

SENATE BILL NO. 401—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 26, 2021

Referred to Committee on Judiciary

SUMMARY—Requires the reporting of certain information relating to pretrial detention. (BDR 14-378)

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

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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; requiring justice courts, municipal courts and district courts to maintain certain records relating to pretrial detention and submit such records to the Administrative Office of the Courts; requiring the Court Administrator to submit a quarterly report concerning pretrial detention to the Executive Director of the Department of Sentencing Policy and to the Legislature or the Advisory Commission on the Administration of Justice, as applicable, and to make the report available on the Internet; requiring county and city jails to notify the court having jurisdiction over a defendant if the defendant is held for more than 7 days after bail for the defendant is set at \$2,500 or less; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 The Nevada Constitution and existing law require all persons arrested for
2 offenses other than murder of the first degree to be admitted to bail unless certain
3 circumstances apply. (Nev. Const. Art. 1, § 7; NRS 178.484) Existing law also
4 authorizes a court to release a person without bail under certain circumstances.
5 (NRS 178.4851) **Section 1** of this bill requires justice courts, municipal courts and
6 district courts to maintain certain records concerning pretrial detention of
7 defendants in criminal cases, including, where applicable: (1) the offense with
8 which the defendant was charged; (2) whether the defendant was admitted to bail,



9 denied admission to bail or released without bail; (3) the amount of bail set and the
10 conditions imposed for release without bail; (4) the date on which the defendant
11 was taken into custody; (5) the date on which the court set the amount of bail for
12 the defendant or denied the defendant admission to bail; (6) the date on which the
13 defendant was released from custody by admission to bail or release without bail;
14 (7) whether the defendant was given a hearing to determine admission to bail or
15 release without bail; (8) whether the defendant failed to appear, was arrested for a
16 violation of a condition imposed for release without bail or was arrested for a new
17 offense while released on bail; (9) the sentence imposed on the defendant; (10) the
18 date on which the defendant was taken into custody to serve a sentence; and (11)
19 the date on which the defendant was released from custody. **Section 1** also requires
20 justice courts, municipal courts and district courts to submit such records to the
21 Administrative Office of the Courts at least quarterly.

22 **Section 2** of this bill requires the Court Administrator to: (1) submit a quarterly
23 report concerning pretrial detention of defendants in criminal cases to the Executive
24 Director of the Department of Sentencing Policy and to the Legislature or the
25 Advisory Commission on the Administration of Justice, as applicable, containing
26 statistics compiled from information received pursuant to **section 1**; and (2) make
27 the report available on the Internet website of the Court Administrator.

28 **Sections 3 and 4** of this bill require county and city jails to notify the court
29 having jurisdiction over a defendant in a criminal case if the defendant is in custody
30 for more than 7 days after the amount of bail is set and the amount of bail is set at
31 \$2,500 or less.

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 arising from the charge on which
12 bail was first given in any of these courts; and

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

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

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

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



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

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

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

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

18 ➤ If the defendant has already been indicted or charged, or is later
19 indicted or charged, with a public offense arising out of the same act
20 or omission supporting the charge upon which bail was first given,
21 the bail must be applied to the public offense for which the
22 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.

30 ***7. Each justice court, municipal court and district court shall***
31 ***maintain a record for each defendant containing, where***
32 ***applicable, the following information:***

33 (a) *The offense with which the defendant was charged;*

34 (b) *Whether the defendant was admitted to bail, denied*
35 ***admission to bail or released without bail;***

36 (c) *The amount at which bail was set or the conditions*
37 ***imposed upon the defendant for release without bail;***

38 (d) *The date on which the defendant was taken into custody;*

39 (e) *The date on which the court set the amount of bail for the*
40 ***defendant or denied the defendant admission to bail;***

41 (f) *The date on which the defendant was released from custody*
42 ***before trial by admission to bail or release without bail;***

43 (g) *A description of the procedures by which the defendant was*
44 ***admitted to bail, released without bail or denied admission to bail,***
45 ***including whether the defendant was given a hearing;***



