

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.

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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; removing the requirement that an arrested person show good cause before being released without bail; requiring prosecuting attorneys 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 to ensure the appearance of the person in court; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Nevada Constitution prohibits the imposition of excessive bail and requires
2 all persons arrested for offenses other than murder of the first degree to be admitted
3 to bail. (Nev. Const. Art. 1, §§ 6, 7)
4 Recently, the Nevada Supreme Court held that a provision of law requiring an
5 arrested person to show good cause before being released without bail violated his
6 or her constitutional right to nonexcessive bail. Specifically, the Nevada Supreme
7 Court held that the provision of law was unconstitutional because it: (1) did not
8 require the court to consider less restrictive conditions of release before
9 determining that the imposition of bail was necessary; and (2) effectively relieved
10 the State from its burden of proving that the imposition of bail on the person was
11 necessary to protect the safety of the community and to ensure the appearance of
12 the person in court. (*Valdez-Jimenez v. Eighth Jud. Dist. Court*, 136 Nev. 155
13 (2020); Nev. Const. Art. 1, §§ 6, 7; NRS 178.4851) **Section 3** of this bill removes
14 the provision of law that was found unconstitutional and **section 4** of this bill
15 makes a conforming change.



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

26 **Section 3** also requires a prosecuting attorney, if he or she requests the
27 imposition of bail or a condition of release on a person, to prove by clear and
28 convincing evidence that the imposition is necessary to protect the safety of the
29 community and ensure the appearance of the person in court. Finally, **section 3**
30 requires the court to consider the request of the prosecuting attorney before
31 imposing bail or a condition of release, or both, on a person.

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

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

3 171.1845 1. If a person is brought before a magistrate under
4 the provisions of NRS 171.178 or 171.184, and it is discovered that
5 there is a warrant for the person's arrest outstanding in another
6 county of this State, the magistrate may release the person in
7 accordance with the provisions of NRS ~~[178.484 or]~~ 178.4851 if:

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

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

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

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



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

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

8 178.484 1. Except as otherwise provided in this section, a
9 person arrested for an offense other than murder of the first degree
10 must be admitted to bail.

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

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

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

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

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

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

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

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

35 5. A person arrested for a violation of NRS 484C.110,
36 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who
37 is under the influence of intoxicating liquor must not be admitted to
38 bail or released on the person's own recognizance unless the person
39 has a concentration of alcohol of less than 0.04 in his or her breath.
40 A test of the person's breath pursuant to this subsection to determine
41 the concentration of alcohol in his or her breath as a condition of
42 admission to bail or release is not admissible as evidence against the
43 person.

44 6. A person arrested for a violation of NRS 484C.110,
45 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who



1 is under the influence of a controlled substance, is under the
2 combined influence of intoxicating liquor and a controlled
3 substance, or inhales, ingests, applies or otherwise uses any
4 chemical, poison or organic solvent, or any compound or
5 combination of any of these, to a degree which renders the person
6 incapable of safely driving or exercising actual physical control of a
7 vehicle or vessel under power or sail must not be admitted to bail or
8 released on the person's own recognizance sooner than 12 hours
9 after arrest.

10 7. A person arrested for a battery that constitutes domestic
11 violence pursuant to NRS 33.018 must not be admitted to bail
12 sooner than 12 hours after arrest. If the person is admitted to bail
13 more than 12 hours after arrest, without appearing personally before
14 a magistrate or without the amount of bail having been otherwise set
15 by a magistrate or a court, the amount of bail must be:

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

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

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

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

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

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

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

40 ➤ The provisions of this subsection do not affect the authority of a
41 magistrate or a court to set the amount of bail when the person
42 personally appears before the magistrate or the court, or when a
43 magistrate or a court has otherwise been contacted to set the amount
44 of bail. For the purposes of this subsection, a person shall be
45 deemed to have a previous conviction of battery that constitutes



1 domestic violence pursuant to NRS 33.018 if the person has been
2 convicted of such an offense in this State or has been convicted of
3 violating a law of any other jurisdiction that prohibits the same or
4 similar conduct.

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

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

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

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

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

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

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

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

43 (b) Five thousand dollars, if the person has one previous
44 conviction of violating a temporary or extended order for protection
45 against domestic violence issued pursuant to NRS 33.017 to 33.100,



1 inclusive, or of violating a restraining order or injunction that is in
2 the nature of a temporary or extended order for protection against
3 domestic violence issued in an action or proceeding brought
4 pursuant to title 11 of NRS, or of violating a temporary or extended
5 order for protection against stalking, aggravated stalking or
6 harassment issued pursuant to NRS 200.591, or of violating a
7 temporary or extended order for protection against sexual assault
8 pursuant to NRS 200.378; or

9 (c) Fifteen thousand dollars, if the person has two or more
10 previous convictions of violating a temporary or extended order for
11 protection against domestic violence issued pursuant to NRS 33.017
12 to 33.100, inclusive, or of violating a restraining order or injunction
13 that is in the nature of a temporary or extended order for protection
14 against domestic violence issued in an action or proceeding brought
15 pursuant to title 11 of NRS, or of violating a temporary or extended
16 order for protection against stalking, aggravated stalking or
17 harassment issued pursuant to NRS 200.591, or of violating a
18 temporary or extended order for protection against sexual assault
19 pursuant to NRS 200.378.

