

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; 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:

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 or
6 her constitutional right to nonexcessive bail. Specifically, the Nevada Supreme Court
7 held that the provision of law was unconstitutional because it: (1) did not require the
8 court to consider less restrictive conditions of release before determining that the
9 imposition of bail was necessary; and (2) effectively relieved the State from its



10 burden of proving that the imposition of bail on the person was necessary to protect
11 the safety of the community or to ensure the appearance of the person in court.
12 (*Valdez-Jimenez v. Eighth Jud. Dist. Court*, 136 Nev. 155 (2020); Nev. Const. Art.
13 1, §§ 6, 7; NRS 178.4851) **Section 3** of this bill removes the provision of law that
14 was found unconstitutional and **section 4** of this bill makes a conforming change.

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

25 **Section 3** requires the court to only impose bail or a condition of release, or both,
26 on a person as it deems to be the least restrictive means necessary to protect the safety
27 of the community or to ensure that the person will appear at all times and places
28 ordered by the court, with regard to certain factors.

29 **Section 3** also requires a prosecuting attorney, if he or she requests the imposition
30 of bail or a condition of release on a person, to prove by clear and convincing
31 evidence that the imposition of bail is necessary to protect the safety of the
32 community or to ensure the appearance of the person in court. Finally, **section 3**: (1)
33 requires a court to make findings of fact for certain determinations relating to the
34 imposition of bail or any condition of release, or both; and (2) provides that if a
35 person used a firearm in the commission of the offense for which the person was
36 arrested, there is a rebuttable presumption that the least restrictive means necessary
37 to ensure the safety of the community includes the imposition of bail or a condition
38 of release, or both.

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 follows:
2 171.1845 1. If a person is brought before a magistrate under
3 the provisions of NRS 171.178 or 171.184, and it is discovered that
4 there is a warrant for the person's arrest outstanding in another county
5 of this State, the magistrate may release the person in accordance with
6 the provisions of NRS ~~[178.484 or]~~ 178.4851 if:

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

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

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



1 agreement and address, the magistrate who issued the warrant shall
2 notify the person of a time and place to appear.

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

10 4. A person who fails to appear in the other county as ordered is
11 guilty of failing to appear and shall be punished as provided in NRS
12 199.335. A sentence of imprisonment imposed for failing to appear
13 in violation of this section must be imposed consecutively to a
14 sentence of imprisonment for the offense out of which the warrant
15 arises.

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

17 178.484 1. Except as otherwise provided in this section, a
18 person arrested for an offense other than murder of the first degree
19 must be admitted to bail.

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

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

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

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

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

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

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

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

43 5. A person arrested for a violation of NRS 484C.110,
44 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is
45 under the influence of intoxicating liquor must not be admitted to bail



1 or released on the person's own recognizance unless the person has a
2 concentration of alcohol of less than 0.04 in his or her breath. A test
3 of the person's breath pursuant to this subsection to determine the
4 concentration of alcohol in his or her breath as a condition of
5 admission to bail or release is not admissible as evidence against the
6 person.

7 6. A person arrested for a violation of NRS 484C.110,
8 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is
9 under the influence of a controlled substance, is under the combined
10 influence of intoxicating liquor and a controlled substance, or inhales,
11 ingests, applies or otherwise uses any chemical, poison or organic
12 solvent, or any compound or combination of any of these, to a degree
13 which renders the person incapable of safely driving or exercising
14 actual physical control of a vehicle or vessel under power or sail must
15 not be admitted to bail or released on the person's own recognizance
16 sooner than 12 hours after arrest.

17 7. A person arrested for a battery that constitutes domestic
18 violence pursuant to NRS 33.018 must not be admitted to bail sooner
19 than 12 hours after arrest. If the person is admitted to bail more than
20 12 hours after arrest, without appearing personally before a
21 magistrate or without the amount of bail having been otherwise set by
22 a magistrate or a court, the amount of bail must be:

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

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

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

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

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

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

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

44 ↪ The provisions of this subsection do not affect the authority of a
45 magistrate or a court to set the amount of bail when the person



1 personally appears before the magistrate or the court, or when a
2 magistrate or a court has otherwise been contacted to set the amount
3 of bail. For the purposes of this subsection, a person shall be deemed
4 to have a previous conviction of battery that constitutes domestic
5 violence pursuant to NRS 33.018 if the person has been convicted of
6 such an offense in this State or has been convicted of violating a law
7 of any other jurisdiction that prohibits the same or similar conduct.