1 (h) *Whether the defendant failed to appear, was arrested for a*
2 *violation of a condition imposed for release without bail or was*
3 *arrested for a new offense while released on bail, including the*
4 *condition which the defendant violated or the new offense for*
5 *which the defendant was arrested, as applicable;*

6 (i) *The sentence imposed on the defendant;*

7 (j) *The date on which the defendant was taken into custody to*
8 *serve a sentence; and*

9 (k) *The date on which the defendant was released from*
10 *custody.*

11 8. *At least quarterly, each justice court, municipal court and*
12 *district court shall submit the records maintained pursuant to*
13 *subsection 7 to the Administrative Office of the Courts.*

14 **Sec. 2.** NRS 1.360 is hereby amended to read as follows:

15 1.360 Under the direction of the Supreme Court, the Court
16 Administrator shall:

17 1. Examine the administrative procedures employed in the
18 offices of the judges, clerks, court reporters and employees of all
19 courts of this State and make recommendations, through the Chief
20 Justice, for the improvement of those procedures . [X]

21 2. Examine the condition of the dockets of the courts and
22 determine the need for assistance by any court . [X]

23 3. Make recommendations to and carry out the directions of the
24 Chief Justice relating to the assignment of district judges where
25 district courts are in need of assistance . [X]

26 4. Develop a uniform system for collecting and compiling
27 statistics and other data regarding the operation of the State Court
28 System and transmit that information to the Supreme Court so that
29 proper action may be taken in respect thereto . [X]

30 5. Prepare and submit a budget of state appropriations
31 necessary for the maintenance and operation of the State Court
32 System and make recommendations in respect thereto . [X]

33 6. Develop procedures for accounting, internal auditing,
34 procurement and disbursement for the State Court System . [X]

35 7. Collect statistical and other data and make reports relating to
36 the expenditure of all public money for the maintenance and
37 operation of the State Court System and the offices connected
38 therewith . [X]

39 8. Compile statistics from the information required to be
40 maintained by the clerks of the district courts pursuant to NRS 3.275
41 regarding criminal and civil cases and make reports as to the cases
42 filed in the district courts . [X]

43 9. Formulate and submit to the Supreme Court
44 recommendations of policies or proposed legislation for the
45 improvement of the State Court System . [X]



1 10. On or before January 1 of each year, submit to the Director
2 of the Legislative Counsel Bureau a written report:

3 (a) Compiling the information submitted to the Court
4 Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the
5 immediately preceding fiscal year; and

6 (b) Concerning:

7 (1) The distribution of money deposited in the special
8 account created by NRS 176.0613 to assist with funding and
9 establishing specialty court programs;

10 (2) The current status of any specialty court programs to
11 which money from the account was allocated since the last report;

12 (3) Statistics compiled from information required to be
13 maintained by clerks of the district courts pursuant to NRS 3.275
14 concerning specialty courts, including, without limitation, the
15 number of participants in such programs, the nature of the criminal
16 charges that were filed against participants, the number of
17 participants who have completed the programs and the disposition
18 of the cases; and

19 (4) Such other related information as the Court Administrator
20 deems appropriate. ~~{; and}~~

21 11. *Quarterly, submit a report concerning pretrial detention*
22 *to the Executive Director of the Department of Sentencing Policy*
23 *and to the Director of the Legislative Counsel Bureau for*
24 *transmittal to the Legislature, if the Legislature is in session, or to*
25 *the Advisory Commission on the Administration of Justice, if the*
26 *Legislature is not in session, and make the report available to the*
27 *public on the Internet website maintained by the Court*
28 *Administrator. The report must compile statistics from the*
29 *information required to be maintained by justice courts, municipal*
30 *courts and district courts pursuant to NRS 178.502 and contain,*
31 *without limitation:*

32 (a) *The total number of defendants in the custody of county*
33 *and city jails awaiting trial and the total number of defendants in*
34 *the custody of county and city jails serving a sentence;*

