will adequately protect the health, safety and welfare of the~~  
25 ~~community and ensure that the person will appear at all times and places ordered by~~  
26 ~~the court.~~

27 ~~— 2. In releasing a person without bail, the court may impose such conditions.]~~  
28 ~~Except as otherwise provided in subsections [3] 4 and [4] 5, the court shall only~~  
29 ~~impose bail or a condition of release, or both, on a person as it deems to be the~~  
30 ~~least restrictive means necessary to protect the [health,] safety [and welfare] of the~~  
31 ~~community [and] or to ensure that the person will appear at all times and places~~  
32 ~~ordered by the court, [including, without limitation, any condition set forth in~~  
33 ~~subsection 11 of NRS 178.484.] with regard to the factors set forth in NRS~~  
34 ~~178.4853 and 178.498. Such conditions of release may include, without~~  
35 ~~limitation:~~

36 ~~(a) Requiring the person to remain in this State or a certain county within~~  
37 ~~this State;~~

38 ~~(b) Prohibiting the person from contacting or attempting to contact a specific~~  
39 ~~person or from causing or attempting to cause another person to contact that~~  
40 ~~person on the person’s behalf;~~

41 ~~(c) Prohibiting the person from entering a certain geographic area; or~~

42 ~~(d) Prohibiting the person from engaging in specific conduct that may be~~  
43 ~~harmful to the person’s own health, safety or welfare, or the health, safety or~~  
44 ~~welfare of another person.~~

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

51 3. ~~If a court imposes bail or any condition of release, or both, other than~~  
52 ~~release on recognizance with no other conditions of release, the court shall make~~  
53 ~~findings of fact for such a determination and state its reasoning on the record,~~

and, if the determination includes the imposition of a condition of release, the findings of fact must include why the condition of release constitutes the least restrictive means necessary to protect the safety of the community or to ensure the person will appear at the times and places ordered by the court.

4. If a person used a firearm in the commission of the offense for which the person was arrested, there is a rebuttable presumption that the least restrictive means necessary to ~~protect~~ ~~ensure~~ the safety of the community includes the imposition of bail or a condition of release, or both.

~~4. 5. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.~~

~~3. 5. Upon a showing of good cause, a sheriff or chief of police may release without bail any person charged with a misdemeanor pursuant to standards established by a court of competent jurisdiction.~~

~~4. Before a person may be released without bail, the~~

6. The person must ~~file with the clerk of the court of competent jurisdiction a signed~~ sign a document before the person's release stating that:

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

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

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

(d) The person understands that any court of competent jurisdiction may revoke the order of release without bail and may order the person into custody or require the person to furnish bail or otherwise ensure the protection of the ~~health,~~ safety ~~and welfare~~ of the community or the person's appearance ~~;~~ 5. , if applicable.

7. The document signed pursuant to subsection 6 must be filed with the clerk of the court of competent jurisdiction ~~;~~

~~(a) Before the person is released, if the person is released without bail, or~~

~~(b) As soon as practicable, but in no event later than the next business day, if bail is imposed by the court,~~ and becomes effective upon the signature of the person to be released.

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

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

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

(c) Revoke bail and remand the person into custody.

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

~~6. 10. An order issued pursuant to this section that imposes a condition on a person ~~[who is released without bail]~~~~ must include a provision ordering a law enforcement officer to arrest the person if the law enforcement officer has probable cause to believe that the person has violated a condition of release.

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

**Sec. 4.** NRS 178.4853 is hereby amended to read as follows:

178.4853 In ~~deciding whether there is good cause to release~~ *reviewing the custody status of* a person, ~~without bail,~~ the court at a minimum shall consider the following factors concerning the person:

1. The length of residence in the community;
2. The status and history of employment;
3. Relationships with the person's spouse and children, parents or other family members and with close friends;
4. Reputation, character and mental condition;
5. Prior criminal record, including, without limitation, any record of appearing or failing to appear after release on bail or without bail;
6. The identity of responsible members of the community who would vouch for the reliability of the person;
7. The nature of the offense with which the person is charged, the apparent probability of conviction and the likely sentence, insofar as these factors relate to the risk of not appearing;
8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;
9. The likelihood of more criminal activity by the person after release; and
10. Any other factors concerning the person's ties to the community or bearing on the risk that the person may willfully fail to appear.

**Sec. 5.** NRS 178.498 is hereby amended to read as follows:

178.498 ~~If the defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to:~~ *In deciding the amount of bail to impose on a person, the court shall consider:*

1. The nature and circumstances of the offense charged;
2. The financial ability of the defendant to give bail;
3. The character of the defendant; and
4. The factors listed in NRS 178.4853.

**Sec. 6.** NRS 178.502 is hereby amended to read as follows:

178.502 1. A person required or permitted to give bail shall execute a bond for the person's appearance. The magistrate or court or judge or justice, having regard to the considerations set forth in NRS ~~178.498,~~ *178.4851*, may require one or more sureties or may authorize the acceptance of cash or bonds or notes of the United States in an amount equal to or less than the face amount of the bond.

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

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

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

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

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

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

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

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

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

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

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

14 ➤ If the defendant has already been indicted or charged, or is later indicted or  
15 charged, with a public offense arising out of the same act or omission supporting  
16 the charge upon which bail was first given, the bail must be applied to the public  
17 offense for which the defendant has been indicted or charged or is later indicted or  
18 charged, and the bond or undertaking must be transferred to the clerk of the  
19 appropriate court. Within 10 days after its receipt, the clerk of the court to whom  
20 the bail is transferred shall mail or electronically transmit notice of the transfer to  
21 the surety on the bond and the bail agent who executed the bond.

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