20 ↪ The provisions of this subsection do not affect the authority of a
21 magistrate or a court to set the amount of bail when the person
22 personally appears before the magistrate or the court or when a
23 magistrate or a court has otherwise been contacted to set the amount
24 of bail. For the purposes of this subsection, a person shall be
25 deemed to have a previous conviction of violating a temporary or
26 extended order for protection against domestic violence issued
27 pursuant to NRS 33.017 to 33.100, inclusive, or of violating a
28 restraining order or injunction that is in the nature of a temporary or
29 extended order for protection against domestic violence issued in an
30 action or proceeding brought pursuant to title 11 of NRS, or of
31 violating a temporary or extended order for protection against
32 stalking, aggravated stalking or harassment issued pursuant to NRS
33 200.591, or of violating a temporary or extended order for
34 protection against sexual assault pursuant to NRS 200.378, if the
35 person has been convicted of such an offense in this State or has
36 been convicted of violating a law of any other jurisdiction that
37 prohibits the same or similar conduct.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 ~~—16.] For the purposes of subsections 8 and 9, an order or~~
41 ~~injunction is in the nature of a temporary or extended order for~~
42 ~~protection against domestic violence if it grants relief that might be~~
43 ~~given in a temporary or extended order issued pursuant to NRS~~
44 ~~33.017 to 33.100, inclusive.~~



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

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

4 178.4851 1. ~~[Upon a showing of good cause, a court may~~
5 ~~release without bail any person entitled to bail if it appears to the~~
6 ~~court that it can impose conditions on the person that will~~
7 ~~adequately protect the health, safety and welfare]~~ *If a prosecuting*
8 *attorney requests that a court impose bail or a condition of release,*
9 *or both, on a person, the prosecuting attorney must prove by clear*
10 *and convincing evidence that the request is the least restrictive*
11 *means necessary to protect the safety of the community and ensure*
12 *that the person will appear at all times and places ordered by the*
13 *court.*

14 2. ~~[In releasing a person without bail, the court may impose~~
15 ~~such conditions]~~ *Except as otherwise provided in subsection 3, and*
16 *after taking into consideration the request of the prosecuting*
17 *attorney pursuant to subsection 1, the court shall only impose bail*
18 *or a condition of release, or both, on a person as it deems*
19 *necessary to protect the [health,] safety [and welfare] of the*
20 *community and to ensure that the person will appear at all times and*
21 *places ordered by the court, with regard to the factors set forth in*
22 *NRS 178.4853 and 178.498.*

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

28 4. *A court may impose any reasonable condition of release*
29 *pursuant to subsection 2, including, without limitation [—any*
30 *condition set forth in subsection 11 of NRS 178.484.*
31 ~~—3.] :~~

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

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

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

39 (d) *Prohibiting the person from engaging in specific conduct*
40 *that may be harmful to the person’s own safety or the safety of*
41 *another person; or*

42 (e) *If the person was arrested for an offense punishable as a*
43 *felony, requiring the person to surrender to the court any passport*
44 *he or she possesses.*



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

5 ~~[4. Before a person may be released without bail, the]~~

6 **6.** *The* person must ~~[file with the clerk of the court of~~
7 ~~competent jurisdiction a signed]~~ *sign a* document stating that:

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

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

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

16 (d) The person understands that any court of competent
17 jurisdiction may revoke the order of release without bail and may
18 order the person into custody or require the person to furnish bail or
19 otherwise ensure the protection of the ~~[health,]~~ safety ~~[and welfare]~~
20 of the community or the person's appearance ~~[~~

21 ~~—5.] , if applicable.~~

22 **7.** *The document signed pursuant to subsection 6 must be*
23 *filed with the clerk of the court of competent jurisdiction:*

24 (a) *Before the person is released, if the person is released*
25 *without bail; or*

26 (b) *As soon as practicable, but in no event later than the next*
27 *business day, if bail is imposed by the court.*

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

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

34 (b) *Increase the amount of bail pursuant to NRS 178.499, if*
35 *applicable.*

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

40 ~~[6.]~~ **10.** An order issued pursuant to this section that imposes a
41 condition on a person ~~[who is released without bail]~~ must include a
42 provision ordering a law enforcement officer to arrest the person if
43 the law enforcement officer has probable cause to believe that the
44 person has violated a condition of release.



1 **Sec. 4.** NRS 178.4853 is hereby amended to read as follows:
2 178.4853 In ~~[deciding whether there is good cause to release]~~
3 *reviewing the custody status of* a person, ~~[without bail,]~~ the court at
4 a minimum shall consider the following factors concerning the
5 person:

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

27 **Sec. 5.** NRS 178.498 is hereby amended to read as follows:
28 178.498 ~~[If the defendant is admitted to bail, the bail must be~~
29 ~~set at an amount which in the judgment of the magistrate will~~
30 ~~reasonably ensure the appearance of the defendant and the safety of~~
31 ~~other persons and of the community, having regard to:]~~ *In deciding*
32 *the amount of bail to impose on a person, the court shall consider:*

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

37 **Sec. 6.** NRS 178.502 is hereby amended to read as follows:
38 178.502 1. A person required or permitted to give bail shall
39 execute a bond for the person's appearance. The magistrate or court
40 or judge or justice, having regard to the considerations set forth in
41 *subsection 2 of* NRS ~~[178.498,]~~ **178.4851**, may require one or more
42 sureties or may authorize the acceptance of cash or bonds or notes
43 of the United States in an amount equal to or less than the face
44 amount of the bond.



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

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

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

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

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

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

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

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

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

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

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

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

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

