

Amendment No. 344

Senate Amendment to Senate Bill No. 235	(BDR 14-310)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 235—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON JUDICIARY)

MARCH 8, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to pretrial release. (BDR 14-310)

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 relating to pretrial release hearings; **authorizing a court to impose additional conditions of release on a person under certain circumstances**; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

In general, existing law requires a court to hold a pretrial release hearing to determine the custody status of a person within 48 hours after the person has been taken into custody. However, existing law authorizes a court to continue such a pretrial release hearing if good cause is shown by a party. (NRS 178.4849) **Section 1** of this bill instead authorizes the court to continue a pretrial release hearing: (1) at the request of either party or the court and for good cause shown; or (2) upon stipulation of the parties. **Section 1** also prescribes certain requirements relating to the scheduling of a pretrial release hearing continued by the court.

Existing law provides 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. Under existing law, if a person fails to comply with a condition of release imposed by the court, the court may, after providing the person with notice and an opportunity for a hearing: (1) deem such conduct contempt; (2) increase the amount of bail; or (3) revoke bail and remand the person into custody. (NRS 178.4851) Section 1.5 of this bill authorizes the court to impose on a person who fails to comply with a condition of release such additional conditions of release as the court deems necessary to protect the safety of the community or to ensure the person will appear at the times and places ordered by the court.

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

Section 1. NRS 178.4849 is hereby amended to read as follows:
178.4849 1. Except as otherwise provided in ~~this section~~ **subsection 2** and
NRS 178.484 and 178.4847, a court shall, within 48 hours after a person has been

1 taken into custody, hold a pretrial release hearing, in open court or by means of
2 remote communication, to determine the custody status of the person.

3 2. The court may continue a pretrial release hearing ~~[may be continued]~~:

4 (a) *At the request of either party or the court and for good cause shown. A*
5 *pretrial release hearing so continued must be placed on the next regularly*
6 *scheduled calendar of the court.*

7 (b) *Upon stipulation of the parties. The court shall schedule a hearing*
8 *continued pursuant to this paragraph for the date specified by stipulation.*

9 3. A stipulation made pursuant to subsection 2 may be:

10 (a) *An oral stipulation; or*

11 (b) *A written stipulation communicated by mail, by electronic mail, via the*
12 *internet or by other electronic means.*

13 ~~[2.]~~ 4. As used in this section, “remote communication” means
14 communication through telephone or videoconferencing.

15 **Sec. 1.5. NRS 178.4851 is hereby amended to read as follows:**

16 178.4851 1. Except as otherwise provided in subsection 4, the court shall
17 only impose bail or a condition of release, or both, on a person as it deems to be the
18 least restrictive means necessary to protect the safety of the community or to ensure
19 that the person will appear at all times and places ordered by the court, with regard
20 to the factors set forth in NRS 178.4853 and 178.498. Such conditions of release
21 may include, without limitation:

22 (a) Requiring the person to remain in this State or a certain county within this
23 State;

24 (b) Prohibiting the person from contacting or attempting to contact a specific
25 person or from causing or attempting to cause another person to contact that person
26 on the person’s behalf;

27 (c) Prohibiting the person from entering a certain geographic area;

28 (d) Prohibiting the person from possessing a firearm during the pendency of
29 the case; or

30 (e) Prohibiting the person from engaging in specific conduct that may be
31 harmful to the person’s own health, safety, or welfare, or the health, safety, or
32 welfare of another person.

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

39 3. If a court imposes bail or any condition of release, or both, other than
40 release on recognizance with no other conditions of release, the court shall make
41 findings of fact for such a determination and state its reasoning on the record, and,
42 if the determination includes the imposition of a condition of release, the findings
43 of fact must include why the condition of release constitutes the least restrictive
44 means necessary to protect the safety of the community or to ensure that the person
45 will appear at the times and places ordered by the court.

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

50 5. The person must sign a document before the person’s release stating that:

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

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

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

6 (d) The person understands that any court of competent jurisdiction may
7 revoke the order of release without bail and may order the person into custody or
8 require the person to furnish bail or otherwise ensure the protection of the safety of
9 the community or the person's appearance, if applicable.

10 6. The document signed pursuant to subsection 5 must be filed with the clerk
11 of the court of competent jurisdiction and becomes effective upon the signature of
12 the person to be released.

13 7. If a person fails to comply with a condition of release imposed pursuant to
14 this section, the court may, after providing the person with reasonable notice and an
15 opportunity for a hearing:

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

17 (b) Impose such additional conditions of release as the court deems
18 necessary to protect the safety of the community or to ensure the person will
19 appear at the times and places ordered by the court;

20 (c) Increase the amount of bail pursuant to NRS 178.499, if applicable; or

21 ~~(d)~~ (d) Revoke bail and remand the person into custody.

22 8. If a person fails to appear as ordered by the court and a jurisdiction incurs
23 any costs in returning a person to the jurisdiction to stand trial, the person failing to
24 appear is responsible for paying those costs as restitution.

25 9. An order issued pursuant to this section that imposes a condition on a
26 person must include a provision ordering a law enforcement officer to arrest the
27 person if the law enforcement officer has probable cause to believe that the person
28 has violated a condition of release.

29 10. Nothing in this section shall be construed to require a court to receive the
30 request of a prosecuting attorney before imposing a condition of release.

31 **Sec. 2.** This act becomes effective on July 1, 2023.