35 (b) *The number of defendants who were admitted to bail,*
36 *denied admission to bail, released without bail with conditions and*
37 *released without bail without conditions;*

38 (c) *The number of defendants who were held in custody before*
39 *trial for a period of less than 24 hours, 24 hours or more but less*
40 *than 72 hours, 72 hours or more but less than 1 week, 1 week or*
41 *more but less than 2 weeks, 2 weeks or more but less than 1 month*
42 *and more than 1 month;*

43 (d) *The average length of time for which defendants were held*
44 *in custody before trial;*



1 (e) *The number of defendants who were given a hearing to*
2 *determine whether the defendant would be admitted to bail, denied*
3 *admission to bail or released without bail; and*

4 (f) *The number of defendants who were admitted to bail or*
5 *released without bail and who failed to appear, were arrested for a*
6 *violation of a condition imposed for release without bail or were*
7 *arrested for a new offense while released on bail. The number*
8 *must be disaggregated by the conditions which defendants violated*
9 *and the charges of the new offenses for which defendants were*
10 *arrested; and*

11 **12.** Attend to such other matters as may be assigned by the
12 Supreme Court or prescribed by law.

13 **Sec. 3.** NRS 211.030 is hereby amended to read as follows:

14 211.030 1. The sheriff is the custodian of the jail in his or her
15 county, and of the prisoners therein, and shall keep the jail
16 personally, or by his or her deputy, or by a jailer or jailers appointed
17 by the sheriff for that purpose, for whose acts the sheriff is
18 responsible.

19 2. All jailers employed or appointed by the sheriff are entitled
20 to receive a fair and adequate monthly compensation, to be paid out
21 of the county treasury, for their services.

22 3. *If a prisoner is held in custody for more than 7 days after*
23 *the amount of bail is set and the amount of bail is set at \$2,500 or*
24 *less, the sheriff must notify the court having jurisdiction over the*
25 *prisoner.*

26 4. Not later than 48 hours after the death of a prisoner in the
27 county jail or any branch county jail in his or her county, the sheriff
28 shall report the death to the board of county commissioners. The
29 report must include, without limitation, basic demographics.

30 ~~4.~~ 5. The sheriff shall submit to the board a biannual report
31 that contains aggregated data similar to the information submitted
32 pursuant to the Death in Custody Reporting Act of 2013, Public
33 Law 113-242, concerning the deaths of prisoners in the county jail
34 and any branch county jail in his or her county during the
35 immediately preceding 6 months and the circumstances surrounding
36 any such deaths.

37 **Sec. 4.** NRS 211.117 is hereby amended to read as follows:

38 211.117 1. *If a prisoner is held in custody for more than 7*
39 *days after the amount of bail is set and the amount of bail is set at*
40 *\$2,500 or less, the person appointed to administer the city jail must*
41 *notify the court having jurisdiction over the prisoner.*

42 2. Not later than 48 hours after the death of a prisoner in a city
43 jail, the person appointed to administer the city jail shall report the
44 death to the governing body of the city. The report must include,
45 without limitation, basic demographics.



1 ~~2.]~~ 3. The person appointed to administer the city jail shall
2 submit to the governing body of the city a biannual report that
3 contains aggregated data similar to the information submitted
4 pursuant to the Death in Custody Reporting Act of 2013, Public
5 Law 113-242, concerning the deaths of prisoners in the city jail
6 during the immediately preceding 6 months and the circumstances
7 surrounding any such deaths.

8 **Sec. 5.** The provisions of subsection 1 of NRS 218D.380 do
9 not apply to any provision of this act which adds or revises a
10 requirement to submit a report to the Legislature.

11 **Sec. 6.** Notwithstanding the provisions of NRS 218D.430 and
12 218D.435, a committee, other than the Assembly Standing
13 Committee on Ways and Means and the Senate Standing Committee
14 on Finance, may vote on this act before the expiration of the period
15 prescribed for the return of a fiscal note in NRS 218D.475. This
16 section applies retroactively from and after March 22, 2021.