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

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

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

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

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

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

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

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



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

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

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

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

43 ~~11. Before releasing a person arrested for any crime, the court~~
44 ~~may impose such reasonable conditions on the person as it deems~~
45 ~~necessary to protect the health, safety and welfare of the community~~



1 ~~and to ensure that the person will appear at all times and places~~
2 ~~ordered by the court, including, without limitation:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 ~~—16.] For the purposes of subsections 8 and 9, an order or~~
43 ~~injunction is in the nature of a temporary or extended order for~~
44 ~~protection against domestic violence if it grants relief that might be~~



1 given in a temporary or extended order issued pursuant to NRS
2 33.017 to 33.100, inclusive.

3 ~~[17.] 11.~~ As used in this section, "strangulation" has the meaning
4 ascribed to it in NRS 200.481.

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

6 178.4851 1. ~~[Upon a showing of good cause, a court may
7 release without bail any person entitled to bail if it appears to the court
8 that it can impose conditions on the person that will adequately
9 protect the health, safety and welfare of the community and ensure
10 that the person will appear at all times and places ordered by the court.~~

11 ~~— 2. In releasing a person without bail, the court may impose such
12 conditions.] Except as otherwise provided in subsections 4 and 5, the
13 court shall only impose bail or a condition of release, or both, on a
14 person as it deems to be the least restrictive means necessary to
15 protect the [health,] safety [and welfare] of the community [and] or
16 to ensure that the person will appear at all times and places ordered
17 by the court, [including, without limitation, any condition set forth in
18 subsection 11 of NRS 178.484.~~

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

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

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

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

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

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

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

42 3. *If a court imposes bail or any condition of release, or both,
43 other than release on recognizance with no other conditions of
44 release, the court shall make findings of fact for such a
45 determination and state its reasoning on the record, and, if the*



1 *determination includes the imposition of a condition of release, the*
2 *findings of fact must include why the condition of release*
3 *constitutes the least restrictive means necessary to protect the safety*
4 *of the community or to ensure the person will appear at the times*
5 *and places ordered by the court.*

6 4. *If a person used a firearm in the commission of the offense*
7 *for which the person was arrested, there is a rebuttable presumption*
8 *that the least restrictive means necessary to protect the safety of the*
9 *community includes the imposition of bail or a condition of release,*
10 *or both.*

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

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

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

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

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

27 (d) *The person understands that any court of competent*
28 *jurisdiction may revoke the order of release without bail and may*
29 *order the person into custody or require the person to furnish bail or*
30 *otherwise ensure the protection of the ~~health,] safety [and welfare]~~*
31 *of the community or the person's appearance ~~;~~*

32 *—5.] , if applicable.*

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

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

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

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

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

43 9. *If a person fails to appear as ordered by the court and a*
44 *jurisdiction incurs any costs in returning a person to the jurisdiction*



1 to stand trial, the person failing to appear is responsible for paying
2 those costs as restitution.

3 ~~[6.] 10.~~ An order issued pursuant to this section that imposes a
4 condition on a person ~~[who is released without bail]~~ must include a
5 provision ordering a law enforcement officer to arrest the person if
6 the law enforcement officer has probable cause to believe that the
7 person has violated a condition of release.

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

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

12 178.4853 In ~~[deciding whether there is good cause to release]~~
13 *reviewing the custody status of* a person, ~~[without bail,]~~ the court at
14 a minimum shall consider the following factors concerning the
15 person:

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

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

38 178.498 ~~[If the defendant is admitted to bail, the bail must be set~~
39 ~~at an amount which in the judgment of the magistrate will reasonably~~
40 ~~ensure the appearance of the defendant and the safety of other persons~~
41 ~~and of the community, having regard to:]~~ *In deciding the amount of*
42 *bail to impose on a person, the court shall consider:*

- 43 1. The nature and circumstances of the offense charged;
- 44 2. The financial ability of the defendant to give bail;
- 45 3. The character of the defendant; and



1 4. The factors listed in NRS 178.4853.

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

3 178.502 1. A person required or permitted to give bail shall
4 execute a bond for the person's appearance. The magistrate or court
5 or judge or justice, having regard to the considerations set forth in
6 NRS ~~[178.498.]~~ 178.4851, may require one or more sureties or may
7 authorize the acceptance of cash or bonds or notes of the United States
8 in an amount equal to or less than the face amount of the bond.

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

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

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

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

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

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

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

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

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

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

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

40 ➔ If the defendant has already been indicted or charged, or is later
41 indicted or charged, with a public offense arising out of the same act
42 or omission supporting the charge upon which bail was first given,
43 the bail must be applied to the public offense for which the defendant
44 has been indicted or charged or is later indicted or charged, and the
45 bond or undertaking must be transferred to the clerk of the appropriate



1 court. Within 10 days after its receipt, the clerk of the court to whom
2 the bail is transferred shall mail or electronically transmit notice
3 of the transfer to the surety on the bond and the bail agent who
4 executed the bond.

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

③

