

ASSEMBLY BILL NO. 17—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 15, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing bail in criminal cases.
(BDR 14-495)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to bail; revising provisions governing bail in criminal cases; requiring the exoneration of bail under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, when a defendant is released on bail, the bond or
2 undertaking for the bail must apply to: (1) any action or proceeding instituted
3 against the defendant in a justice, municipal or district court arising from the charge
4 on which the bail was originally given; and (2) under certain circumstances, any
5 action or proceeding instituted against the defendant based on a later charge arising
6 out of the same act or omission supporting the original charge. However, if no
7 formal action or proceeding is instituted against the defendant or if such an action
8 or proceeding is dismissed, existing law provides that the court must exonerate the
9 bail, except that the court is required to hold the bail for 30 days from the date that
10 the bond or undertaking was posted or the date that the order of dismissal was
11 entered, as applicable, unless the defendant requests that the bail be exonerated
12 before the expiration of the 30-day period. Finally, existing law provides that if the
13 bail is not exonerated before the expiration of the 30-day period and, within that
14 period, the defendant is charged with an offense arising out of the same act or
15 omission supporting the original charge, the bail must not be exonerated, but it
16 must be applied to the action or proceeding instituted against the defendant for the
17 later charge. (NRS 178.502)

18 **Section 1** of this bill eliminates this existing statutory framework. In its place,
19 **section 1** provides that when a defendant is released on bail, the bond or
20 undertaking for the bail must apply to any action or proceeding instituted against
21 the defendant in a justice, municipal or district court arising from the charge on
22 which the bail was originally given. **Section 1** also provides that the bail must be
23 exonerated by the court if no formal action or proceeding is instituted against the



24 defendant or if such an action or proceeding is dismissed, except that the court may
25 delay exoneration of the bail for a period not to exceed 30 days under certain
26 circumstances.

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

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

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

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

10 (a) Extends to any action or proceeding in a justice court,
11 municipal court or district court ~~;~~

12 ~~—(1) Arising~~ **arising** from the charge on which bail was first
13 given in any of these courts; and

14 ~~[(2) Arising from a later charge, filed before the expiration of~~
15 ~~the periods provided in subsection 4, which is substantially similar~~
16 ~~to the charge upon which bail was first given and is based upon the~~
17 ~~same act or omission as that charge; and]~~

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

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

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

25 4. ~~[H]~~ **Except as otherwise provided in subsection 5, the court**
26 **shall exonerate the bond or undertaking for bail if:**

27 (a) **The** action or proceeding against a defendant who has been
28 admitted to bail is dismissed ~~[, the bail must not be exonerated until~~
29 ~~a period of 30 days has elapsed from the entry of the order of~~
30 ~~dismissal unless the defendant requests that bail be exonerated~~
31 ~~before the expiration of the 30-day period. If no] ; **or**~~

32 (b) **No** formal action or proceeding is instituted against a
33 defendant who has been admitted to bail . ~~[, the bail must not be~~
34 ~~exonerated until a period of 30 days has elapsed from the day the~~
35 ~~bond or undertaking is posted unless the defendant requests that bail~~
36 ~~be exonerated before the expiration of the 30-day period.~~

37 ~~—5.— If, within the periods provided in subsection 4, the defendant~~
38 ~~is charged with a public offense arising out of the same act or~~



1 ~~omission supporting the charge upon which bail was first given, the~~
2 ~~prosecuting attorney shall forthwith notify the clerk of the court~~
3 ~~where the bond was posted.]~~

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

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

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

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

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



