

ASSEMBLY BILL NO. 376—ASSEMBLYMAN OHRENSCHALL

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal procedure.
(BDR 14-1075)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to criminal procedure; revising provisions governing the filing of a complaint after an arrest without a warrant; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a complaint to be filed forthwith when a person arrested
2 without a warrant is brought before a magistrate. (NRS 171.178) **Section 1** of this
3 bill requires the complaint to be filed within 72 hours after the person is arrested,
4 excluding Saturdays, Sundays and legal holidays, unless the magistrate extends the
5 time up to an additional 72 hours for good cause shown. Thereafter, the magistrate
6 may order an additional extension of up to 72 hours for good cause shown. An
7 extension must not be ordered if the person is to remain in custody unless counsel is
8 appointed. The sole remedy for a violation of these provisions is release from
9 custody.

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

1 **Section 1.** NRS 171.178 is hereby amended to read as follows:
2 171.178 1. Except as otherwise provided in subsections 5 and
3 6, a peace officer making an arrest under a warrant issued upon a
4 complaint or without a warrant shall take the arrested person
5 without unnecessary delay before the magistrate who issued the
6 warrant or the nearest available magistrate empowered to commit
7 persons charged with offenses against the laws of the State of
8 Nevada.



* A B 3 7 6 R 2 *

1 2. A private person making an arrest without a warrant shall
2 deliver the arrested person without unnecessary delay to a peace
3 officer. Except as otherwise provided in subsections 5 and 6 and
4 NRS 171.1772, the peace officer shall take the arrested person
5 without unnecessary delay before the nearest available magistrate
6 empowered to commit persons charged with offenses against the
7 laws of the State of Nevada.

8 3. If an arrested person is not brought before a magistrate
9 within 72 hours after arrest, excluding nonjudicial days, the
10 magistrate:

11 (a) Shall give the prosecuting attorney an opportunity to explain
12 the circumstances leading to the delay; and

13 (b) May release the arrested person if the magistrate determines
14 that the person was not brought before a magistrate without
15 unnecessary delay.

16 4. When a person arrested without a warrant is brought before
17 a magistrate, a complaint must be filed ~~forthwith.~~ *within 72 hours*
18 *after the person is arrested, excluding Saturdays, Sundays and*
19 *legal holidays, unless the magistrate extends the time up to an*
20 *additional 72 hours, excluding legal holidays, for good cause*
21 *shown. Thereafter, the magistrate may order an additional*
22 *extension of up to 72 hours, excluding legal holidays, for good*
23 *cause shown. An extension must not be ordered pursuant to this*
24 *subsection if the person arrested is to remain in custody during the*
25 *extension unless counsel has been appointed. Release from*
26 *custody is the sole remedy for a violation of this subsection.*

27 5. Except as otherwise provided in NRS 178.484 and 178.487,
28 where the defendant can be admitted to bail without appearing
29 personally before a magistrate, the defendant must be so admitted
30 with the least possible delay, and required to appear before a
31 magistrate at the earliest convenient time thereafter.

32 6. A peace officer may immediately release from custody
33 without any further proceedings any person the peace officer arrests
34 without a warrant if the peace officer is satisfied that there are
35 insufficient grounds for issuing a criminal complaint against the
36 person arrested. Any record of the arrest of a person released
37 pursuant to this subsection must also include a record of the release.
38 A person so released shall be deemed not to have been arrested but
39 only detained.

40 **Sec. 2.** (Deleted by amendment.)

41 **Sec. 3.** (Deleted by amendment.)

42 **Sec. 4.** (Deleted by amendment.)

43 **Sec. 5.** (Deleted by amendment.)

44 **Sec. 6.** (Deleted by amendment.)

45 **Sec. 7.** (Deleted by amendment.)



- 1 **Sec. 8.** (Deleted by amendment.)
- 2 **Sec. 9.** (Deleted by amendment.)
- 3 **Sec. 10.** (Deleted by amendment.)
- 4 **Sec. 11.** (Deleted by amendment.)
- 5 **Sec. 12.** (Deleted by amendment.)



